

NewsLetter



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AMCHAM NEWS

EDITORIAL

AMCHAM OFFERS MORE THAN 40 BUSINESS CLIMATE RECOMMENDATIONS, PRESIDENT JAÇO:

WE WILL MONITOR MPS' VOTES

American Chamber of Commerce in Albania President Enio Jaço held the chamber's Annual Media Conference to speak about developments that affected the AmCham community during 2020 and beyond. President Jaço addressed two main issues during his remarks -- the challenges and expectations stemming from the effects of the pandemic as well as the business climate in the country. Regarding the challenges stemming from the pandemic, President Jaço praised the resilience and contribution of AmCham members in the country's social and economic fabric, while bringing to the attention of the authorities the need of new instruments to support the business community...

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IN A MEETING WITH THE TAX DIRECTOR, AMCHAM DISCUSSES THE NEED FOR A MORE MODERN,



EASIER TO USE FISCAL SYSTEM

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In meeting with Tax Director, AmCham discusses the need for a more modern, easier to use

FISCAL SYSTEM

The American Chamber of Commerce in Albania has continued its regularly-held meetings with the Albanian Tax Administration, openly discussing related issues of concern for the business community. The meeting focused on important issues for businesses, such as the problems with the freezing of bank accounts by the tax debt collection directorates, issues with the information system in use as well as VAT refund concerns. Moreover, the Business Forum served as a roundtable discussion on key business climate issues, including the efficiency of the tax system as well as the harmonization of tax laws with financial reporting standards at both national and international levels.



AmCham President Enio Jaço stressed the importance of modernizing the tax system, which, he said, must guarantee sustainability, reliability and be attractive to foreign investment. Jaço said that to increase investments by American and other foreign investors, it is important to address the business climate and one of the key pillars of the business climate is the tax system.

"Investors find it difficult to plan in the long run if we have frequent changes, it makes the system unattractive.

We think that there is a need to reform and modernize the tax system," Mr. Jaço said.

He also highlighted three



important elements that are critical and need to be addressed: frequent tax changes, system modernization with IFRS standards and informality and tax evasion.

"IFRS standards should be reflected in the law. Let's just look at one statistic: the tax law was created in 1998. It has certainly undergone some repairs over the years, but it is a very old law, which does not contain the modern reporting structure of international financial standards and as such allows for gaps that are relatively unmanageable and confusing for businesses," Mr. Jaço said at the meeting.

Regarding the issues addressed by AmCham President Jaço, General Tax Director Delina Ibrahimaj said that a deep reform of the fiscal system has already started to update the system with the new accounting



He also highlighted three important elements that are critical and need to be addressed:

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water supply companies, will also help the tax administration have more clarity about the activity of a business. Ms. Ibrahimaj also presented the new asset register at the meeting -- another innovative tool at the disposal of tax officials.

The meeting with the General Tax Director served to discuss many issues that come from the members, and the AmCham Tax and Customs Committee Chairwoman Alketa Uruçi addressed some of these concerns in her remarks at the meeting.

The tax risk that stamps partly from an outdated tax law and partly due to interpretations that tax inspectors occasionally make of the law, has been one of the issues raised by Ms. Uruçi. Other issues addressed included VAT refunds and the completion of the tax audits within the set deadlines. Fines that continue to be incorrectly generated by the system, as well as the freezing of bank accounts as part of tax debt collection, sometimes creating obstacles for businesses, were all issues of concern referred to the meeting by AmCham members and addressed during the discussion.

The procedures of unregistering at the National Business Center and the conducting of formal controls even after the business has been removed from the register were also mentioned by Ms. Uruçi as concerns for AmCham member businesses.





11 business organizations write to Minister Denaj to ask for deadline extension

Beneficiary owner registration creates problems for NGOs and businesses

Albania's business community, represented by 11 important business organizations, has joined forces to lobby the authorities to extend the deadline available to NGOs and businesses for the registration of the beneficiary owner. In their letter to Finance and Economy Minister Anila Denaj, business organizations argued that the time allotted is quite short in relation to the documentation required, which shows that the law that entered into force in December 2020 has not taken in consideration all the necessary technical details needed for its implementation and does not provide enough of a timeframe to meet its requirements.

Business organizations have asked Minister Denaj to take into account the problems that businesses and NGOs are facing with the system, providing the necessary documentation and implementing other laws like the one on electronic signatures. As a result, they are seeking to push the deadline from March 31 to June 30. That extension would give NGOs and businesses time to complete the necessary documentation. It would also give time to the National Agency for an Information Society (AKSHI) and the Tax Administration to improve the online platform to the needed level of interactivity.

Non-profit organizations have argued that their registration in the Register of Beneficiary Owners in e-Albania cannot be done the same way as that of commercial companies as their activity is based on different parameters. In the case of NGOs, the meaning of beneficial owner cannot be directly applied as NGOs can be run by members, a board, an executive director or a secretary general and the registration should be based on the situation of the NGOs.

Moreover NIPT numbers issued to NGO administrators are not rec-

ognized by the e-Albania system, which makes it even more difficult to register these organizations.

Also, opening an account in e-Albania, which is administered by AKSHI, has led to other difficulties as the system does not have the data of the administrator or legal representatives -- like general secretaries or executive directors -- which are then not recognized as legal representatives by the system despite the fact that in some cases they appear as such and are registered in court.

NGOs need to update the necessary documentation, which presents its difficulties in collecting, as there are organizations like foreign chambers of commerce that have a considerable number of members. Combined with the lack of full-time in-office staff due to pandemic conditions, the situation becomes even more difficult. Also, these foreign organizations can have foreign beneficial owners who then have difficulty in obtaining the necessary documentation from the countries of origin and the conversion of the documentation according to the Albanian legislation takes time.



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Just as problematic are difficulties encountered in business registration, above all difficulties that come from the online platform and the system which, although has been in operation since the end of January, does not work with proper efficiency. The situation is also difficult for those foreign investors who have to provide the necessary documentation and fulfill the obligations in a very short time. Large corporations that are public entities in other countries also face a similar situation.

Another problem identified by businesses is that administrators who are foreign nationals receive the registration link by email but cannot receive the relevant code for activating the link which is sent to a phone number.



AmCham comments on the Registration of Beneficiary Owners

1 The 60-day deadline for the establishment of the Register of Beneficiary Owners is provided by law, specifically Article 15 of Law No. 112/2020. It stipulates that “reporting entities must register the data required by this law for the beneficiary owners no later than 60 calendar days from the creation of the register, according to the definition of point 2 of this article.” While the creation of the register is to be done no later than Jan. 31, 2021.

So, the extension of this deadline through a Decision of the Council of Ministers (DCM) would be disputable, and it would be advisable for the extension to be done through a law change.

Alternatively, a regulation should be issued to stipulate that the register will be operational/effective on April 30, 2021, so that it gives entities a deadline of 60 days from that date -- i.e. June 30, 2021.

2 Regarding the second point of the draft DCM, in addition to point c) of chapter III, point ç) of chapter III should be changed, as they list the same documents with the

change that point c) is for the initial registration in the register and point ç) is for recording changes of data in the register.

If this change is not made, it will mean that the validity of the documents will be 90 days for the initial registration of the last beneficiaries and meanwhile if there are changes, the documents must be no older than 30 days. This differentiation does not make sense.

3 To add another point in the draft DCM regarding the creation of the possibility of “suspension of the application” in case of lack of documents in the application.

Specifically, in Article 6, paragraph 4 of Law no. 112/2020 “On the register of beneficiary owners” as well as in DCM no. 1088, dated Dec. 24, 2020, to add the possibility of “suspension of application,” in analogy with Law no. 9723, dated May 3, 2007 “On business registration,” as amended.

In article 56 of Law no. 9723, dated May 3, 2007, the rules provide for the “suspension of the application.” In cases when after the verifications provided in Article 54 of that law, it turns out that the conditions for registration are not met, the relevant registration fees are not paid, there are unpaid administrative sanctions or the required registrations have not been completed, according to Article 46, the National Business Center (NBC) suspends the application and notifies the applicant in writing of the exact reason for the suspension,

giving it a period of 21 calendar days to complete or rectify the elements that impede registration. The reason for the suspension is announced through a standard NBC form. If the applicant completes or corrects the elements that hinder the registration, within the deadline specified in point 1 of the article, the NBC is obliged to complete the registration within a period of 1 day from the date of completion or correction of documentation. In this case, the registration bears the date of submission of the first application.

This allows entities (as opposed to immediate refusal) to submit additional documents in support of their application, without having to start a new application that could have serious consequences, requiring the collection of documents from scratch (which requires additional time and comes with added cost for entities). It also reduces appeal procedures that may be initiated by entities in the event of an unfounded rejection of the application.

AmCham Agenda 2021: Serving the community of member businesses

COMMITTEES in ACTION

AmCham committees have updated their agendas -- adapting themes and activities to the new reality caused by the pandemic and the economic hardships it has brought.

A new trend of doing business that aims to digitize all processes, legislation that evolves and approximates to EU laws, new forms of tax legislation, regulatory systems in development -- all these have formed the basis of the work of committees which have offered members a wide range of services from training ses-

sions to lobbying to meetings with senior officials.

The AmCham Board of Directors has drafted the policies on which the Chamber has operated during this difficult year, translating the business needs and new environment into events and developing fair and constructive relations with all partners.

Remote work has made it harder to do business and it has not been

easy for many companies to continue operations and stay productive in the market as well as keep all their employees. The situation has made it imperative to organize training sessions that upgrade the skills of employees and explain the latest trends.

Meanwhile, the tax system is undergoing changes for several business categories, leaving more tax-free room for small businesses and bringing incentives for big businesses. All of these, along with new fiscalization methods, are themes built into an ambitious agenda at AmCham.

Working toward improving the business climate has been no less important, and all committees have provided a detailed analysis and made relevant recommendations on the matter.



TAX AND CUSTOMS COMMITTEE

Meetings with customs and tax institutions and open discussion with the leading officials continued to be the focus of the AmCham Tax and Customs Committee. In 2021, the Committee's key focus is on providing information on legislation changes affecting the tax system as well as explaining new methods of fiscalization and registration of small businesses exempt from VAT. The Committee has also focused on long-term developments such as the approximation of Albanian laws with those of the European Union. It is also planning to hold meetings with the officials responsible for economics and finance emerging from the 2021 general elections.



LABOR AND ETHICS COMMITTEE

Ethics in business and the implementation of labor relations that reflect current trends continued to remain in the spotlight of the Labor and Ethics Committee. As ethics conventions evolve year after year -- internships, HR relationships as part of doing business as well as the laws governing labor relations have become interesting topics of meetings and training sessions provided by the Committee. The new trend of working from home, meanwhile, has led to wide-ranging discussions among members and experts who are bringing the best models of how remote work can be managed.



REGULATORY, LEGAL AND IPR COMMITTEE

A developing economy also sees changes to its legislation and rules. Meeting with officials of agencies and institutions that lead the implementation of these rules and guide the work of businesses has been the key focus of the Regulatory, Legal and IPR Committee. Moreover, the Committee has played a major role in providing information to members on new government requirements on businesses, including those relating to the register of beneficiary owners. Meanwhile, the Committee has also been involved in bringing a positive impact to the investment climate and an expert team has been created by AmCham to work toward that goal.



INVESTMENT AND TRADE COMMITTEE

Has played a major role in creating the Investment Agenda, moving forward on fundamental issues that concern businesses as part of the investment climate in the country. This year will see increased attention on the Agenda of Regional Meetings with other AmChams in the region and joint work, in the framework of increasing cooperation among the governments of the Western Balkans. The committee will have the opportunity to bring members together at the same table with AIDA leaders in 2021 to talk specifically about opportunities for cooperation.



DIGITAL BUSINESS COMMITTEE

In an era when digitalization is becoming a necessity, the Digital Business Committee has a lot to do. In 2021, the Committee will continue its work to provide businesses with the benefits that come from e-signature while working to bring to small businesses the expertise needed to digitize key work processes. This year, the Committee plans to have meetings with international and EU institutions to seek the involvement of the business community in partnerships on various projects that focus on innovation.



AMCHAM OFFERS MORE THAN 40 BUSINESS CLIMATE RECOMMENDATIONS, PRESIDENT JAÇO:

We will monitor MPs' votes

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“AmCham’s businesses have shown an unprecedented economic and social impact, injecting \$3.1 billion into the economy, a figure that has grown from a year ago - as a result of a further concentration of businesses around AmCham. But despite their resilience and engagement, the effect has been enormous and has deepened the fragility of the economy. As a result, AmCham members are facing and will continue to face challenges that require attention,” Mr. Jaço said.



AmCham President Jaço singled out three main issues that need to be addressed in relation to the pandemic. First, he pointed out the need for access to financing and the prospect of having sufficient capital for business operations as well as the importance of creating alternative funds and financing instruments. Second, he stressed the importance of building the right supporting legal infrastructure and an ecosystem that provides support for trends for which the Albanian economy is unprepared. Third, Jaço noted that it is important for the public sector to adapt and put at the service of businesses the right tools for the new reality.

Regarding the business climate, the AmCham President expressed concern about the growing lack of trust from the business community, civil society and investors, while mentioning the decline in doing business perceptions in the AmCham Business Index -- a decline also reflected in other international reports.

Mr. Jaço announced that, in the coming weeks, AmCham will submit to the government a package of more than 40 recommendations that aim to improve the business climate as well as build trust among investors and businesses.

“The package is based on the importance of creating a strategy for attracting investments, which would include easing procedures and reducing bureaucracy, strong incentive packages and creating an inclusive market in which market concentrations and monopolies decrease,” Mr. Jaço said.

President Jaço stressed the need to create a program with concrete mechanisms that fight corruption and guarantee compliance with the Law on Public Consultation. He also stressed the importance of modernizing the tax system as well as strengthening exports and the digital economy and reorienting the workforce.

Mr. Jaço said AmCham will follow the implementation of these recommendations through a concrete evaluation mechanism that will look at

politicians' stances on each of the issues that affect the business climate. “AmCham will take a serious initiative regarding the follow-up and implementation of these recommendations, one of which will be the presentation during the year of a score report, evaluating politicians and MPs, based on their stances on related legislation,” Mr. Jaço said.

Responding to journalists' questions, the AmCham President noted that, if the confidence-building mechanisms are addressed, then there will be plenty of opportunities for economic growth. “It's good to be aware of some of the advantages we have always had in the region. At the same time, two new opportunities are becoming a reality. We are on the verge of opening negotiations with the EU -- which means increasing access to Western European markets for Albanian products, and the Economic Cooperation Agreement between the United States and Albania has been signed, which offers many investment opportunities,” Mr. Jaço said.