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## NOVEMBER 2020 ISSUE

Muja Law brings you the Legal Bulletin. This publication is a collection of the most important legal and tax updates published by our law firm during November.

The purpose of this monthly issue is to help professionals and businesses have a clear understanding of the dynamics of Albanian legislation and easily navigate through recent legal changes frequently published by our law firm.

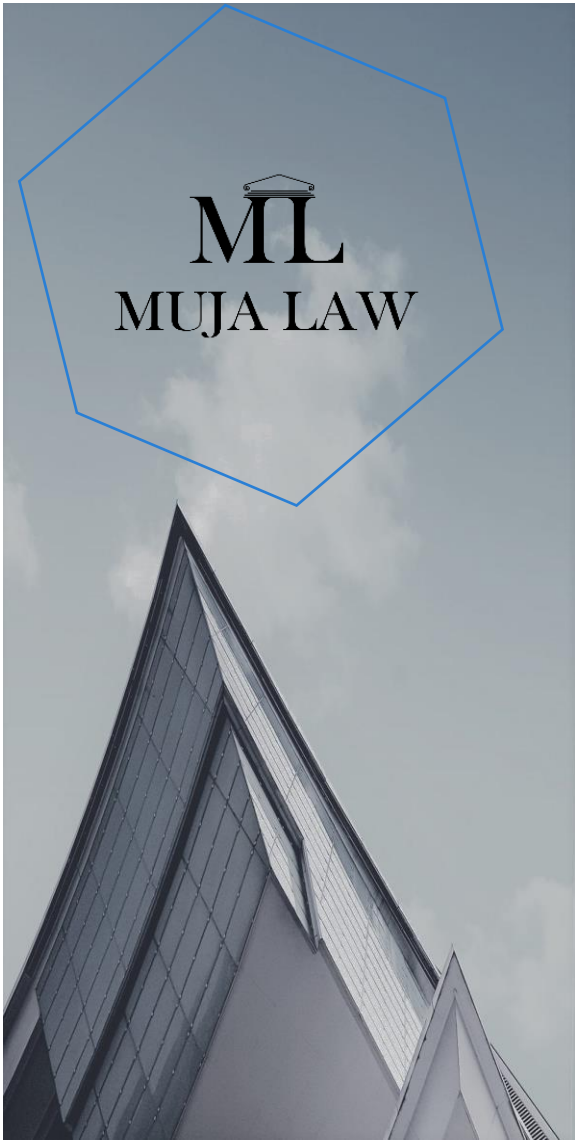


## LAW NO. 125/2020, DATED 15.10.2020

ON SOME AMENDMENTS TO LAW NO. 9669, DATED 18.12.2006, "ON MEASURES AGAINST VIOLENCE IN DOMESTIC RELATIONS", AS AMENDED, (HEREINAFTER REFERRED TO AS "LAW NO.125")

- Law No.125 provides some important amendments to Law no. 9669, dated 18.12.2006, "*On measures against violence in domestic relations*".
- In virtue of Law No.125, abuser is considered any person suspected and/or defendant for the use of domestic violence from the competent authorities.
- The court, as a protection measure from domestic violence, *immediately orders the abuser to leave the residence for a certain period of time, when the victim and the abuser live in the same residence.*
- Law No.125 provides that the court, when appropriate, for the application of this measure takes into account the special needs of the juvenile, elderly or disabled abuser and in these cases the eviction order is issued only when no other measure guarantees the protection of the victim from violence.
- In virtue of the provisions of Law No.125, in the protection order, issued by a court decision, the abuser is ordered to participate in psychosocial rehabilitation programs and/or parental training programs, organized by public or private entities.
- Law No.125 provides that the persons in charge of the rehabilitation program report to the local coordinator on the referral of cases of domestic violence, the defendant's participation in the program and its progress periodically and the results of the abuser's rehabilitation. If the abuser does not participate in the program, except when there are objective reasons and justified reasons for non-participation, at the request of the ad-hoc meeting of the Coordinated Mechanism for Referral of Cases of Domestic Violence or entities provided by this law, the provisions of the Criminal Code apply to actions committed in violation of the court decision on protection orders.
- In the protection order, issued by a court decision, the defendant or the abuser is ordered, if the case, to participate in rehabilitation programs at hospitals, outpatient centers or community centers, which provide mental health services, alcoholic services or toxicology services.
- The persons in charge of the rehabilitation program inform the local coordinator at the Coordinated Mechanism for Referral of Cases of Domestic Violence about the defendant's participation in the program and its progress.
- An abuser, convicted by a court decision to serve his sentence in penitentiary institutions, may participate in psychosocial rehabilitation programs. Participation and cooperation in the program are taken into account in assessing the risk of the convict in cases of parole, rewarding or special leave, visits.
- In the order for immediate protection measures, until the court issues the immediate protection order or the protection order, the immediate removal of the abuser from the residence is ordered, when the victim and the abuser live in the same residence, except when the abuser is a minor, elderly or disabled person.





- When extraordinary measures have been imposed in the whole country or in a part of its territory, respectively, the head of the responsible structure of the State Police is obliged to issue the order for the precautionary measures for immediate protection, in each case when it finds that violence has been used. Throughout the period of extension of extraordinary measures, in requesting the court for the assessment of precautionary measures, received through the order for precautionary measures issued immediately, the police must ask the court to issue a protection order, without requesting in advance the issuance of an immediate protection order.
- The decision on the protection order and the immediate protection order is registered in a special registry, which is administered to each court according to the model, rules and procedures approved by the decision of the High Judicial Council.
- Law No.125 provides that an appeal may be filed against the court decision for the issuance of the protection order, the approval of the immediate protection order, as well as the non-issuance of the immediate protection order, *within 5 days starting from the day after the notification of the reasoned decision.*
- *The Court of Appeal issues a decision within 15 days from the day of the appeal's registration.*
- *No recourse is allowed to the Supreme Court against the decision of the Court of Appeal.*
- No appeal is allowed against the decision of the court that issued the protection order, unless the victim claims that the measures imposed do not guarantee protection. The filing of an appeal does not suspend the execution of the court decision for the issuance of an immediate protection order or a protection order.
- In any case, the police officer, where the victim appears for protection, refers the case to the prosecution body for the criminal prosecution of the abuser, according to the provisions of the Code of Criminal Procedure.
- *Law No.125 enters into force 15 days after its publication in the Official Gazette.*

## **ORDER OF THE MINISTRY OF HEALTH AND SOCIAL PROTECTION NO.615, DATED 09.11.2020**

**ON THE RESTRICTION OF THE ACTIVITY OF BARS, RESTAURANTS, FAST FOOD RESTAURANTS AND LOUNGES, (HEREINAFTER REFERRED TO AS “*ORDER NO.615*”)**

- Order No.615 provides the restriction of the activity of bars, restaurants, fast food restaurants and lounges that provide service to customers, *from 22.00 to 06.00, throughout the country, until 02.12.2020.*



- Exception from this rule is made only for delivery services, which must be performed respecting the approved hygienic rules.
- *Order No.615 provides its entrance into force immediately and it taking effect on 11.11.2020.*

## **ORDER OF THE MINISTRY OF HEALTH AND SOCIAL PROTECTION NO.616, DATED 09.11.2020**

**ON THE RESTRICTION OF MOVEMENT IN THE COUNTRY, (HEREINAFTER REFERRED TO AS “ORDER NO.616”)**

- Order No.616 provides the *restriction of the population’s movement from 22.00 to 06.00, throughout the country, until 02.12.2020.*
- Exception to this rule is made for persons who have to move for health emergencies, work motives or urgent needs.
- Persons moving for work reasons or necessary reasons are provided with authorization through the e-Albania portal.
- Order No.616 provides that health personnel, employees of critical services structures, are exempted from applying on the e-Albania portal, having the documentation that confirms their employment at such bodies.
- *Order No.616 provides its entrance into force immediately and it taking effect on 11.11.2020.*



## **LAW NO. 122/2020**

**ON SOME AMENDMENTS TO LAW NO. 9632, DATED 30.10.2006, "ON THE LOCAL TAX SYSTEM", AS AMENDED, (HEREINAFTER REFERRED TO AS “LAW NO.122”)**

- Law No.122 provides that every subject, which conducts a business, through which during the fiscal year has realized a circulation *less than or equal to 8 000 000 (eight million) ALL*, is subject to the simplified profit tax for small business.
- Law No.122 provides that the tax rate applicable on the taxable profit for taxpayers who are subject to the simplified profit for small business, with an *annual turnover from 0 (zero) to 8 (eight) million ALL, is 0 (zero).*
- Law No.122 provides that every taxpayer, subject to the simplified profit tax for small business, is obliged to submit an annual tax return by February 10th of the year following the tax period, which provides in detail the total income, expenses and deductible, taxable profit, as well as any other details determined by the



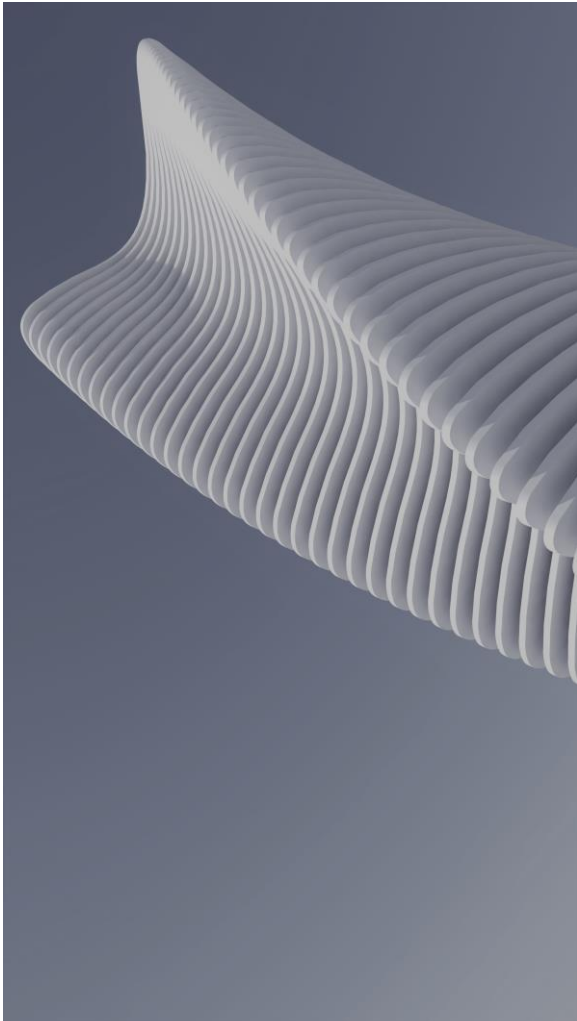
instruction of the Minister of Finance and Economy for completing and submitting the annual tax return.

- *The above provisions of Law No.122 enter into force on January 1, 2021.*

## **LAW NO. 123/2020**

**ON AN AMENDMENT TO LAW NO. 92/2014, "ON VALUE ADDED TAX IN THE REPUBLIC OF ALBANIA", AS AMENDED, (HEREINAFTER REFERRED TO AS "LAW NO.123")**

- Law No.123 provides that the reduced value added tax rate, which is applied for the supply of the service of construction works for state investments of sports clubs/sports federations or for investments of private entities in sports infrastructure, defined in the sport legislation, is at the level of 6 percent.
- *Law No.123 enters into force on January 1, 2021.*





INSTRUCTION OF THE MINISTRY OF FINANCE AND ECONOMY, NO.44, DATED 9.11.2020 "ON AN AMENDMENT TO INSTRUCTION NO. 24, DATED 2.9.2008, "ON TAX PROCEDURES IN THE REPUBLIC OF ALBANIA", AS AMENDED", (HEREINAFTER REFERRED TO AS "*INSTRUCTION NO.44*")

- ❖ Instruction No.44 provides that as a date of voluntary non-payment of tax liabilities will be considered the first working day after the date set in the notification made by the tax administration.
- ❖ If on this date the taxpayer has not paid the tax liability, the director of the directorate responsible for collecting outstanding liabilities or the head of a similar unit, or the head of the local government tax office, issues an order to block the bank accounts and deposit accounts of the taxpayer, as a measure to guarantee the forced collection of tax liability. This blocking order is sent to the banks to which the tax administration knows that the taxpayer has his account.

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The blocking order can be sent by mail or electronically (to the email addresses that the tax administration and the bank have formally communicated to each other).

In case the tax administration issues blocking orders for more than 20 taxpayers, on the same day, they must be sent in electronic form. In either case, each blocking order must contain all of the elements described below.

Instruction No.44 provides that the order describes the full identity of the taxpayer (legal person, commercial natural person or individual), whose accounts are affected by the issuance of this order, which must contain the full name and the relevant Subject's Unique Identification Number for commercial subjects. The blocking order must contain the reason for its issuance, the type of obligation being executed, the date when the taxpayer should have paid the tax liability himself, as well as the amount that banks must block (in any case, the amount required to be blocked by banks is the smallest amount between the amount that the tax administration seeks to receive with the amount resulting in the taxpayer's bank account at the time of issuing the blocking order).

If the blocking order does not contain the elements defined above and the bank finds it impossible to correctly identify the entity, it does not impose the measure of blocking the accounts/deposits, but notifies the tax administration regarding the identified deficiencies.

When the blocking order contains the elements defined above, the Bank, within the next business day from the day of receiving the order, blocks the accounts/deposits of the taxpayer, up to the amount of unpaid tax liability and within 5 working days from receipt of the order notifies the tax administration of the taxpayer's account/deposit balances. If the taxpayer has more than one account in the same bank, the bank, based on the order of the tax authority, blocks only the account/accounts that have a sufficient amount of outstanding liability.

Information regarding blocked account/deposit balances can be sent by the bank with an official letter or electronically. Also, within this deadline, the bank notifies the debtor in writing or electronically for receiving the blocking order.



## INSTRUCTION OF THE MINISTRY OF FINANCE AND ECONOMY, NO.44, DATED 9.11.2020

ON AN AMENDMENT TO INSTRUCTION NO. 24, DATED 2.9.2008, "ON TAX PROCEDURES IN THE REPUBLIC OF ALBANIA", AS AMENDED, (HEREINAFTER REFERRED TO AS "*INSTRUCTION NO.44*")

Instruction No.44 provides that within 2 working days from being notified of the blocking of certain amounts in bank accounts/deposits, the tax administration sends to the bank or banks which have confirmed the balances in the account, an execution order, which must contain the amount required to be transferred, as well as account numbers. The execution order must be accompanied by a payment order or receipt, which sets out the account codes or barcodes.

The transfer of the amount on the basis of the execution order is done by the bank no later than 3 working days from the day of receiving the order. For the performance of this action and within the same deadline, the bank notifies the tax administration and the subject in writing or electronically.

In case the taxpayer's obligation is fully executed, the tax administration immediately sends an unlocking order to the address of the banks where the taxpayer is a customer.

In case the taxpayer's obligation is partially executed, the tax administration sends a new blocking order to the banks, where the taxpayer has a bank account for the amount of unpaid tax liability that results after the partial execution.

In case the taxpayer does not have balance in the bank accounts in any of the banks, the accounts will continue to be kept blocked based on the blocking order issued by the tax administration.

If after the application to the subject of all coercive measures for the collection by force of the obligation (including the sale of sequestered property), the tax liabilities of the legal entity are not

fully paid, the tax administration transfers the remaining tax liability of the subject to the partner, shareholder and administrator. For this purpose, initially the tax administration guarantees the collection of the obligation by placing a blocking order on the accounts and deposits of partners, shareholders and administrators of the subject and then applies to them the coercive collection measures by force. Even in this case, the blocking order as a preventive measure is decided according to the procedures above.

A blocking order will be valid for a period of 12 months from the date of imposing the blocking measure on accounts/deposits. After this deadline, accounts/deposits are automatically unlocked by the bank without the need for any additional notice.

*Instruction No.44 has entered into force upon publication in the Official Journal.*



If you wish to know more on our publications, legal updates, tax updates, legal bulletins, or other articles, you may contact the following:

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**Muja Law** is a family-run law firm where we work hard for the success of our clients and to provide excellence in legal service. Our roots go back to 2001 when our Managing Partner, Krenare Muja (Sheqeraku), opened her law practice office in Tirana, Albania. Krenare’s son Eno joined her in 2014, and the other son Adi entered the practice in 2019. What started in Tirana as a small, family-run law office has grown and flourished in the community for the last 20 years. The law firm consists of various respected and talented lawyers who possess outstanding educational and community service backgrounds and have a wealth of experience in representing a diverse client base in various areas of the law.

The law firm is full-service and advises clients on all areas of civil, commercial and administrative law. With significant industry expertise, we strive to provide our clients with practical business driven advice that is clear and straight to the point, constantly up to date, not only with the frequent legislative changes in Albania, but also the developments of international legal practice and domestic case law. The law firm delivers services to clients in major industries, banks and financial institutions, as well as to companies engaged in insurance, construction, energy and utilities, entertainment and media, mining, oil and gas, professional services, real estate, technology, telecommunications, tourism, transport, infrastructure and consumer goods. In our law firm, we also like to help our clients with mediation services, as an alternative dispute resolution method to their problems.

While we have grown over the past 20 years and become recognized as one of Albania’s leading law firms, we are grounded in the essence of “who” we are and “where” we started. *We understand the importance of family, hard-work, and dedication.*

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