

**DECISION**  
**647, dated 22/07/2015**

**ON**  
**THE APPROVAL OF THE PROCEDURES AND CRITERIA FOR**  
**OBTAINING FISCAL INCENTIVES BY THE DEVELOPERS AND**  
**OPERATORS OPERATING IN THE TECHNOLOGY AND ECONOMIC**  
**DEVELOPMENT AREAS**

Pursuant to Article 100 of the Constitution and Article 13 of Law No 9789, dated 19/07/2007 “On the establishment and operation of economic zones”, as amended, on the proposal of the Minister of Economic Development, Tourism, Trade and Entrepreneurship, the Council of Ministers

**DECIDED:**

**THE SUPPLY OF ALBANIAN GOODS TO THE TECHNOLOGY AND ECONOMIC DEVELOPMENT AREA**

1. The supply of Albanian goods to the technology and economic development area shall be considered as a supply with zero VAT rate, provided that these goods are used only for the purposes of economic activity conducted in the area and for which they are intended, and that they are supplied to the developer and user established in the area.
2. The supply of Albanian goods to technology and economic development area, which are not used for purposes of economic activity conducted in the area, but are to be used or consumed by the end user, shall not be considered as VAT exempted.

On these supplies the VAT tax, as defined by Law No 92/2014 “On value added tax in the Republic of Albania” is applied.

## **II. EXIT OF GOODS FROM THE TECHNOLOGY AND ECONOMIC DEVELOPMENT AREA**

Goods that exit a technology and economic development area might be:

goods issued for free circulation in the rest of the customs territory of the Republic of Albania after paying all importation duties, including VAT, as per the tax rate in force;

b) exports or re-exports with zero VAT rate, when exit the customs territory of the Republic of Albania;

c) goods included in one of the other customs procedures or other kinds of customs destination.

Goods or products transported from a technology and economic development area to another, within the territory of the Republic of Albania, shall be considered and shall not be subject to customs duties and/or taxes.

## **III. EXEMPTION OF DEVELOPERS IN THE TECHNOLOGY AND ECONOMIC DEVELOPMENT AREA FROM INCOME TAX**

1. “Licensed developers” of the technology and economic development area, legal licensed persons, local or foreigners, who build, administer and monitor the operation of the technology and economic development area, during the first 5 years of their activity in the area shall pay 50% of the income tax rate defined by the relevant tax law.

2. The tax incentive is calculated upon the beginning of the economic activity by the developer in the area. The beginning of the economic activity in the area, for the developer of the area, shall be considered the date of the commencement of works, as defined in the agreement between the responsible institution and the developer.

3. The entrepreneurs, who provide and conduct construction, installation, monitoring services, and other services of this kind for the “licensed developer” in the technology and economic development area, shall not benefit any income tax reduction regarding the activity they conduct in the technology and economic development area.

4. The period of the tax incentive for the developer shall be calculated from the date of its commencement until 5 (five) years later. So, if the tax incentive has started on 1 July 2016, it shall end on 1 July 2021.

#### **IV. EXEMPTION OF USERS OF THE TECHNOLOGY AND ECONOMIC DEVELOPMENT AREA FROM INCOME TAX**

1. Any legal person, local or foreigner, who is licensed and exercises economic activity within the Technology and Economic Development Area, during the first 5 (five) years of his activity in the area, shall pay 50%

of the corporate tax rate, as defined by the relevant tax law on income tax.

2. The tax incentive shall be calculated from the date when the responsible institution approves the commencement of the economic activity of the user in the area and shall end 5 (five) years later. If the tax incentive has started on 1 October 2016, it shall end on 1 October 2021.

3. The entrepreneurs, who provide and conduct construction, installation, monitoring services, and other services of this kind for the “user” in the technology and economic development area, shall not benefit any income tax reduction related to the activity they conduct in the technology and economic development area.

## **V. ACCELERATED DEPRECIATION OF CAPITAL ASSETS**

1. Regardless of the depreciation amounts and pursuant to the income tax law, within 3 (three) years from the date of commencement of works, as defined in the agreement between the responsible institution and the developers, 20% of the annual capital expenses of “the licensed developers” who invest in the area, shall be recognized as deductible expenses of the tax period (example 1, in the Annex attached hereto), for a 2-year period.

2. Regardless of the depreciation amounts and pursuant to the income tax law, 20% of the annual capital expenses of “the users” who invest in the area, within 3 (three) years after the responsible institution approves the commencement of his economic activity in the area, shall be recognized as deductible expenses of the tax period, for a 2-year period (example 2, in the annex attached hereto).

## **VI. EXEMPTION FROM LOCAL INFRASTRUCTURE IMPACT TAX ON NEW CONSTRUCTIONS**

The construction projects within the area, presented by the “licensed developer” of the technology and economic development area, licensed legal persons, local or foreigners, shall be exempted from local infrastructure impact tax on new constructions, provided by Article 27 of Law No 9632, dated 30/10/2006 “On local tax system”, as amended. The competent body who issues the construction permit

shall not require the preliminary or retrospective payment of this tax, but shall equip the “licensed developer” with the construction permit.

## **VII. EXEMPTION FROM THE PROPERTY TAX (BUILDINGS)**

The constructions made in the technology and economic development area pursuant to the design of the “developer”, shall be exempted from the property tax (buildings) provided by Law No 9632, dated 30/12/2006 “On local taxes”, as amended, for a five year period, starting from the first year when the obligation to pay this tax rises.

## **VIII. EXEMPTION FROM THE TAX ON PROPERTY RIGHT TRANSFER ON REAL ESTATE**

1. “The licensed developers” of the technology and economic development area, legal licensed persons, local or foreigner, shall be exempted from the tax on property right transfer on real estate, provided by Article 28 of Law No 9632, dated 30/10/2006 “On local tax system”, as amended.
2. “The users” of the technology and economic development area, legal persons, local or foreigner, who conduct economic activities within the technology and economic development area and own real estate located in the area, shall be exempted from the tax on property right transfer on real estate, provided by Article 28 of Law No 9632, dated 30/10/2006 “On local tax system”, as amended.
3. The real estate located on the technology and economic development area, that might be owned by “natural persons” or individuals shall not be exempted from the tax on personal income related to the transfer of the property rights on real estates, provided by the relevant tax legislation.

## **IX. LEVEL OF RECOGNISING THE EXPENSES ON SALARIES AND CONTRIBUTIONS AS DEDUCTIBLE**

1. Regarding the first fiscal year of the activity, the expenses on salaries and social and health insurance contributions that the employer pays for the employees, shall be recognised at 150% of their value. This incentive is provided both for “the users” and “the licensed developers”. Fiscal year means the period within a calendar year from the date the tax incentive starts, until 31 December of that year.

2. In relation to “the licensed developer” of the technological and economic development area, the licensed legal person, local or foreigner, the expenses of the employer on salaries and contributions shall be taken into account only for the employees on his payroll. This tax incentive shall not be obtained by the entrepreneurs of works that operate on contractual basis for the account of “the licensed developer”. Under the annual declaration of the taxable profit “the licensed developer” who benefits from this incentive, shall declare under the respective column the real cost of salaries and contributions, and then, shall add as a deductible expense 50% of that amount.

3. In the subsequent years after the first financial year, the additional expenses on salaries, compared to the previous year, for the purpose of calculating the taxable profit, shall be handled as recognised expenses with 150% of their value. The baseline, for this case, shall be considered to be the mean monthly expenses on salaries and contributions for the first year, which are compared to the expenses on salaries and contributions for every month of the second year. If this comparison shows increase in the expenses for the respective month of the subsequent year compared to the monthly mean of the first year, 50% of this value shall also be recognised as deductible. The same calculation principle shall also apply for the

subsequent years, taking into consideration the mean monthly expenses on salaries and contributions for the previous year.

4. In relation to “user” of the technological and economic development area, the licensed legal person, local or foreigner, the expenses of the employer on salaries and contributions shall be taken into account only for the employees on his payroll. This tax incentive shall not be provided to any economic operator who may supply services in the area, but does not possess the “user” status, approved by the responsible institution. In the annual declaration of the taxable profit “the user” who benefits from this incentive, shall declare under the respective column the real cost of salaries and contributions, and then, shall add as a deductible expense 50% of that amount.

5. In the subsequent years after the first financial year, the additional expenses on salaries, compared to the previous year, for the purpose of calculating the taxable profit, shall be handled as recognised expenses with 150% of their value. The baseline, for this case, shall be considered to be the mean monthly expenses on salaries and contributions for the first year, which are compared to the expenses on salaries and contributions for every month of the second year. If this comparison shows increase of the expenses for the respective month of the subsequent year compared to the monthly mean of the first year, 50% of this value shall also be recognised as deductible. The same calculation principle shall also apply for the subsequent years, taking into consideration the mean monthly expenses on salaries and contributions for the previous year.

## **X. EMPLOYEE TRAINING EXPENSES**

1. The employees training expenses in the technology and economic development area, for the purpose of calculating the taxable profit, shall be considered as

recognised expenses for the fiscal period at the double of their value, for a 10-year period since the start of the economic activity. This incentive is provided both for “the users” and “the licensed developers”. Fiscal year means the period within a calendar year from the date the tax incentive starts, until 31 December of that year.

2. In relation to “the licensed developer” of the technological and economic development area, the licensed legal person, local or foreigner, the expenses on employee training shall be taken into account only for the employees on his payroll. This tax incentive shall not be provided to the entrepreneurs of works that operate on contractual basis for the account of “the licensed developers”. Under the annual declaration of the taxable profit “the licensed developer”, provided with this incentive, shall declare under the respective column the real training cost, and then, shall add as a deductible expense 100 % of that amount.

3. In relation to “user” of the technological and economic development area, the licensed legal person, local or foreigner, the expenses on employee training shall be taken into account only for the employees on his payroll. This tax incentive shall not be provided to any economic operator who may supply services in the area, but does not possess the “user” status, approved by the responsible institution. Under the annual declaration of the taxable profit “the user”, provided with this incentive, shall declare under the respective column the real training cost, and then, shall add as a deductible expense 100 % of that amount.

4. The training expenses shall be justified through respective contracts between “the developer”, “the user” and the training service provider, being them local or foreign legal persons, natural persons, individuals licensed for training.

## **XI. RESEARCH AND DEVELOPMENT EXPENSES**



1. The research and development expenses shall be recognised as deductible expenses at double their value, for a 10-year period from the start of the economic activity.
2. The company's research and development expenses shall be considered those types of expenses whose purpose is not rapid realisation of income and profits. Such expenses include research expenses on planning, modelling and designing new products or new technological applied research, which might facilitate future development and upgrade of products. This incentive applies for "users" of the technology and economic development area who manufacture products or provide services.
3. "The users" of the technology and economic development area shall clearly identify the research and development expenses by reflecting them on dedicated analytical reports, which shall be subject to control and verification by the tax authority.
4. Under the annual declaration of the taxable profit "the user", provided with this incentive, shall declare under the respective column the real research and development expenses, and then, under additional columns shall add as a deductible expense 100 % of that amount.

## **XII. TRANSFER OF ECONOMIC ACTIVITIES**

1. Tax incentives, provided by Article 13 of Law No 9789, dated 19/07/2007 "On the establishment and operation of economic zones" shall not be provided if it is noticed that "the approved user" who operates in the technology and economic development area, has transferred his existing activities, or activities of other people, conducted in other parts of the Albanian territory, to the technology and economic development area, with the main aim of benefitting the incentives

provided under this law. Any transaction that mainly results in the transfer of economic activities, as defined above, shall exclude “the user” of the technology and economic development area from the fiscal benefits.

2. This rule shall include the total or partial transfer of economic activities, the total assets or parts thereof, when this is realised:

between two legal persons, when the receiver holding the “user” status in the technology and economic development area, realises the continuity of the transferred activity, regardless whether this transfer is made against a payment.

b) by the legal person himself, who has obtained the status of “the user” of the technology and economic development area, who transfers in whole or in part the economic activity or his assets from the share of the economic activity that he exercises or develops outside the economic area.

3. Transfer means the deployment of the whole of the economic activity or an autonomous part of an activity that includes tangible and, in cases, intangible elements, that together constitute an activity (enterprise) or a part of an enterprise, which, with the status it has when transferred in favour of “the user” of the technology and economic development area, might lead to the development of an independent economic activity under similar conditions as prior to the transfer. The entirety of assets that are transferred in the framework of an economic activity shall constitute the investment fund, which includes the stock, tangible or intangible assets, different patents, employment contracts, etc.

4. The transfer of the entirety of assets or part thereof conducted under an affiliation, merger, division operation of the legal person or under the restructuring of a group shall be considered as transfer of the economic activity.

### **XIII. MEASURES UNDERTAKEN IN CASES OF ABUSIVE BENEFIT OF TAX INCENTIVE**

1. When the products and goods from the technology and economic development area are marketed in the internal market under the normal market price for the relevant product or similar products or direct substitutes, and when the local industry incurs a material damage, the ministry responsible for the economy shall apply an adjustment fee for the lost value on the respective product.

2. The inspection of prices applied for selling products resulting from a technology and economic development area and that enter the rest of the customs territory of the Republic of Albania shall be conducted by the ministry responsible for the economy, upon the written complaint raised by the economic operators that manufacture and/or market the respective product, or similar products or direct substitutes.

3. When the inspection of the situation shows that the products and goods resulting from the technology and economic development area are marketed at a price below the normal market price for the respective product, similar products or direct substitutes, an “adjustment” fee” shall be set (in addition to the selling price of that product) which is required to be paid by “the user” that has manufactured them at the technology and economic development area.

4. When setting the market price of the products and goods resulting from the technology and economic development area and marketed at a price below the normal market price for that product, the following shall be taken into consideration:

- a) the actual data of the selling prices of the same product used by other operators;
- b) reference prices applied or published by state bodies such as customs authority, tax authorities, INSTAT, etc.;
- c) data provided by the investigation conducted by the respective structures of the ministry responsible for the economy.

5. The customs and tax administration, authorised by the relevant laws of the field of their activity to use alternative methods for assessing prices, costs and profits, shall cooperate and respond to the requirements of the ministry responsible for the economy regarding data, evidences, reports, investigations and assessment of prices, goods or products, that enable the implementation of this Article in the cases of abusive benefit of tax incentives.

6. When the authorised structures of the ministry responsible for the economy decide to apply “the adjusted fee of the lost value on the respective product” they shall reflect this decision and the respective measures on the verification act and the respective report. Pursuant to the legal provisions in force, the economic operators may appeal the undertaken measures and the set penalties by the authorised body. The minister responsible for the economy shall establish, through a regulation, the entity responsible for the investigation of such cases and shall detail the manual operating procedures of this entity.

This decision shall enter into force upon its publication in the Official Journal.

PRIME MINISTER

**Edi Rama**

#### **ANNEX ON POINT 1 AND 2 OF CHAPTER V “ACCELERATED DEPRECIATION OF CAPITAL ASSETS”**

Example 1/point 1 of chapter V of the decision: The date of works commencement pursuant to the agreement between the responsible institution and developer of the area shall be 5 January 2016. The commencement date for the investment by the developer shall be 1 July 2016. In 2016 the capital expenses in long-term assets of the developer shall be 50,000,000 ALL, in 2017 they shall be 80,000,000 ALL and

in 2018 they shall be 100,000,000 ALL. For the purpose of the implementation of this fiscal incentive, in 2016  $50,000,000 \times 20\% = 10,000,000$  ALL shall be recognised as current expenses. The above mentioned amount of expenses shall be deductible on the whole capital investment realised during that year. The recognition as deductible expenses for a 2-year period accordingly means two consecutive years.

Example 2/point 2 of chapter V of the decision: The date of approval for the start of the economic activity of the user of the area, 1 July 2016. The starting date of the investment by the user, 1 September 2016. In 2016 the capital investments for long-term assets, machinery, equipment, installations etc., of the user shall be 10,000,000 ALL, in 2017 they shall be 50,000,000 ALL and in 2018 they shall be 20,000,000 ALL. For the purpose of the application of this incentive in 2016  $10,000,000 \times 20\% = 2,000,000$  ALL and in 2017  $50,000,000 \times 20\% = 10,000,000$  ALL shall be recognised as current expenses. The recognition as deductible expenses for a 2-year period accordingly means two consecutive years.