

**REPUBLIC OF ALBANIA
ASSEMBLY**

LAW

No. 10 418, dated 21.4.2011

On legalization of capital and the fiscal amnesty of a portion of tax and custom duties debts based on Articles 78, 83 / 1 and 155 of the Constitution, with the proposal of the Council of Ministers

ASSEMBLY
Of
REPUBLIC OF ALBANIA

DECIDED:

CHAPTER I

GENERAL PROVISIONS

Article 1

Scope of law

This law:

- a) defines the principles and guarantees, the actions of entities that benefit from the legalization of capital, the competencies of public administration and banks to participate in the process of legalization of capital, as well as activities related to the process;
- b) provides for amnesty of a part of the customs duties and tax debts, of social security and health contributions and competencies of tax and customs administrations, which identify the taxpayers/ debtors who benefit from this law.

Article 2**The purpose of the law**

The purpose of this law is:

- a) providing of legal guarantees related with legalization process, confidentiality of taxpayers information involved in this process including the information they give to tax administration or other taxpayers, before and after process of legalization of capital, as well as non starting or interruption for these taxpayers from the related institutions of tax and custom administration, of administrative procedures and the issuance of administrative decisions related offenses concealment of income and / or non-payment of taxes and taxes on these subjects;
- b) providing legal guarantees for the cessation of the remaining procedural actions provided in the tax legislation, custom code, and that of social security contributions and health related to the enforcement collection to these dues.

Article 3**Definitions**

In this law the following terms have the following meanings:

1. "Legalization of capital" is:
 - a) voluntary disclosure made by individuals, citizens of the Republic of Albania, natural persons registered as such in the relevant bodies or representatives of these two categories above, for the possession of amounts of money, at home or abroad, and payment of fees made in the relevant institutions to deposit this amount in a second-level banks in Albania;
 - b) voluntary disclosure made by legal persons based in the Republic of Albania, who are enrolled in the Tax Administration of the Republic of Albania, the positive difference resulting from revaluation of property, as defined in this law, and payment of fees made in the respective institutions for that reappraisal.
2. "Amount in cash" is neither Albanian banknotes as legal tender, nor foreign currency.
3. "Confidentiality" is to maintain the confidentiality of any action that may has a result or not, for any fact, for any information provided by the subject of legalization or his special representative, for any information about legalized capital, except:
 - a) the obligation to make available to their public servants charged with duties related to the process of legalization of capital;
 - b) the obligation to make available to their public servants employed in state administration bodies and authorized by law to follow the process of legalization of capital;
 - c) other cases stipulated by the Albanian legislation.

Article 4

Implementation of other laws

1. Provisions of tax legislation, custom code and social security laws, which provide for the powers of these bodies of public administration responsible for overseeing the implementation of this legislation, including the responsibility to initiate administrative procedures, during the implementation of this law, implements in accordance with this law.
2. Termination of administrative procedures provided for in paragraph 1, letter "a" of Article 2 of this law is not implemented by the High Inspectorate of Declaration and Audit of Assets.
3. The provisions of this law do not implement to capital that is included in the scope of Law no. 10 192, dated 03.12.2009 "On prevention and combat of organized crime and trafficking through preventive measures against the property.
4. The provisions of this law do not implement to capital gain as a result of criminal acts of corruption in public or private sector, as well as the impact of illegal conduct.

CHAPTER II

LEGALIZATION OF CAPITAL

SECTION I

GENERAL RULES FOR LEGALISATION OF CAPITAL

Article 5

The participants that benefit from the process of legalization of capital

In the group of subjects that benefit from the process of legalization of capital, are included:

- a) natural or legal persons who claim, within the conditions stipulated by this law, the amount in cash, and / or positive differences resulting from the revaluation of assets;
- b) individuals, with Albanian citizenship, that declare within the conditions stipulated by this law, the amounts in cash.

Article 6

The participants excluded from the process of legalization of capital

From the rights provided in this chapter, do not benefit those individuals who, in accordance with the legislation field, are subject to a legal obligation to declare the property at the High Inspectorate of Declaration and Audit of Assets.

Article 7

State bodies involved in the process of legalization of capital

In the process of legalization of capital take part:

- a) supervisory authorities for bank and financial institutions, organized and regulated under the respective laws;
- b) the customs administration, central and local tax administration, offices of real estate registration, as well as other institutions, whose activity is directly associated with this process.

SECTION II

PROCEDURES OF LEGALIZATION OF CAPITAL

Article 8

Voluntary disclosure requirement

1. Individuals, physical persons, as well as legal persons must declare that they want voluntary to legalize the capital, which have not previously declared or which have previously stated a value less than what should be stated.
2. Voluntary disclosure is a prerequisite for the initiation of legalization of capital.

Article 9

Disclosure of amounts of money from individuals

Disclosure of amounts of money from individuals as follows:

- a) individual or special representative should fill an application form for deposit of an amount in cash in a bank account number opened from them for this purpose. Application should be completed in two copies;
- b) form verified by the bank, in the presence of the applicant, about his fulfilling;
- c) the bank, upon receiving the application, gives an individual or special representative of the second copy of the application, verified by the bank, with the note that is deposited;
- d) in cases of disclosure of the amounts in cash and deposited into bank accounts, the bank holds as withholding tax, the amount of 3 percent of the total amount claimed;
- d) bank transfer taxes collected in the treasury accounts of the Ministry of Finance.

Article 10

Declaration of amounts of money from persons

1. Declaration of amounts of money from individuals registered as natural persons, it made under the rules of Article 9 of this law, including payment of tax at source. Commercial physical persons meet the Taxable person identification Number in the declaration form.
2. Tax liabilities of this Commercial physical person, until December 31, 2010, shall be considered as paid regularly and tax administrations cannot require payment of additional duties to those paid for this period.

Article 11

Revaluation of property of juridical persons

1. Legal entities which have registered in their financial statements real estate, machinery and equipment worth less than the market, have the right to do, within the period of implementation of this law, reassessment at market value of these assets.
2. Reassessment at market value can be made by a licensed independent expert for assessing the property, from the relevant institutions.
3. The difference from the accountability recorded in the financial statements, which result from the revaluation, can be reflected in the financial statements of 2011 and is depreciable for tax purposes.
4. Juridical persons pay for the reassessment the following fees:
 - a) 3 percent of the difference between the reassessed value and the accountability value recorded for the real estate;
 - b) 5 percent of the difference between the reassessed value and the accountability value recorded for machinery / equipment.

Article 12

Closing of the procedures of the legalization of capital

The Capital is considered as legalized, as appropriate:

- a) from the time when the amounts deposited in the appropriate bank account, for individuals and physical persons who declare the amounts in cash, and when the is paid the withholding tax, referred in Articles 9 and 10 of this Law;
- b) from the time of application in the tax administration and payment of obligations as provided in paragraph 4 of Article 11 of this Law, for juridical persons, which reassess real estate and machinery and equipment.

Article 13

Guarantees of participants in the process of legalization of capital

1. Individuals, physical persons and juridical persons, who participate in the process of legalization of capital, enjoy the following guarantees:
 - a) the revenues after payment of liabilities, as provided in this law are considered as income for which tax liabilities are paid in accordance with Albanian legislation;
 - b) guarantying, in accordance with law, for non giving of information regarding the way of creation of such revenues;
 - c) the right of confidentiality, as defined in this law regarding legalization of capital;
 - d) guarantees to parties that have legalized the capital, for non discrimination in the future, according to the procedures for calculating the tax liabilities.
2. Any ambiguity in the implementation of this law is interpreted in favor of parties that legalize capital.

Article 14

Restrictions following the legalization of capital

The banks, in who are deposited the amounts, according to this law, inform the participants that declares about the conditions, provision in this paragraph and in article 15 of this law, for the cases when they after the legalization may wish to transfer the amounts disclosed abroad, according to this law, or their money equivalent in small or equally amounts with the legalized amount , for the three executive years, since the date of their legalization, nor from the bank where the amount is legalized, neither other banks, where they have deposited amounts.

Article 15

Transfer of amounts of money ahead of schedule

1. In cases where the entities / individuals, who have disclosed amounts of money, wish to transfer these amounts or their equivalent abroad, prior 3-year period from the date of their legalization, it is held as a penalty:
 - a) 13 percent of the legalized amount, when this is done within one year from the date of legalization. When the amounts transferred are larger or smaller than legalized amount, the fine is calculated in proportion to the amount transferred, but in any case, cannot exceed 13 percent of the amount certified to be transferred abroad;
 - b) 6 percent of the legalized amount, when this is done after a year, but within two years from the date of legalization. When the amounts transferred are larger or smaller than legalized

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amount, the fine is calculated in proportion to the amount transferred, but in any case, cannot exceed 6 percent of the amount certified to be transferred abroad;

c) 3 percent of the amount of legalized, when this is done after two years, but within three years from the date of legalization. When the amounts transferred are larger or smaller than legalized amount, the fine is calculated in proportion to the amount transferred, but in any case, cannot exceed 3 percent of the amount certified to be transferred abroad;

2. The fines provided in paragraph 1 of this article go to the treasury account at the Ministry of Finance, from the banks, and are in addition to the initial amount paid at the time of legalization.

Article 16

Responsibility for implementation of restrictions on legalization amounts of money

1. Responsibility for implementation of restrictions on the transfer of capital abroad is due to:

a) participant, which has benefited from the legalization of amounts in cash, according to this law, in cases when transfer is asked to be done from a different bank other than the bank which has been carried out the legalization;

b) the bank, in cases when transfer is asked to be done to the bank which has been carried out the legalization.

2. The Central Bank, during inspections, from the entry into force of this law, up to three years after the time of its implementation, keeps into account the implementation of the provisions of this Law concerning the limitation of movements of the amounts of money abroad.

Article 17

Interruption of procedure by the will of the interested

Cases of interruption of procedure of the legalization of capital, by the entity itself, for any cause or circumstance, are considered as cases for which the authentication procedure has not started. In these cases the subject is subject of legislation obligations.

CHAPTER III

FORGIVENESS OF TAX AND CUSTOM DUTIES

Article 18

Beneficiary participants

1. From forgiveness provided in this chapter benefit:

- a) all taxpayers, against whom the tax administrations do not owe a refund of amounts, regardless of the cause of this refund or credit of taxes, and also when not resulting in credit surplus against the tax administration;
- b) to all taxpayers, against whom the tax administrations have obligations to refund or credit of tax amounts or resulting in credit surplus, in cases when the taxpayers accept, in writing, that the amount to be refunded or credited from the tax administration to be reduced in the equal amount to the amount of forgiven tax liability;
- c) all debtors to the customs administration, as defined in Article 26 of this Law.

2. The application procedure for tax and custom forgiveness is approved by the instruction of Minister of Finance.

3. By forgiveness of tax and customs duties are exempted officials that have the obligation for declaration of assets, and juridical persons, in which these officials have stock or equity quotes.

Article 19

Liabilities forgiven without any tax payment

Are forgiven without any tax payment in favor of the State Budget:

- a) all tax liabilities of physical persons, registered as a tax subject to local small business, unpaid that belong to the period until December 31st, 2010;
- b) all unpaid tax liabilities of individuals for the tax period to December 31st, 2010.
- c) unpaid tax liabilities of taxpayers, physical and juridical persons, registered as subject to VAT, which are evidenced in records of the tax administration until December 31st, 2008.
- d) all arrears of vehicle owners for the annual registration tax and annual tax of road traffic for the period until December 31st, 2010. Also, are forgiven for these tax liabilities for all means of stemming out of circulation, but unregistered until to December 31st, 2010.

Article 20

Forgiveness of tax liability for taxpayers, juridical persons, or registered taxpayers subject to VAT

1. Unpaid tax liabilities of taxpayers, juridical persons or physical persons, listed as subject to VAT, which are identified in the records of tax administrations in the period January 1st, 2009 until December 31st, 2009, can be forgiven if the taxpayer within the period of implementation of this law pays 30 percent of the principal of the tax.
2. Unpaid tax liabilities of taxpayers, juridical persons or physical persons, listed as subject to VAT, which are identified in the records of tax administrations in the period January 1st, 2010 until December 31st, 2010, can be forgiven if the taxpayer within the period of implementation of this law pays 50 percent of the principal of the tax.

Article 21

Forgiveness of fines related with the obligation to obtain fiscal devices

All taxpayers, subject to local tax of small business, which are punished by administrative fines for non installation of fiscal cash registers and have installed the fiscal cash register within the date of February 28th, 2011, can be forgiven for the amounts of unpaid fines for non-fulfillment of the obligation at time to obtain a fiscal cash register.

Article 22

Voluntary disclosure of tax liability

1. Taxpayers who, for tax periods through December 31st, 2010, that have declared amount of tax liability less than the real tax liability, have the right, within the period of implementation of this law, to self declare the real tax liabilities to tax administration, before that a tax audit begin from the tax administration.
2. The taxpayer, who discloses the real tax liability, in accordance with paragraph 1 of this Article and pays 50 percent of the tax of the self declared tax liability, is forgiven for the rest of tax liability, together with fines and interests that are applied in these cases.
3. The provisions of Article 18 of this Law, regarding the compensation of credit surplus or amounts to be reimbursed, can be applied to this case.
4. Taxpayers do not benefit from this provision, if the tax audit shows that the tax liability is greater than the self declared tax liability under this article.

Article 23

Forgiveness of liabilities of social security and health contributions for self-employed

1. Taxpayers, which are registered as self-employed, including the self-employed in agriculture, are forgiven for:
 - a) all unpaid obligations related to payment of social security and health contributions for themselves, for the period until the end of 2008;
 - b) all unpaid obligations related to payment of social security and health contributions for themselves for the period from January 1st, 2009 to December 31st, 2010, with the condition that before December 31, 2011, they should to declare and pay all obligations that belong to the whole year 2011.
2. Taxpayers referred in paragraph 1 of this article, which pay all amounts of social security and health contributions, within the timeline of implementation of this law, benefit the forgiveness of all fines and interests, related to unpaid obligations.
3. The periods, which are not paid social security, and for which the contribution is forgiven, will not be considered for the purpose of obtaining the right to pension.

Article 24

Forgiveness of liabilities of social security and health for physical persons and juridical persons

All taxpayers, physical persons and juridical persons, who have not paid all obligations of social security and health contributions, related to the period until December 31, 2010, are forgiven amounts of fines and interests.

Article 25

Obligations of Tax Administration

Tax Administration within a period, as determined by instruction of the Minister of Finance, identifies categories of taxpayers, who benefit from the forgiveness provided herein.

Article 26**Forgiveness of liabilities to the customs administration**

1. Are forgiven all liabilities, fines and interests of debtors to the customs administration, born until to 31 December 2008 and identified through the decisions of this administration, accounted and unpaid until to 31 December 2010, in accordance with the provisions of the Customs Code of the Republic of Albania.
2. All debtors of customs administration, which within the timeline of implementation of this law, pay 50 percent of the amount of principal duties, born within 2009 and identified through the decisions of this administration, accounted and unpaid until the date of entry into force of this law, in accordance with the provisions of the Customs Code of the Republic of Albania, are forgiven for unpaid fines and interests related to these dues.
3. All debtors of customs administration, which within the timeline of implementation of this law, pay 100 percent of the amount of principal duties, born within 2010 and identified through the decisions of this administration, accounted and unpaid until the date of entry into force of this law, in accordance with the provisions of the Customs Code of the Republic of Albania, are forgiven for unpaid fines and interests related to these dues.
4. The citizens, who have entered into the customs territory of the Republic of Albania vehicles until the end of 2010 and have not paid duties to the customs administration, the rest of the principal is forgiven along with fines and interests, if they pay 50 percent of the principal duties to this administration.

Article 27**Revaluation of real estate for individuals**

1. All individuals, which own real estate, have the right, within the period of implementation of this law, to make the revaluation of these assets at market value.
2. This reassessment can be done by a licensed expert, for assess of the real estate from the respective institutions or local offices of real estate registration.
3. If the individual chooses to make a reassessment with licensed expert, then his application for a reassessment of real property will attach the act of the expert assessment.
4. Local offices of registration of real estate, calculate the difference between the contract price recorded in this office and the value of expertise reflected in the act, and the fee that should pay this individual to record this revaluation.
5. If the individual chooses that the revaluation to be carried out by the office of registration of real estate in accordance with fiscal minimum prices, then this fact is stated in his application for reassessment.
6. In the case provided in paragraph 5 of this article, local offices of the registration of real estate estimate the difference between the contract price recorded in the office and the value

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resulted from the revaluation in accordance with fiscal minimum prices, and the fee that should pay this individual to record this revaluation.

7. The fee, payable for the registration of this revaluation, is 1 percent of the difference between the value of revaluation and the value of the contract registered at the offices of the registration of real estate.

8. In cases, when the immovable property results as registered without a sales contract, then, as the value of registration, by the registration offices of real estate is considered the value of fiscal minimum price at the time of registration.

9. The application it is made according to standard forms, approved by order of the Minister of Finance.

10. For sale of property, made after the revaluation, the tax is calculated as the difference between sales price and the price resulted from the revaluation.

Article 28

Procedure of extinguishing of the fiscal debt

1. Within 2 months after the end of the period of implementation of this law, fiscal administrations responsible extinguish fiscal obligations forgiven, according to this law, and make reflections of this fact in their accounting records.

2. Procedures of extinguishing of the fiscal obligations forgiven and fiscal obligations, which are statutory overdue, determines by instruction of the Minister of Finance.

CHAPTER IV

FORGIVENESS OF OTHER LIABILITIES

Article 29

Forgiveness of liability unpaid of the electric power

1. Are forgiven the electric power liabilities, billed and unpaid on December 31, 2006, to the company KESH, sh. a. by debtor's family defined in this section.

2. Are forgiven the interests calculated by nonpaid bills, as referred in paragraph 1 of this article.

3. Benefit from the forgiveness, as referred in paragraphs 1 and 2 of this article, the debtors, according to the following categories:

a) family heads of households that receive economic aid payments;

b) families that are include members with disabilities, blind people, paraplegics or quadriplegics, born or become in these conditions, who are declared unable for work with the

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decisions of the special medical commissions and benefit disability payment, when the person is head of family and has not family members employed in public or private sector or self-employed in the private sector;

c) family heads of households who receive unemployment benefits and who have no other income;

d) family heads of households who benefit pension and live alone or have dependent children, which are without income and are unemployed;

d) family heads of households who receive pensions for all categories, as well as beneficiaries of special treatment, having the benefit level less than the minimum income that benefit pensioners, which have no other income;

f) family heads of households who receive a disability pension and have no family members employed in public or private sector or are self-employed;

e) women that are family head of households;

e) all persons, which are family headed that enjoy orphan status.

4. Benefits from this law are for all categories mentioned above and that benefit this status at the date of entry into force of this law.

5. KESH sh. a. makes reduction of these liabilities from its financial statements. For tax purposes, these obligations are not recognized, nor as bad debt, neither as known expense.

6. The Ministry of Economy, Trade and Energy, the Ministry of Finance, the Ministry of Labor, Social Affairs and Equal Opportunities and the Ministry of Internal Affairs, within one month of entry into force of this law, shall issue guidance for determining the procedures, documentation and rules about the identification of debtors who benefit from the forgiveness.

Article 30

Forgiveness of liabilities unpaid for invoices of water consumption for households

1. For the households and non-household are forgiven the liabilities, together with its components, such as fines and water consumption interests that they have to enterprises and companies fully state owned of water supply and sewages, until the date of making effective the transfer of the companies at local government units, but no later than 31 December 2010.

2. Enterprises and companies wholly state-owned of water supply and sewage make the deduction of these financial obligations from their financial statements. For tax purposes, these obligations are not recognized, nor as bad debt, neither as known expense.

3. The water supply and sewage departments are in charge for monitoring and enforcement of this article.

Article 31

Forgiveness of fines imposed by road control inspectors of General Directorate of Road Transport Services

All drivers or their owners, who have a fine settled by road control inspectors until December 31, 2010, are forgiven for amounts of unpaid fines and their interests.

Article 32

Forgiveness of outstanding obligations of the taxpayer to the tax administration and operations with non-tax revenues

For all the outstanding liabilities of taxpayers with income from operations with non-tax revenues, such as non-payment for cash register, tax certificates, printing, tax receipts, stamp, excise or transportation tickets are forgiven.

CHAPTER V

COMPLAINTS AND SANCTIONS

Article 33

Right of appeal

The participants have the right to appeal in court, against decisions of public administration, as provided in this law, according to the legislation.

Article 34

Sanctions

1. Violation of the procedures provided in this law constitutes an administrative offense and is punished according to the following rules:
 - a) violation of the procedures for legalization of capital from banks are punished by order of the Minister of Finance, with an administrative fine from ALL 100,000 to ALL 200,000 for each case;
 - b) Failure of application in time of the procedures stipulated by this law, for registration of immovable property from the real estate clerk's office is punished by order of the Minister of Justice, with a fine from ALL 5,000 to ALL 10,000, for each case.

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2. Establish of sanctions under this section doesn't constitute cause for termination of the procedure of legalization of capital, whether it is in compliance with this law.

CHAPTER VI

FINAL AND TRANSITIONAL PROVISIONS

Article 35

Time of application

The right of participants to benefit from legalization and forgiveness, in accordance with the provisions of this law may be exercised until 31 December 2011.

Article 36

Bylaws

1. Minister of Finance, by order, approves the application forms for benefit by the process of legalization of capital.
2. Minister of Finance issues instruction on the application of Articles 11, 12 15, 19, 20, 23, 24, 25, 26, 27 and 28 of this Law.
3. By-laws provided by this law, approved within 3 months of entry into force of this law.

Article 37

Entry into force

This law enters into force 15 days after publication in the Official Gazette.

CHAIRPERSON

Topalli (Çoba)