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Albania
Investment
Council

Improving Transparency and Investment Climate

SURVEY "ON SOME ASPECTS OF INVESTMENT CLIMATE"

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This working document was prepared by the experts of the Secretariat of the Investment Council in the frame of Meeting XI of the Investment Council (6 December 2017), Ms Ermelinda Xhaja, Economic Expert and Mr Elvis Zerva, Legal Expert, under the direction of the Head of the Secretariat, Ms Diana Leka (Angoni). Supported in the organisation of meetings with partners, survey's implementation and promotion, and language editing of the material, Ms Elisa Lula, Administrative and Communications Officer of the Secretariat. We thank for the collaboration during the drafting of the questionnaire, the consultation process and finalising the material, Mr Artur Papajani, Ms Mimoza Kalia, Ms Silvana Meko, chambers of commerce and private companies. Special thanks to Epoka University for the collaboration in testing the survey's quantitative results and the students for their contribution to the survey's promotion and data updating. The views expressed herein are those of the authors and do not necessarily reflect those of the Investment Council or the EBRD.



ABBREVIATIONS

ADISA	Agency for the Delivery of Integrated Services in Albania
ALL	Albanian Lek
TA	Tax Administration
EBRD	European Bank for Reconstruction and Development
TAD	Tax Appeal Directorate
GTD	General Tax Directorate
GCD	General Customs Directorate
IC	Investment Council
MF	Ministry of Finance
GDP	Gross Domestic Products
NBC	National Business Centre
VAT	Value-Added Tax
DCM	Decision of Council of Ministers

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INTRODUCTION

Since its establishment in April 2015, the Investment Council (IC) has tackled a range of business climate concerns by providing concrete recommendations to the government. Part of these concerns has been identified through direct consultations with stakeholders and online surveys conducted by the Secretariat of Albania Investment Council. IC Members proposed monitoring the tackled issues to identify pertinent changes and their course in the perception and experiences of the business. In this context, the objective of the survey "On Some Aspects of the Investment Climate" was to identify the progress on main business concerns on three main pillars: i) Tax Inspection and Relations with Tax Administration; ii) VAT Refund, and iii) Informality. These issues were already tackled during 2015 – 2016 in dedicated IC Meetings, where concrete recommendations were delivered to relevant institutions.

A separate section of open questions was made available at the survey for the businesses to express some investment climate concerns faced by them in their business activity or even in the sector where they operate. In addition, the Secretariat intended to compare some of the main findings of this survey with the results of the pre-

vious 2015-2016 IC Surveys on the issues mentioned above.

This survey does not attempt to be all-inclusive and generalised in its findings but to bring in a structured way the perceptions and experiences of 146 companies that have responded to the survey randomly and anonymously.

Throughout the development and implementation process of the survey, the Secretariat consulted experts from the General Tax Directorate (GTD), Ministry of Finance and Economic, and independent academics from Epoka University. The quantitative results of the survey have been tested for their reliability with statistical methods from the professors of Epoka University.

The survey findings described in Section 4 will serve to focus the discussion and provide concrete suggestions in the following for the Investment Council on concerns that remain sensitive to the business. Some of the main messages of the survey are summarised as follows:

- » An increase in the number of inspections, mainly for businesses with an annual turnover of over 8 million ALL, identified more in the form of *fiscal visits* and *onsite visits* rather than full inspections, especially in the sectors of trade and services.
- » Improvements in the *tax inspector's profes-*

sionalism, especially in regards to the communication, behaviour, and ethics toward the business. However, the business still perceives a need for investing in the capacity building of the tax inspectors to better respond to its needs.

- » A significant *increase* in the overall assessment of the tax inspection report, although problems are reported, especially regarding the content of the report and its findings/conclusions.
- » Significant improvements in respecting the VAT refund deadlines, especially for companies exporting over 70% of sales, where the number of refunds is reported to have been increased considerably within 60 days as well as automatic refund, while there are still reported cases of refund beyond 90 days.
- » An improvement is identified in the transparency and communication with the business through *e-tax service* and information provided by the tax administration and awareness on the application of the risk system in the selection for tax inspection. It is essential to

continue with the digitalisation of services for the taxpayers.

- » *It remains a challenge the continuous education* of taxpayers on the dynamics of fiscal legislation and raise the professionalism of tax administration in providing better clarifications to the taxpayers.
- » There is a decline in the perception of the business regarding *the extent of the informality* compared to 2015; meanwhile, the income tax/VAT threshold, the relationship with the administration and enforcement of law remains main factors that encourage informality.
- » Reducing administrative bureaucracies, increasing the professionalism of the administration but also incentives for honest and investing businesses are some of the main business requirements to promote the rapid formalisation of the economy.

The last section of this working document lists some IC recommendations on the issues tackled by the survey, which remain to be considered and implemented by the Albanian government.

CONTEXT

The private sector contributes substantially to the Albanian economy, such as in the GDP and employment (about 85% of employees) according to INSTAT. In its major part (95%), Albanian entrepreneurship is in the form of small and medium-sized companies with 1- 9 employees. During the transition period, the Albanian business has experienced a standstill in the relationship and communication with the administration in general, and in particular with the tax and customs administration, for reasons related to public administration capacities, legislation clarity and stability, lack of information as well as related to the maturity of local business to comply with legal obligations.

Meanwhile, since April 2015, the Secretariat has reviewed particular concerns related to *Tax Inspection, Informality, Administrative Appeal, VAT Refund, Customs Procedures*, etc., which have also been addressed in dedicated Investment Council Meetings. During 2015-2016, for analysis purposes, besides direct consultations with the business and business associations, the Secretariat, among others, conducted online surveys on:

1. *Tax Inspection* – The Survey was conducted

during August – September 2015, completed randomly and online by 110 companies, where 78% of surveyed companies with annual turnover over 8 million ALL, while representing sectors were Services (56%), Industry (19%) and Trade (17%).

2. *Informality* – The Survey was conducted during October – November 2015, completed online by 89 companies, where 57% of surveyed companies with an annual turnover of over 8 million ALL, mainly from the sectors of trade (35%), industry (24%) and services (23%).
3. *VAT Refund* – Survey conducted during September – October 2016, competed randomly by 77 companies, 85% of surveyed companies with an annual turnover over 8 million ALL, mainly from manufacturing industry (31%), trade (25%), energy and gas (10%), and services (24%).

Some of the main findings of these three surveys (2015-2016) were:

- » The high number of inspections for the big business and long duration of the inspections between 1 – 4 weeks create costs in time and human resources for this business category.

- » Low evaluation regarding tax inspector's capacities, clarity of the inspection report and information provided by the tax administration to the business.
- » Most of the respondents confirmed unfair competition due to informality, mainly in the form of tax evasion, corruption and smuggling, non-registration of the business or labour in black.
- » Businesses affirmed being aware of the costs involved in being informal and demanded more incentivising politics for formalisation rather than a punitive one. According to the business, the leading causes that encourage informality in the economy are related to corruption or political affiliation of the businesses, the capacities of tax and customs administration, or the fragmentation of the tax system.
- » The VAT refund deadline within 30 days, especially for the companies exporting 70% of sales, was respected in a very low number and the refund in the most absolute majority of cases occurred after the *Tax Inspection*.
- » Exporting companies considered the VAT refund as important in their decision to invest.

Related to the three above mentioned areas, the Investment Council has given in total 38 recommendations. In the last two years, there has been a proactive approach by the Ministry of Finance to transpose in concrete measures some of the business recommendations raised by the Investment Council for the facilitation of tax procedures.

At the end of 2016, these concrete measures were included in the amendment to Law no. 9920 dated 19.05.2008 "*On Tax Procedures in the Republic of Albania*" (amended). Out of the 37 facilitating measures included in the law, 12 measures were

directly related to the approved IC recommendations.

In addition, in October 2017 became effective with Instruction No. 101/1 dated 02.20.2017 a new package of facilitating measures regarding the documents requests for services provided to the business and citizens by the Ministry of Finance and Economy and its subordinate institutions, as a follow up also of the continuous requests from the business community (including IC) for the reduction of bureaucracy and administrative burden and the informatisation of processes and information.

Annex 4 gives a detailed overview of the IC recommendations related to the above issues and their current status.

Significant improvements have also been made regarding the procedures and deadlines for the VAT refund in general, particularly to exporting companies. DCM no. 460 dated 22.06.2016, has sanctioned clear deadlines within which the administration should fulfil its obligation to the business regarding the VAT refund. Within 30 days from the application date for exporting taxpayers and within 60 days for all the other taxpayers. In addition, in this act it was also foreseen the automatic VAT refund (without inspection/risk analysis) for exporters which export more than 70% of their general sales during the tax period/s for which the refund is being required. According to the Ministry of Finance² and GTD, these amendments have influenced the increase of the amount of refunded VAT. According to the GTD, during January – October 2017, have been refunded/compensated 554 VAT refund

² Semi-annual report on the execution of 2017 budget – assessment of macroeconomic, fiscal and budgetary situation for 5-month time period 2017, and expectations for 12-month period 2017, Ministry of Finance, June 2017

requests out of 703 requests with a value of 14.7 billion ALL and 161 requests refunded without inspection. In the 2016 Annual GTD Report, it is reported that 579 requests have been refunded/compensated with a value of 10,4 billion ALL and refunded without inspection 97 requests or 15% of those approved. In the total of the refunded/compensated amount during 2016, 68.2% belong to the category of exporters and apparel (cut-trim-make producers), 10.43% category of refunds due to investments.

Making reference to GTD published information, the selection of inspections is made upon the risk system. There has been special cooperation with the General Customs Directorate regarding the analysis of risk indicators such as the functioning of the green channel and the selection of inspections in the cases of active processing regime.

In addition, GTD has analysed the fiscal performance of different economic sectors, and it has identified the riskiest sectors for evasion, where-of priority are retail trade, wholesale trade, hotels and restaurants, freelancers, agriculture and public constructions. The taxpayers' service has broadened, and it has been interacting also with

other institutions such as NBC in providing information on taxes to start-up companies. According to the 2016 GTD Annual Report, apart from the standard services, which have increased in number, the communication with the taxpayers during this year has improved due to the real-time electronic and telephone communications, or even face-to-face meetings.

Thanks to their legal and institutional reorganisation due to the legal amendments made at the end of 2016, the Tax Appeal Directorate and the Taxpayer's Advocate are considered to give more guarantee in the protection of entrepreneurship's rights in the area of tax procedures.

By reforming the public institutions, the new government programme attempts to make also a massive reduction of state procedures and documentation for businesses and citizens. This reform will further reduce the administrative burden of the companies and increase the effectiveness of the electronic exchange of information among public institutions. It still remains a challenge the lack of administrative capacities to actually respond to the proposed procedural facilities for the business community and further.

SURVEY METHODOLOGY

The Secretariat conducted this survey through the IC website. The survey was filled in randomly and anonymously by businesses. By tracking the IP of all the responses, it was made possible to remove all the duplicate responses. The purpose of this survey is to generate more qualitative results rather than quantitative ones. The Secretariat does not take the responsibility to assume that the survey's findings generalise the business population in Albania. The survey was completed online by 146 companies, a considerate growth compared to the number of responses received in the previous online IC Surveys (2015, 2016). This growth implies a raised awareness among the business to react regarding its problems and wider use of electronic communication. Based on the previously conducted

surveys, it was aimed to follow the same steps as described below:

a. Preparatory phase

- » Review of the questionnaires used in the previous surveys focusing on the questions that respond to issues that would be reassessed in this survey.
- » Semi-structured questionnaire with closed and open questions to obtain as much as possible qualitative data.
- » The questionnaire was consulted with the General Tax Directorate and tested with some companies.

b. Launching of the survey

- » The questionnaire was launched on the IC website on 15 July 2017, and was made available online until 15 September 2017.

- » The survey was announced as news on the IC website, which was automatically delivered to the website subscribers. In addition, the news was published on Facebook and Twitter.
 - » A database of businesses, set up by the Secretariat during its collaboration with NBC, GTD, GCD and business associations, was updated with other business contacts from Epoka University. Through the partnership with the latter one, a group of students was engaged in contacting more than 1,000 companies by phone to increase the completion of the questionnaire. During this time, the Secretariat's list was updated with the latest contact details of the companies.
 - » A notification e-mail was sent to around 8,000 business e-mail addresses, including companies used in the previous surveys.
 - » Remind e-mails were sent to the companies that had been previously contacted on the completion of the survey.
- ## c. Data processing
- » In collaboration with Epoka University, it was enabled the generation and processing of quantitative and qualitative data. In addition, through statistical models, it was also tested the reliability of the qualitative data of findings and, in particular, in comparing the previous surveys' results.
 - » Survey results were processed in mainly

quantitative data, and on some particular issues was also aimed the comparison with the previous surveys conducted by the Secretariat as per pertinent purpose.

d. Consultation of findings

- » Preliminary survey's findings were presented in a consultation meeting with fiscal experts and business associations' representatives. Raised comments and suggestions were considered in the re-processing of the survey's findings.
- » Around 5 meetings have been held with companies in Tirana and districts to consolidate the survey's findings.

e. Profile of responding companies

- » 146 companies have completed online the Secretariat's survey. The responses are anonymous and random.
- » The service sector occupies the largest share of representing companies in the survey with 47% of responses, followed by trade, industry and construction.
- » The business with an annual turnover of over 8 million ALL is in majority, represented in the survey with 78% of the responses, and business with Albanian ownership occupies 74% of responses.
- » 32% of the respondents declare of being exporting companies, whereas 54% of them exporting over 70% of sales.

SURVEY FINDINGS

The survey's answers were assessed in two aspects. First, in the identification of results for 2017 to see which are the current business concerns, and secondly, in the comparison of previous surveys' findings in some of the quantitative survey data. A considerable part of the survey consists of open questions to receive as much as possible descriptive information for a qualitative analysis of the findings. This information has been processed at a certain level in the quantitative data as per some main issues/pillars to give a more structured presentation of the business concerns and suggestions. However, cases of concrete articulation of business concerns are stored by the Secretariat to be considered in further analysis of the Investment Council. The findings as per the main pillars of the survey's purpose are as follows:

1. ON TAX INSPECTION

Dynamics in the changing of the inspections' nature, from full inspections to onsite inspections and fiscal visits. More specifically, from the received responses, it is noted a slight increase in the number of inspections for 2016 and disaggregated as per inspection type; it seems that the growth is due to onsite inspections and fiscal visits. Meanwhile, firms operating in trade and services are more affected by onsite inspections and fiscal visits in the division of data per sector. This is expected if we also refer to the government's efforts against informality and increase of onsite inspections mainly according to the assessment of risk system, where trade and services are indicated with the highest risk.

Improvement of the professionalism of Tax Inspector, especially in terms of communication, behaviour and ethics toward the

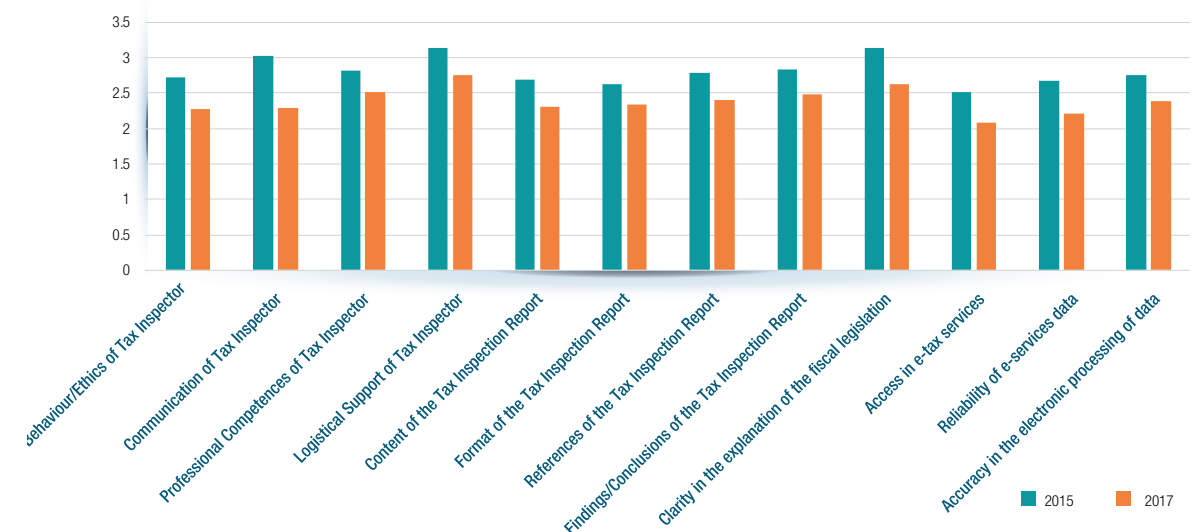
business. In the survey, the professionalism of tax inspector is seen in some elements such as behaviour/ethics, communication, professional competencies and logistical support. There is a prevailing rating for "professional" in the aggregate of all the elements in the responses. The criterion with a low rating and clearly as "unprofessional" remains "logistic support". The behaviour/ethics and communication are some elements of professionalism rated more positively. Comparing the 2017 Survey's responses with the 2015 Survey's responses for the same questions, it is noted an improvement in the business assessment in the professionalism of tax inspectors, especially regarding ethics and communication. The business still perceives a need to invest and increase the inspectors' capacity in the tax administration to meet its demands better.

We point out that the comparative results with 2015 were tested on their reliability with statistical methods where the t-test showed a satisfac-

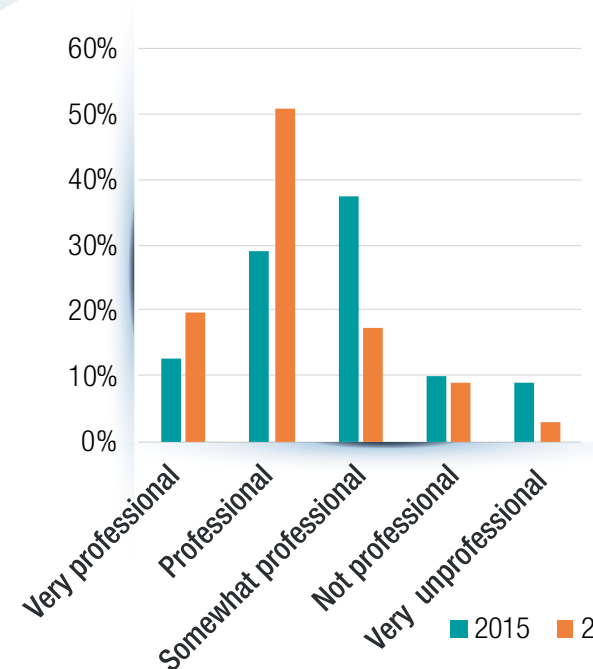
tory level of significance of 5%. Figure 1 below shows a comparative overview of the mean of the responses regarding the business perception on tax inspector, tax inspection report, clarity of fiscal explanations of tax administration, and satisfaction in e-tax services. Overall, there is a more positive perception of the improvement of all these assessed elements on tax administration (Rating 1 for very professional/very clear/very satisfied, while rating 5 is very unprofessional/very unclear/very unsatisfied).

Quality of tax inspection report is another aspect included in the survey. In general, it is noted a trend of high rating related to the "clarity" of the inspection report in all the considered elements. The 2017 Survey shows an improvement in the responses to the same question in the 2015 Survey. However, there are still problems, reported in particular for the "content" and the "findings/conclusions" of the report where there is a higher number of responses for "very unclear" and "somewhat clear".

Figure 1. Mean of business perception, 2015 - 2017



Source: Survey data processing by the Secretariat

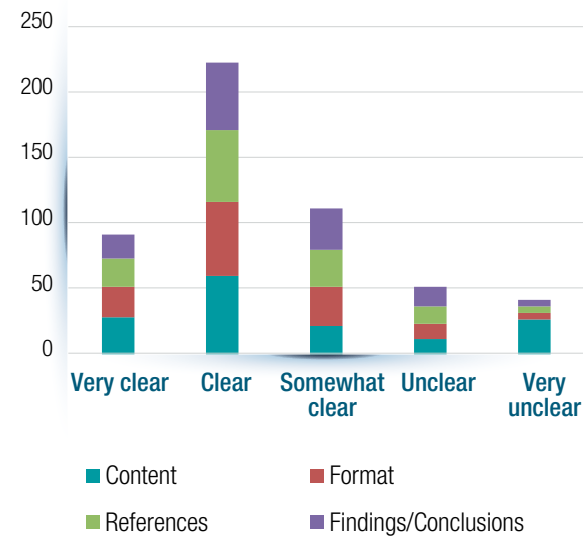
Figure 2. Behaviour/Ethics of Tax Inspector, 2015–2017

Source: Survey data processing by the Secretariat

2. ON THE VAT REFUND

Although there are still problems in meeting the deadlines, there is an increasing trend of refunds within the deadline, especially within 30 days for companies exporting over 70% of sales.

Among the randomly responding businesses in the survey, it comes out that 22% (30 companies) have applied during September 2015 – June 2017 for the VAT refund. The VAT credit for refund is mainly from export activity, but there are reported cases (30% of them) also from investing activities. During 2016, there have been significant developments in tax procedures regarding the facilitation of refund process for companies exporting over 70% of sales. The purpose of these amendments has been to promote exporting and facilitate li-

Figure 3. Clarity of Tax Inspection Report, 2017

quidity for this business category. In the survey, 27 companies (15 of which exporting over 70% of sales) responded that they received VAT refund at least during September 2015 – June 2017.

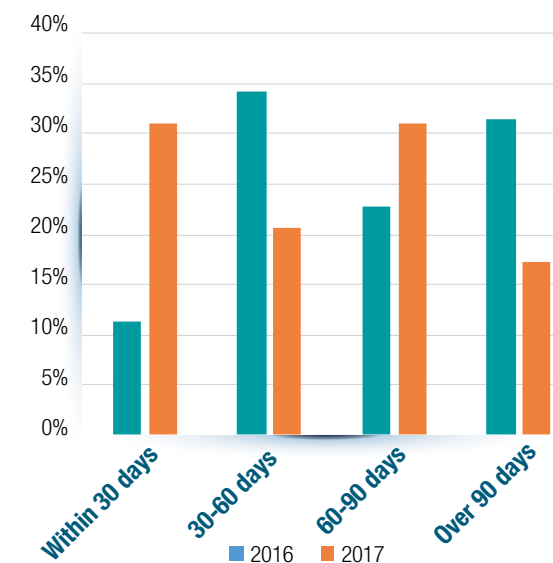
There is an increased number of automatic refunds in the survey, where 10 companies declare that they have been refunded automatically (5 companies exporting over 70% of sales) compared to the 2016 Survey (reported only 2 cases). We may say that there is a consolidation in the respecting of the refund deadlines, where 9 companies declare refund within 30 days and 14 companies within 90 days. GTD confirms a consolidating trend in the automatic refund; however, there is still a need for more information, especially from

exporters, to confirm that deadlines are being met. On the other hand, among those that have received VAT refund there are still some companies that claim to be refunded beyond 90 days, although less in number compared to the 2016 Survey. However, it is worth mentioning that in the 2017 Survey and in the face-to-face interviews with companies, there have been claims of tax inspections carried out after the automatic refund.

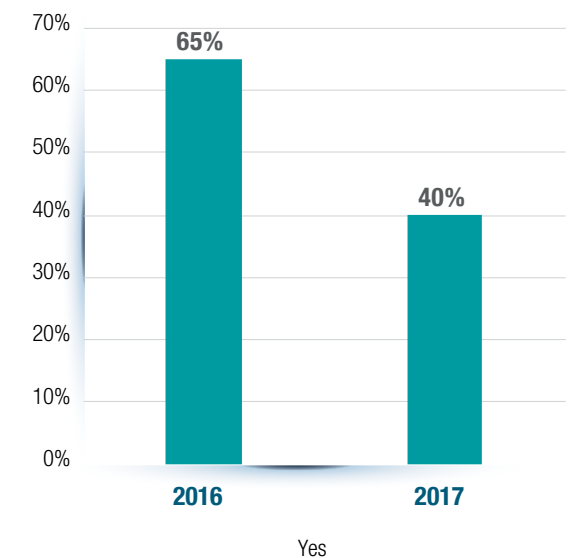
VAT refund and the potential impact on investment has been measured in the survey with the question – “Does the VAT refund influence your decision in investing?” – selecting only the responses from *exporters*. It came out that a good part of exporters (40% in the survey) af-

firm that the VAT refund process might affect their decision for further investments. However, there is a downward trend compared to the 2016 Survey, where 60% replied that it affects their decision, while a more in-depth analysis is suggested in the future.

Suggestions on further facilitation of VAT refund were received in the survey, such as i) automatic refund for exporters and exchange of information from customs after the exporting; ii) automatic crediting of the VAT credit; iii) the opportunity to pay other liabilities with the recoverable VAT, such as income tax, tax on rent, dividends or penalties, from the system and afterwards the risk to determine if an inspection is needed or not.

Figure 4. Respecting of the refund deadlines

Source: Survey data processing by the authors

Figure 5. Does the VAT refund process affect the exporters in the decision to invest?

3. ON THE RELATIONS WITH TAX ADMINISTRATION

Business – tax administration relations in 2017 seem to have improved in the transparency and communication level such as in regards to the report, access in time and quality of information compared to 2015.

Establishing sustainable and reliable communication channels and interaction with the tax administration remains a crucial factor for the business. In years there has been a tense relationship of mistrust between the parties reflected either in the international reports, comments from the business associations or in the face-to-face meetings of the Secretariat with the business.

Clarity of the information provided by the tax administration – we highlight that two-thirds of the responses are between “clear” and “somewhat clear”. It is assumed that there is an improvement in the business response and perception compared to received responses in the 2015 Survey regarding the clarity of information provided by the tax administration. The reforming of the taxpayers’ service, improvement of the website, and the information sessions undertaken during the last year from the GTD are considered factors that could have contributed to the business’s positive responses. However, businesses again complain that in many cases, when they require specific clarifications for certain interpretations, tax administration continues to only cite legal acts without informing clearly the taxpayer.

Awareness regarding the selection for tax inspection based on a risk system is confirmed in very satisfactory levels, where 67% responded of being informed. There is a significant increase compared to the 2015 Survey, where the awareness or the level of information on the risk system was very low (39% of respondents). This improvement is understandable, as the risk system was put into practice at the end of 2015 from the GTD and has continued to be consolidated during the last years with updating of information and risk indicators. Firms seem to be now aware that they are selected based on risk indicators analysed by the GTD.

Training of the business by the administration seems still at low levels. About 20% of surveyed companies reported having received training by the tax administration, mainly on the use of the e-tax platform. Training of the taxpayers, with all the tax administration efforts, according to the business, is not in the focus of the daily work of the GTD. More efforts are needed, especially for small taxpayers and those to become part of the VAT system.

Satisfaction on the electronic services provided through e-tax is at very high levels. On average, 56% of the surveyed companies say they are “satisfied” in all the assessed indicators, such as access to the system and the accuracy of data processing by the tax administration. There is a visible level of satisfaction compared to the 2015 Survey. Comparative results were tested for their reliability with statistical methods where the t-test showed a satisfactory level of significance at 5%.

4. ON THE INFORMALITY

There is a “slight” decline in the perception of the business related to the size of “informality” compared to 2015; meanwhile, the tax income/VAT threshold, relationship with the administration and enforceability of law remain key factors that influence informality.

Competition due to informal activity continues to remain a significant business concern also in the 2017 Survey. A good part of the respondents (69%) say that they face some form of informality in their sector. The nature of informality displayed in the sector where they operate varies, but the most mentioned in the survey are fiscal evasion due to corruption and smuggling, labour in black, tax coupons not issued by the companies, etc. As a novelty in the 2017 Survey, we point out that there is another dynamic in the exhibit of informality compared to the 2015 Survey, where the non-registration of the business has fallen compared to 2015, in the perception of the informality. Meanwhile, labour in black continues to remain a concern and comparable with the responses in 2015. A survey finding arrived as a new concern, directly from the business is informality in tourism, especially for the tour guides and agencies.

A consolidation of the business awareness on the understanding of the costs and benefits of informality is noted, a finding also in the 2015 Survey. Because again a good part of them says that there are more costs than benefits from being informal (graph 6). However,

some responses in the survey consider being informal as a benefit in the short term but carrying costs for the business in the long term if it needs to expand in the future.

Asked if they have a **strategy for formalisation**, most of the companies responded that they have no informality in their activity. It is noted a discrepancy from the business’s responses where their perception for informality in their sector is high (69% of responses), while in terms of their own experience if they have a strategy for formalisation, 74% state that they have no informality. The same inverse relationship between perception and experience regarding informality has also been identified in the responses of the 2015 Survey for the same questions.

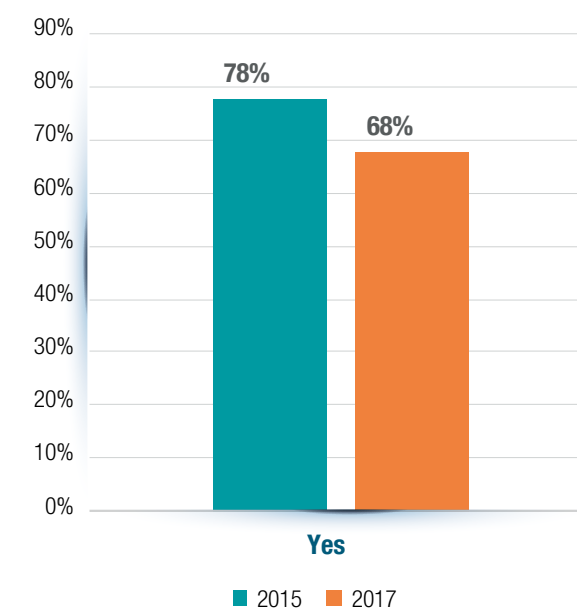
“Which is the most important fiscal factor that could encourage informality?” was asked in the survey in the form of a multiple-choice question. The factors that may leave room for informality and assessed as the most important ones for the business are: i) implementation of tax procedures; ii) capacities of tax administration, iii) VAT threshold, iv) income tax threshold. If we sum up the two latter ones in one single factor, fragmentation of the tax system comes out as the main cause brought by the business. It should be mentioned that prevailing in this opinion are businesses with an annual turnover of over 8 million ALL, mainly in services and trade. In the survey, there were some open questions on issues related to informality to receive as much feedback, comments and suggestions from the business on this phenomenon in Albania. More specifically, businesses were asked about the causes that encourage infor-

mality in general, incentives for the formalisation of the economy and other concerns in doing business in the country.

On the causes that encourage informality in the operating sector, various answers were received in the survey. The Secretariat grouped these answers on pillars which generalise to some extent the received comments: i) corruption and political influence of the business; ii) capacities of tax and customs administration;

iii) quality and sustainability of the fiscal legislation; iv) unfair competition; v) fragmentation of the tax system; vi) high taxes; vii) low economic level. The highest number of responses is about corruption and political influence, followed by the capacities of tax administration and fiscal legislation. In this survey, “the low fiscal culture of the business” comes out as a new factor, not articulated in the previous Secretariat’s surveys. In Annex 3 are shown some of the most prominent answers to the open questions.

Figure 6. Do you face informal activity in your sector?



Source: Survey data processing by the authors

Concrete suggestions on incentives which could facilitate formalisation of economy- it is noted a change in the attitude of the business in terms of proposed incentives for formalisation in the 2015 Survey, where an emphasis is put to the partnership with the business, facilitation of pro-

cedures and enhancement of the administration quality.

In the 2017 Survey, a section was made available to the business to provide suggestions. A variety of responses arrived, such as the reduction of taxes, the review of the fiscal policies, adequate

application of the tax procedures, capacity building of the administration, etc. It needs to be highlighted the frequent requests from the business for co-dialogue and partnership with the tax administration and the government, possibly sectorial platforms, incentives for the investing companies, market control and awareness of the final consumer.

5. OTHER ISSUES ON THE INVESTMENT CLIMATE

Of continuous interest to the Secretariat is also collecting business opinions for other concerns regarding the climate of doing business in general. These concerns are considered later by the Secretariat to initiate discussions on other issues at the Investment Council. Again, the responses are elaborated in several directions.

In the 2017 Survey came out as more problematic: i) administrative bureaucracy; ii) relations with the administration; iii) clarity of fiscal legislation; and iv) application of customs procedures. Meanwhile, in the 2016 Survey, the business responses to these questions varied more in terms of: i) incentives for investment; ii) relations with administration; iii) clarity of fiscal legislation; iv) administrative bureaucracy, iv) customs procedures. Some of these issues, such as incentives for investment and customs procedures, have also been tackled in other dedicated IC meetings.

It needs to be emphasised that there is a consolidation in the last two surveys of the business concerns in addressing administrative bureaucracy and the professionalism of administration in the relations with the business.

IC RECOMMENDATIONS 2015-2016

In light of current developments, the Secretariat suggests that in terms of tackled subjects in the survey, there are several IC recommendations, given during 2015-2016, which remain unimplemented or are partially implemented while the concerns persist. More specifically:

RECOMMENDATION 1.

ON TAX INSPECTION

1. Legal definitions on the risk system and publication of indicators. Selection for inspection up to 90% based on risk system (2015). Some of the key risk criteria have been published by the GTD but it still remains unclear how much the ratio of tax inspections selected based on this system is. Meanwhile, it remains a challenge and necessity to update risk indicators and sectorial analysis of the tax administration based on the findings of the tax inspections.
2. Increase the support to tax administration with human, budgetary and logistic resources. The appointment of inspectors is to be made on sectorial specifics—incentivising packages for tax inspectors (2015).

Although there is an increase of the allocated financial resources (2015-2017) at the GTD, it remains a challenge for the Government and the Ministry of Finance and Economy in the framework of needs and requirements for the continuous modernisation of fiscal services toward taxpayers. A sustainable growth of financial resources is needed to support motivation and professionalism of the tax administration staff and the credibility of taxpayers.

3. To plan and publish annual training programmes for the inspectors in collaboration with business associations, consulting and auditing firms, preferably as per specific sectors and subsectors.

It is noted a new mindset of the tax administration in the communication with the business reflected as well in the survey findings and the GTD Strategy and the latest information published by the GTD on the communication with the business. To enhance the quality and efficiency of the communication, it would be suggested to have a more structured communication, preferably in small technical groups, to address concrete business concerns as per sectors.

RECOMMENDATION 2.

ON VAT REFUND

1. The respecting of refund deadlines, especially for companies exporting over 70% of sales. Make transparent a VAT refund regulation. The legal framework is consolidated and completed along with the implementation of the green channel at customs as a measure to promote exports. A VAT refund regulation has not been published yet. Meeting the deadlines remains still to be improved. The decision-making for VAT refund should not be conditioned by the budget income plan of the tax administration.

RECOMMENDATION 3.

ON THE RELATIONS WITH THE TAX ADMINISTRATION

1. TAD decisions to be published systematically.
2. Information for taxpayers from the registration moment at NBC. Publication of risk indicators.
3. To prepare simple guides on tax administration and information sessions, especially on the tax system and information sessions mainly with the small and medium businesses.

Based on the latest amendments to the Law "On Tax Procedures", the Tax Appeal Directorate has started functioning within the Ministry of Finance and Economy. However, it is demanded to increase the transparency on TAD's activity and decisions.

It has been improved the taxpayers' services in the GTD and NBC; meanwhile, there is support also by the EBRD for the establishment of information helpdesks for the taxpayers at the premises of ADISA. It should be further strengthened the role of Taxpayer's Advocate, now allocated at the Ministry of Finance and Economy and further increase the interaction with the business. To be strengthened the role of the associations and dialogue platforms.

RECOMMENDATION 4.

ON INFORMALITY

1. Development and approval of a specific strategy against informal economy.
2. Reassessment and analysis of the current fiscal system. The debate on the VAT threshold, tax income, incentives for formalisation.
3. Simple regulatory system/alleviation of administrative burden. Increase of the access in the banking services and transactions. Grants for agriculture.
4. Consultation, transparency and education. Public acknowledgement for companies that comply with the rules.

Informality persists as the main business concern in the form of unfair competition. There is an awareness of the need to reduce the phenomenon in several plans, where the main ones raised by the business remain:

- Reduce the administrative bureaucracies and faster exchange of information among public institutions;
- Clarity in the tax and customs procedures;
- Capacity building of tax and customs administration;
- Dialogue, more active cooperation and transparency between the business and public administration.

Based on the above, we think that the undertaken measures from the government on informality and the debate on the reduction or removal of the VAT threshold for the business will have a real impact on the informality in the country, despite the public debates for and against. Meanwhile, some concrete initiatives have been initiated in the framework of the deregulation reform to reduce some of the unnecessary practices and the administrative burden of the business for documentation which is easily generated within the public administration through further digitalisation of public service institutions.

CONCLUSIONS

The 2017 Survey of the Secretariat “On Some Aspects of the Investment Climate” highlights that despite all the observed improvements in respect to tax inspections, tax inspector’s behaviours and ethics, service to the taxpayers, etc., there is still a need for a more systematic approach in terms of a sustainable partnership with the business community and in particular with companies complying to rules. It remains essential the engagement for further digitalisation of the public services for the business and the reduction of institutional bureaucracy. The 2017-2021 GTD Strategic Plan has clearly defined in the GTD objectives, among others, the reduction of administrative burden in the payment of taxes and raising the public awareness for voluntary tax compliance. Implementation of this plan will help enhance the

trust between the tax administration and society and further clarification of tax administration’s role.

There is a consolidation in terms of timely VAT refund, especially to exporting companies; however, it should be considered the progress of refunds in general and how much detached this process will be in terms of fulfilling the GTD income plan.

Informal competition remains a permanent business concern, and the recent government’s efforts in reducing informality are widely appreciated. The business considers the relationship with the administration and enforcement of the law as the main influential factors in informality. Long-term systematic interventions against informality are necessary, which need to be studied and consulted with the business community.

Annex 1

Comments from the Business

1. ON VAT REFUND

- » Automatic refund for export and exchange of information by customs during export.
- » Automatic crediting of the recoverable VAT.
- » Possibility to pay other liabilities with the recoverable VAT, such as income tax, tax on the rent, dividends or penalties from the system and afterwards the risk to define whether it is needed an inspection or not.

2. FACTORS LEADING TO INFORMALITY

- » Lack of invoicing chain, we buy services that are not the object of VAT and not being able to charge VAT in purchases, as we receive tax invoices of Model 4.
- » Informality in Tourism, at tourist guides and tourism agencies.
- » The ability to earn more by paying fewer tax-

es. General business spirit and the lack of business culture in general.

- » Encourage the final consumer to withdraw the tax coupon.
- » There are no controls, or they are either insufficient or sporadic, issuing licenses for manufacturing activities with ease. No institution demands and controls the standardisation of manufacturing and respecting technical and environmental norms, etc.
- » Removal of the right for retail sales (coupon) for big businesses is creating fictitious retail and wholesale firms, as the big businesses are obligated to create these firms to enable them to charge the goods that are not accepted by the retail market. This phenomenon is becoming a trend, and a technical solution should be found to eliminate fictitious retail societies.

3. INCENTIVES FOR FORMALISATION

- » Increase the bonuses for customs officers if they increase regular customs clearances, therefore what they take now as a bribe to be taken officially as a bonus from the state.
- » Request the origin of products at the companies which make the final sales of products.
- » A business that fulfils all the criteria to be certified with a stamp, so inspectors do not pay a visit and put pressure on them every week.
- » The best way to fight informality is to control and fine citizens and companies that accept a VAT invoice.
- » The possibility to pay tax liabilities without immediate effect on penalties by tax inspections.
- » Public awareness. Increase of incentives – for every tax coupon to get a refund of 5-6-10%.
- » All the entities that sell, produce or have an activity in the area of agribusiness to be equipped with relevant licenses and be monitored as per applicable legislation in order for all to be equal. This is especially evident in districts.
- » Tax administration to organise special meetings by sectors to head companies toward formalisation.
- » A qualified tax administration. It leaves much to the desire the level of militancy in the tax administration, young or old it doesn't matter, simply the selection is made on political affiliation rather than on professional specialisation. Young graduates or with max. 1-2 years of work experience can never be part of the tax inspection department and inspect professionals which have been in the field for years.
- » The taxpayers service to be more open and in direct contact with the professionals, to help companies to be compliant in the reporting of their tax liabilities.
- » More easily accessible information. Laws to be made public along with the respective instructions before being implemented and not many legal amendments

Annex 2

The Questionnaire

This questionnaire is based on surveys conducted by the Secretariat of the Investment Council during August 2015 - October 2016 on some areas of investment climate considered by businesses as the most problematic. The issues that the present questionnaire will cover in separate sections are:

- » Tax Audits
- » Value Added Tax (VAT) Refund
- » Informality

This survey comes as a proposal of Investment Council members with the aim of enabling a wider debate on the consistency of the main business concerns during 2015 – 2016. The purpose of the survey is to make a comparison

with the findings of previous surveys on the above issues by highlighting the problems that continue to be a concern of the private sector. Moreover, it is offered the opportunity through the survey to recommend practical solutions to these issues.

Findings and suggestions resulting from this questionnaire will be discussed at the next meeting of the Investment Council. The recommendations adopted by the Investment Council will be submitted to the Albanian government for further consideration. *This can bring potential legal and regulatory changes or revisions.*

The deadline for completing the questionnaire is **30 September 2017.**

1. GENERAL

1. Select one of the areas below which better defines the main economic activity of your business:

- ☐ Mining and quarrying
- ☐ Manufacturing Industry
- ☐ Electricity, gas, steam and air conditioning supply
- ☐ Water supply; sewerage, waste management and remediation activities
- ☐ Construction
- ☐ Services
- ☐ Wholesale and retail trade;
- ☐ Transportation and storage
- ☐ Hotels
- ☐ Information and communication
- ☐ Architectural and engineering activities;
- ☐ Travel agency, tour operator
- ☐ Other (please specify_____)

2. The main shareholders (owning more than 50%) of your business are:

- ☒ Albanian
- ☒ Foreign

3. Select the size of your organisation according to your last year turnover:

- ☒ Up to 5 Million ALL
- ☒ 5 - 8 Million ALL
- ☒ Over 8 million ALL

4. Are you an exporting company? YES___ NO___

1.1 If YES, please detail as following

- ☒ Exporting over 70% of sales
- ☒ Exporting 50% - 70% of sales
- ☒ Exporting less than 50%

2. ON TAX AUDIT

5. Select the nature of tax audits and define the number of audits for your company in the following years:

	Number			
Nature of audits	2013	2014	2015	2016
<input type="checkbox"/> Full Tax Audit				
<input type="checkbox"/> Fiscal visit				
<input type="checkbox"/> Onsite inspection				
<input type="checkbox"/> Re-audit				

6. Define the time duration of the last tax audit/inspection:

- ☐ 1 week
- ☐ 1 – 4 weeks
- ☐ 1 – 3 months
- ☐ Other (specify) _____

7. Evaluate in the following the professionalism of the tax inspector in regards to:

Professionalism of tax inspector	Very professional	Professional	Somewhat professional	Unprofessional	Very unprofessional
Behaviour/ Ethics					
Communication					
Professional competences					
Logistic support					

8. Evaluate in the following the clarity of the Tax Audit Report issued by the Inspector at the end of the Tax Audit concerning:

Clarity of Tax Audit Report	Very clear	Clear	Somewhat clear	Unclear	Very unclear
Content					
Format					
References					
Findings/conclusions					

3. ON VAT REFUND (FOR COMPANIES THAT ARE SUBJECT TO VAT REFUND)

9. Have you applied for VAT Reimbursement from September 2015 – June 2017?
- ☐ YES,
- ☐ NO
- A. If YES, please respond to the following. If NO, please skip to section B, question 15.
10. The Object for VAT refund is related to:
- ☐ Export
- ☐ Investment
- ☐ Other _____
11. Have you obtained a VAT refund?
- ☐ YES
- ☐ NO
- ☐ In process (please specify how long has it been since the application date, are you in the process of auditing, the process of refund, etc.)

12. If YES, have you obtained a VAT refund:
- ☐ Automatically from the system;
- ☐ After relevant tax inspection;
- ☐ After your appeal (at the Appeal Directorate or in Court)
- ☐ Other _____
13. If YES, the refund time duration was:
- ☐ Within 30 days
- ☐ 30 days to 60 days
- ☐ 60 days to 90 days
- ☐ More than 90 days, please specify _____

14. If you have not obtained a refund, please provide up to three reasons why:
1.

2.

3.

- B. If, NO,
15. Why you have not applied:
- ☐ Complicated procedure in the system
- ☐ Too much paperwork
- ☐ No capacities to meet the requirements of the tax administration
- ☐ Not to become subject of a tax inspection
- ☐ Lack of trust in obtaining refund
- ☐ Other_____
16. Any comments, concrete suggestions for the improvement of the VAT refund procedure, please detail _____

17. Does the VAT refund process affect your decision to invest, and why?
- ☐ YES _____

- ☐ NO _____

4. ON INFORMATION AND COMMUNICATION WITH TAX ADMINISTRATION

18. Evaluate in the following the clarity of the explanations related to the legislation on tax procedures provided by the Tax Administration.
- | Very clear | Clear | Somewhat clear | Unclear | Very unclear |
|------------|-------|----------------|---------|--------------|
| | | | | |
19. Are you aware that the selection of taxpayers to be inspected will be made through the new risk-based system?
- ☐ YES
- ☐ NO

20. Have you attended the training session provided in the last years by the Tax Administration on the implementation of tax legislation?

☐ YES

☐ NO

If yes, please provide more details _____

21. Evaluate in the following the satisfaction with the e-TAX services as relates to:

E-tax	Very satisfied	Satisfied	Somewhat satisfied	Unsatisfied	Very unsatisfied
Access to electronic filling					
Reliability of the data					
Accuracy of the data processing					

22. Rank three of the most important factors related to the tax system that may lead to go through an informal activity (1-most important and 3-important):

☐ Application in general of tax legislation

☐ VAT threshold

☐ Tax on Profit/Income Threshold

☐ Tax Audits

☐ Relations with tax administration

☐ Other_____

5. ON INFORMALITY

23. Do you still face competition deriving from informal activities in your operating sector?

☐ Yes

☐ No

If yes, please comment on what kind of informality exists in your sector (tax evasion, un-regis-
tration, corruption, smuggling, undeclared workers, etc.)

24. Please comment on what do you think encourages informality in your sector:

25. From your point of view is it more beneficial or more of a cost being informal in your sector and if you could provide more details:

26. If you have some informality in your business, do you have any strategy to formalise in the long term?

☐ YES

☐ NO

☐ I have no informality

27. From your point of view, what could be some effective incentives to reduce informality in your sec-
tor?

28. Please any other comments or suggestions on the issues on investment climate to be considered
in the course of the work of the Investment Council:

Annex 3

STATUS OF RECOMMENDATIONS

In the following, we present 12 concrete measures/ recommendations of legal nature, included in the facilitation of tax procedures (37 in total) with the pertinent amendments in Law No. 9920 dated 19.05.2008 "On Tax Procedures in the Republic of Albania" (amended) and pertinent secondary legislation.

1. IC RECOMMENDATION:

Increase transparency for the main indicators of risk used by the electronic system to identify the business of risk which are subject of inspection.

Undertaken measure:

Annual Plan of Risk Management and Compliance 2016- pg. 12-14.

2. IC RECOMMENDATION:

Prior notification of taxpayers for the execution

of tax inspection. The legislation should provide a minimum of 10 calendar days to notify in advance the taxpayer for thorough tax inspections (except for cases of inspections onsite, which may be carried out without prior notification or notice).

Undertaken measure:

Fully addressed, even with a higher standard than the one recommended, from 10 days to 30 days the deadline for the notification before the full tax inspection—Article 81 of Law no. 9920 dated 19.05.2008 and Instruction no. 24 of MF.

3. IC RECOMMENDATION:

The tax inspection notice sent to taxpayers should be more detailed.

Undertaken measure

Partially addressed by law – in the notification for the inspection, it will also be foreseen the deadline for the completion of the inspection, the date and time— Law no. 9920 dated 19.05.2008 and Instruction no. 24 of MF.

4. IC RECOMMENDATION:

The right of taxpayers to appeal effectively – guarantee the independence of the Tax Appeal Directorate (TAD) – structural changes in the tax appeal.

Undertaken measure:

Amendments to Law No. 9920 dated 19.05.2008; DCM no. 11 dated 11.01.2017 and Instruction No. 24 of MF.

5. IC RECOMMENDATION:

Establishment of a collegial body instead of TAD via a special law, in the form of a “quasi court,” also in the framework of the plans for the unification of the tax administration with customs administration to review administrative appeals (starting with a certain amount).

Undertaken measure:

Amendments to Law No.9920 dated 19.05.2008; DCM No. 11 dated 11.01.2017 and Instruction No. 24 of MF.

6. IC RECOMMENDATION:

Repeal of point 3, Article 109, of Law No. 9920. Decisions of the Tax Appeal Directorate (TAD), in the quality of higher administrative unit to take decisions about cases of appeal, should be automatic binding to the Regional Tax Directorates (RTDs).

Undertaken measure:

Amendments to Law No. 9920 dated 19.05.2008, Instruction No. 24 of MF and DCM No. 11 dated 11.01.2017.

7. IC RECOMMENDATION:

Tax Appeal Decisions should not be subject to further appeal to the Administrative Court by the RTDs.

Undertaken measure:

Amendments to Law no. 9920 dated 19.05.2008, Instruction No. 24 of MF and DCM No. 11 dated 11.01.2017.

8. IC RECOMMENDATION:

Strengthening of the role of Taxpayers' Advocate.

Undertaken measure:

Changes to the positioning of TA in the relationship with Tax Administration - DCM, no.10, dated 11.01.2017.

9. IC RECOMMENDATION:

GTD and TAD should consider increasing the capacities for legal analysis and unification of their practices and reflect the courts' final decisions for similar cases. Unification of interpretations by the tax administration – tax precedent.

Undertaken measure:

Amendments to law no. 9920 dated 19.05.2008 - article 10 and article 28 paragraph 3.

10. IC RECOMMENDATION:

GTD should prepare and publish the Annual Commentary of treated cases on its official website.

Undertaken measure:

Amendments to law no. 9920 dated 19.05.2008 - article 10 paragraph 3 and article 28 paragraph 1.

11. IC RECOMMENDATION:

Amendment to the legal provisions related to the time deadlines for tax on profit and simplified tax on profit.

Undertaken measure:

Amendments to Law No. 9920 dated 19.05.2008 - Article 114/1.

12. IC RECOMMENDATION:

Approval of the draft law on Insolvency – Initiate the insolvency process at court by the tax administration only in compliance with the law for insolvency and not by the law no. 9920 dated 19.05.2008 “On Tax Procedures” (amended).

Undertaken measure:

Amendments to law no.9920 dated 19.05.2008 - article 104.

In the following are listed some of the fulfilled recommendations during 2017 by the tax administration and MF.

13. IC RECOMMENDATION:

Increase of the tax administration transparency.

Undertaken measure:

- » *Publication of a detailed report by GTD for 2016;*
- » *Publication of manuals on the declaration of the social and health insurance and their electronic declaration;*
- » *Periodic notifications for taxpayers at E-Tax and Media.*

14. IC RECOMMENDATION:

Informatisation of systems (e-filing, online statements, exchange of information etc.) among administration institutions and online exchange of information, for example, Tax Administration, Customs Administration, local Immovable Property Registration Offices, Transport Directories etc.

Undertaken measure:

Ordinance of MF no.101/1 dated 02.10.2017 “On the Facilitation of Required Documents for the Services provided to the Business and Citizens by the Ministry of Finance and Economy and its subordinate institutions.”

15. IC RECOMMENDATION:

Used risk analysis indicators should be adopted and adjusted as per industry (tourism, services, banking sector, textile sectors, etc.) and business size. While it is clear that the formula used by the system for their selection should be kept in strict confidentiality.

Undertaken measure:

Partial publication of some of them.

16. IC RECOMMENDATION:

Tax inspectors should be appointed based on taxpayers’ profiles (small, medium and big taxpayers) and sectorial specifics.

Undertaken measure:

Restructuring of GTD organogram.

17. IC RECOMMENDATION:

Provision of tangible incentives for investors and businesses (Approved with DCM no.579 dated 03.08.2016 “Guide for Investment Politics” – with the objective, until February 2018, of the drafting of the unified law for investors, which will also include the list of incentives for local and/or foreign businesses.)

Undertaken measure:

New draft-law “On Foreign Investments” under discussion. Fiscal package 2018 under discussion in the commissions of the Albanian Assembly.

In the following are listed some of the discussed recommendations of IC discussed broadly, but no concrete step has been taken so far.

1. The government should guarantee an entirely transparent system of tax inspection

by publishing main indicators of risk used by the electronic system of risk to identify businesses of risk which undergo a tax inspection.

2. Planning and approval should be at the highest level of around 90% of the electronic system of risk, for all kinds of inspections, and not only for the VAT refund. For the automatic selection, the electronic risk system should not focus only on VAT but also on other types of taxes (e.g., tax on the revenues and tax on profit).
3. The threshold for cash transactions for the VAT refund scheme for farmers remains an object of discussion and debate among stakeholders, institutions, and the private sector.
4. Unification of investigating structures and inspection of Tax and Customs Administration.

5. Organisation of mutual training programmes between the business and administration in preventing disputes. In the meantime, continuous and common training between the Administrative Courts, Tax and Customs Administration is suggested via the school of Magistrate with the support of business associations such as the Albanian Association of Banks. This would also help in the unification of practices for the administration and the Judicial. To be foreseen in the annual work programmes of the School of Magistrate and GTD and GCD (*Mutual discussions in continuity Business – Central Inspectorate-GTD*).
6. State Advocate Office, through its active role with interpretations for legal matters of general character for the entire public administration. For this purpose are necessary also legal amendments to the law no.10018 dated 13.11.2008 “For the State Advocate Office”.

ABOUT INVESTMENT COUNCIL IN ALBANIA

The Investment Council facilitates the development of mutual trust between the business community and the government in Albania and contributes to an incremental institutionalization of effective policy dialogue. It contributes to the national reform and economic transition process by enhancing institutions, laws and policies that promote market functioning and efficiency.

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