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LAW

No.10 270, dated 22.4.2010

ON THE RIGHT OF PRIVATIZATION OF STATE LAND IN USE AND TAX ON ITS RIGHT OF USE

Pursuant to articles 78, 83 point 1 and 155 of the Constitution, upon the proposal of the Council of Ministers,

THE ASSEMBLY OF THE REPUBLIC OF ALBANIA

DECIDED:

CHAPTER I GENERAL PROVISIONS

Article 1

The object of the law

The purpose of this law is to regulate and secure the collection of revenues through the right of privatization and the imposition of a tax on the right of use of state-owned land by individuals who have benefited from the process of privatization of construction on state land, of Article 2 of this Law.

Article 2

Scope of the law

(Amended by Law no. 24/2012)

1. The provisions of this law shall apply to any:

- a) non-privatized terrains of buildings privatized by citizens under Law no. 7512, dated 10.8.1991 "On sanctioning and protection of private property, free initiative, independent private activities and privatization" (repealed), according to the detailed design at the time of privatization of buildings;

- b) Non-privatized terrains of buildings sold by state-owned enterprises prior to the entry into force of law no. 7512, dated 10.8.1991 "On sanctioning and protection of private property, free initiative, independent private activities and privatization" (repealed), according to the detailed designs at the moment of sale of buildings;
- c) non-privatised terrains on which buildings are built, based on building permits issued by local government bodies, after 10 August 1991 and onwards, according to the detailed designs at the time of issuing of the construction permit, as well as terrains of objects or buildings, previously owned by former agricultural cooperatives, whose sale was carried out by former agricultural cooperatives or local government bodies;
- ç) Land for use by commercial legal persons, in accordance with the provisions set forth by the special law.

2. The scope of this Law does not extend to tourist sites, constructions and terrains accepted in the legalization process or on state lands that were given for investment purposes, which are governed by other laws.

CHAPTER II

LAW ENFORCEMENT AND THE RIGHT TO PRIVATIZE THE LAND IN USE

Article 3

Entities subject to taxation on the right to use state-owned land

The following shall have the obligation to pay the tax on the right to use state owned land:

- a) Individuals who have used non-privatised terrains of buildings as described in letters "a", "b" and "c" of point 1 of article 2 of this law;
- b) Commercial legal entities and state-owned enterprises, as provided by the special law;
- c) Commercial legal entities that are entitled to the use of state-owned land, upon entry into force of this law and upon issuance of a valid legal act.

Article 4

Tax on the right of using state-owned land

1. The tax on the right to use state land shall be an annual fee.
2. The level of tax on the right of use of state-owned land shall be 10 percent of the value of the state-owned land in use.

Article 5

Calculation of the value of the land in use

In order to calculate the value of the terrain, in different years, shall be used the relevant map of the land value, adopted by decision of the Council of Ministers, in accordance with the provisions of the Law on Restitution and Compensation of Property.

Article 6

Tax calculation and payment

1. For cases when the land is privatised through purchase of land in use, the calculation of the tax shall be done proportionally only for the period of the year during which the right to use state land was exercised.
2. Tax calculation shall be done by multiplying the level of the tax with the value of the state-owned land in use.
3. Regional tax directorates shall be responsible for the calculation and collection of the tax on the right of use of the state-owned land.

Article 7

Method of tax payment

1. By 15 February of the following year, entities that are subject to the tax on the right to use state-owned land shall submit to the regional directories in which they are registered or in the territory of which they reside, the tax declaration form on the right of the use of state-owned land.
2. The declaration form shall be approved by order of the Minister of Finance.
3. The tax on the right to use the state-owned land is paid to the bank, for account of the tax authorities.

Article 8

Obligation to report data on land in use to the central tax administration

1. The obligation to report data on the land in use shall be applied to:
 - a) Individuals who have in use non-privatised lands of buildings described in letters "a", "b" and "c" of point 1 of article 2 of this law;
 - b) commercial juridical persons as well as state-owned enterprises, which on the day of entry into force of this law, use state-owned land regardless of the type of contract or agreement on which they enjoy their rights to use;

c) Commercial legal entities that use state-owned land after the entry into force of this law, irrespective of the type of contract.

This point does not extend its effect to the subjects excluded in point 2 of Article 2 of this law.

2. Entities that have the obligation to report data on the land in use, in accordance with point 1 of this article, within one month from the entry into force of this law shall report to the regional tax directorates the data on the land in use, surface, location, as well as the document, on the basis of which they enjoy the right to use the state owned land.

3. The central tax administration may request additional information about the land or other data that it may need in order to clarify the cases covered by the scope of this law.

Article 9

The right to privatize land in use for individuals

1. Individuals affected by the scope of this Law shall have the right to privatize, through the purchase of state-owned land, under a privatized building which is purchased or constructed by them.

2. The privatization contract, through the purchase, is signed by the Director of the Directorate of Administration and Sale of Public Properties, at the Ministry of Finance and by the individual who has been a user of the land, in accordance with the legislation in force.

3. A copy of the contract shall be sent to the General Directorate of Taxation and the Central Immovable Property Registration Office.

Article 10

The right to purchase land in use for legal entities, commercial companies

1. Businesses have the right to exercise the right to purchase land or parts of land, in accordance to the provisions of law no. 9235, dated 29.7.2004 "On Restitution and Compensation of Property", as amended.

2. The conditions and the measure of the benefit from the right of privatization of the state-owned land or part of it, in use by a commercial legal person, shall be made in accordance with the legislation in force.

Article 11

Instalment payment agreement

1. If an individual who seeks to privatize state-owned land, in accordance with the provisions of this law, is faced with the inability to pay immediately, he/she may request the conclusion of an instalment payment arrangement.

2. The request is made in writing and submitted to the Directorate of Administration and Sale of Public Properties. The request must state the will to purchase the land offered for sale, as well as the attestation that s/he has regularly paid the tax on the state-owned land use right.
3. The instalment payment agreement shall be concluded with the Director of the Directorate of Administration and Sale of Public Property at the Ministry of Finance.

Article 12

The maximum deadline for instalment payment agreement

1. The duration of the instalment payment agreement may not exceed 12 months, in any case.
2. In case of non-compliance with the payment deadline of even a single instalment, the agreement is terminated and the amounts paid up to that moment will go to the account of the payment of the right to use the state-owned land. For this purpose, the relevant transfer is made to the tax administration account.

Article 13

Payment of the tax during instalment payment agreement

The execution of the instalment payment agreement does not suspend the full payment of the annual fee on the right to use the state-owned land.

Article 14

Termination of the obligation to pay the rent

Upon entry into force of this law, individuals subject to taxation on the right to use state-owned land are no longer liable to pay rent for land use.

Article 15

Unpaid lease pardon

(Amended by Law no. 24/2012)

1. Any unpaid leases prior to the entry into force of this law shall be pardoned, in cases of individuals part of the entities which are subject to the obligation to pay the tax on the right to use state-owned land within the period of 1.7.2012:
 - a) Submit a request for privatization and instant payment of the land value;
 - b) Sign an agreement for instalment payment.

2. Withdrawal from the request for immediate payment or from the instalment payment agreement, as well as failure to respect the payment deadline, even of a single instalment in the case of instalment payment agreement, restores the obligation to pay unpaid leases.

Article 16

Revenues from the process of privatization or sale of state-owned land

Revenues collected from the process of privatization or sale of state-owned land, carried out in accordance with the provisions of this law, shall be credited 75 percent in the State Budget and 25 percent in the local government budget.

Article 17

Administrative offenses and sanctions

1. Incorrect completion of the declaration form, failure to comply with the timely submission of the tax declaration form or failure to meet the timely payment of the tax liability on the right to use state-owned land shall constitute an administrative offense and is punishable by a fine in accordance with the law no. 9920, dated 19.5.2008 "On Tax Procedures in the Republic of Albania", as amended.

2. The administrators of legal entities, traders and executives of state enterprises that pursuant to Article 8 of this law have the obligation to report data on the land in use and who do not submit the relevant report to the tax administration within one month of entry into power of this law, shall be penalized by a fine equal to the amount of one monthly wage. The administrative body issuing a decision on an administrative offense in this case shall be the line ministry, where the legal commercial person or state-owned enterprise is subordinated to.

3. The administrators of legal entities, traders as well as executives of state enterprises who do not provide immediately or who refuse to provide the central tax administration with the additional information required by the latter shall be punished by a fine equal to the amount of one monthly wage. The administrative body issuing a decision on an administrative offense in this case shall be the line ministry on which the legal commercial person or state-owned enterprise are subordinated.

CHAPTER III

TRANSITIONAL AND FINAL PROVISIONS

Article 18

Facilities for immediate payment of land value

(Amended by Law No. 24/2012)

1. Individuals benefiting from the right of privatization of the state-owned land may request at the Directorate of Administration and Sale of Public Properties, the privatization of the land with immediate execution of payment, in accordance with the provisions of this law.
2. If the request for immediate payment of the value of the land, which is required to be privatized, is made in writing after 1 July 2012, and this payment is made within 30 days from the date of issuing of the authorization for the transfer of land ownership, individuals benefit from a reduction of 20 percent of the value and 20 percent of the remaining value can be paid by privatization bonds.
3. If the request for immediate payment of the value of the land, which is required to be privatized, is made in writing, six months after the entry into force of this law and this payment is made within 30 days from the date of issuing the authorization for the transfer of land ownership, individuals benefit from a 20 percent reduction in value.
Individuals who submit their application after 31.12.2012 do not benefit from this exclusion.

Article 19

Suspension of the obligation for immediate payment

1. At the time of the request for immediate payment of the value of the land, the obligation to pay the annual fee on the right to use the land shall be suspended, in accordance to the provisions of Article 18 of this law.
2. Suspension of the obligation shall be lifted in the case where the individual waives his request for the purchase and immediate payment of the land, or when s/he does not pay the obligation immediately on the date set by the Department for Administration and Sale of Public Property.
3. In the case of the lifting of the suspension of the obligation, the calculation of the tax becomes as if the suspension was never applicable.
4. The order for the suspension of the obligation to pay the tax and the order to lift the suspension shall be made by the Minister of Finance.

Article 20
Transitional provisions

1. The declaration for payment of the tax for the right of use of state-owned land for the following year shall be made within three months from the entry into force of this law, on the date of its entry into force.
2. In the following year, on the date of entry into force of this law, the tax is calculated proportionally only for the period of the remaining year from the entry into force of the law.

Article 21
Bylaws

The Minister of Finance shall be responsible for issuing bylaws pursuant to Article 7, within three months from the entry into force of the law, as well as a general guideline for the implementation of this law.

Article 22
Entry into force

This law shall enter into force 15 days after its publication in the Official Gazette.

Promulgated by Decree No. 6553, dated 12.5.2010, of the President of the Republic of Albania, Bamir Topi.