



Republika e Kosovës
Republika Kosovo-Republic of Kosovo
Kuvendi - Skupština - Assembly

LAW Nr.03/L-161

ON PERSONAL INCOME TAX

Assembly of Republic of Kosovo,

In conformity with the Article 65.1 of the Constitution of the Republic of Kosovo,

Adopts:

LAW ON PERSONAL INCOME TAX

CHAPTER I

GENERAL PROVISIONS

Article 1
Purpose

This Law sets the system of Personal Income Tax in the territory of the Republic of Kosovo.

Article 2
Definitions

1. Terms used in this Law have the following meaning

1.1 **Economic activity** - any activity of producers, traders or persons supplying goods or services including mining and agricultural activities and activities of the professions. The exploitation of tangible or intangible property for the purposes of

obtaining income there from on a continuing basis shall in particular be regarded as an economic activity;

1.2 **Capital Assets** - tangible and intangible property that costs more than one thousand (1,000) €, with the time of use of one or more years;

1.3 **Intangible property** - patents, copyrights, licenses, franchises and other property that consists of rights only, but has no physical form.

1.4 **Dividend** - a distribution by a company to a shareholder:

1.4.1 Of cash or share with respect to the shareholder's equity interest in the company; and

1.4.2 Of property other than cash or share, unless such property is distributed as a result of liquidation;

1.5 **Employee** - natural person, who performs work for wages under the direction and control of an employer, regardless of whether the work is performed under a contract, or any other form of agreement, whether in writing or not.

1.6 **Self-employed person** - any natural person who works for personal gain, in cash or in goods, that is not covered by the definition of an employee under the present law. A self-employed person includes a personal business enterprise and a partner engaged in an economic activity.

1.7 **Employer** – any person or entity that pays wages among others:

1.7.1 A public authority;

1.7.2 A permanent establishment of a non-resident person;

1.7.3 A non-governmental organization;

1.7.4 An international organization, including KFOR, with the exception of the United Nations, its Specialized Agencies and the International Atomic Energy Agency;

1.8 **Principal employer** - the employer designated by the employee as such at a time and in the manner set out in a sub-legal act issued by the Minister;

1.9 **Wages** –financial and other kinds of compensation, including goods, bonuses, favors, services, or barter, paid in connection with employment in Kosovo.

1.10 **Taxable Wages** - wages paid per Article 9.1 of this law, discounting those amounts excluded from gross income from wages per Articles 9.2 and 9.3 of this law.

1.11 **Foreign source income** - gross income that is not Kosovo source income;

1.12 **Kosovo source income** - gross income that arises in Kosovo, as follows:

1.12.1 Wages from work performed in Kosovo;

1.12.2 Income from economic activities where such activity is developed in Kosovo;

1.12.3 Income from the use of movable or immovable property in Kosovo;

1.12.4 Income from the use of intangible property in Kosovo;

1.12.5 Interest on a debt obligation paid by a resident or a public authority;

1.12.6 Dividends paid by a resident business organization;

1.12.7 Gain from the sale of movable and immovable property, or securities located in Kosovo; and

1.12.8 Other income not included above.

1.13 **Person** - for purposes of this law shall include the following:

1.13.1 a natural person,

1.13.2 a legal person, which in a general term means any organization, including any business organization that has, as a matter of law, a legal identity that is separate and distinct from its members, owners or shareholders, such as, but is not limited to, joint stock company and limited liability company;

1.13.3 A partnership, which means a general partnership, a limited partnership or similar pass-through arrangement that is not a legal person and that proportionately shares items of capital, income, and loss among its partners; and

1.13.4 A grouping or association of persons, including consortiums, but excluding partnerships, set up for a common purpose of a specific economic activity. An association is two or more individuals, companies, organizations or governments (or any combination of these entities) with the objective of participating in a common activity or pooling their

resources for achieving a common goal. Each participant retains its separate legal status and the association's control over each participant is generally limited to activities involving the joint endeavor, particularly the division of profits. An association is formed by contract, which delineates the rights and obligations of each member;

1.14 **Entity** - a corporation or other business organization that has the status of a legal person, a business organization operating with public and socially owned assets, a non-governmental organization registered in conformance with legislation on Registration and Operation of Non-Governmental Organizations in Kosovo, and a permanent establishment of a non-resident. The term entity does not include a personal business enterprise, grouping or association of persons, or a partnership;

1.15 **Personal business enterprise** - a natural person engaged in business who is not an agent or employee of another economic activity;

1.16 **Public authority** - a central, regional, municipal, or local authority, public body, ministry, department, or other authority that exercises public executive, legislative, regulatory, administrative or judicial power;

1.17 **Permanent Establishment** -a fixed place of business through which the business of a non-resident person is wholly or partly carried on in Kosovo, as described "in Article 35 of this Law."

1.18 **Related persons** - persons that have a special relationship that may materially influence the economic results of transactions between them. Special relationship is considered when:

1.18.1 The persons are officers or directors of one another's business;

1.18.2 The persons are partners in business;

1.18.3 The persons are in an employer-employee relationship;

1.18.4 One person holds or controls fifty percent (50%) or more of the shares or voting rights in the other legal person

1.18.5 One person directly or indirectly controls the other person;

1.18.6 Both persons are directly or indirectly controlled by a third person;
or

1.18.7 The persons are husband or wife or relatives to the third degree inclusive or in-law to the second degree inclusive;

1.19 **Open Market value** - that amount that, in order to obtain the goods or services in question at that time, a customer at the same market stage at which the supply of the same or similar goods or services takes place, would have to pay, under conditions of fair competition, to a supplier at arm's length;

1.20 **Resident** - A natural person who has a principal residence in Kosovo, or is physically present in Kosovo for 183 days or more in any twelve-month period of time; or an entity, personal business enterprise, partnership, or association of persons which is established in Kosovo or has its place of effective management in Kosovo.

1.21 **Main residence** – also known as “Permanent residence”, - a place where a natural person has his/her usual place of residence or lives permanently; the place where the natural person is subject to income tax for the reason of residence or dwelling

1.22 **Non-resident** - any person or entity that is not a resident;

1.23 **Representation costs** - all costs related to promotion of the business and include business entertainment and representation costs;

1.24 **Involuntary conversion** - property, in whole or in part, that is destroyed, stolen, seized, or condemned, or the taxpayer is otherwise forced to dispose of it by reason of threat or imminence mentioned before;

1.25 **Immovable property** – for tax purposes, all the land and buildings or structures under and above land surface and related to the land, including the property that is additive (subsidiary) to immovable property; the rights to which there are applied the provisions of the general Law which respects land property; usufruct of the immovable property; and the rights to variable payments and fixed as consideration for working ,or the right to work, the mineral source, sources and other natural reserves.

1.26 **Royalty** - payment of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic, or scientific work including cinematograph films, and patent, trade mark, design or model plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

1.27 **Subcontractor** - any person performing a part of a comprehensive project which has been undertaken by a prime contractor. The subcontractor is directly engaged in the execution and realization of the comprehensive project and acts on behalf of the prime contractor. The period spent by a subcontractor working on a comprehensive project is considered as being time spent by a prime contractor on the project.

1.28 **Prime Contractor/ Contractor** – any business, whether an organization or individual, which has agreed to carry out operations under any legal binding document signed by the beneficiary, either by doing the operations itself or by arranging for them to be done by others

1.29 **Constructive acceptance** – for taxpayers with base in cash, that the income are accepted in a constructive way when they have been disposed for taxpayers without substantial restrictions, as credit in his amount, are put alongside for him, or otherwise they have been disposed in that way that he can withdraw them every time, or in that way that he could withdraw them during the taxable year if there has been given the notification for the purpose of withdrawal.

1.30 **Benefits in nature (also known as Benefits in things)** – various compensations not given with wage of the employees, except their normal wage. Given into goods, items or services than in cash.

1.31 **Tax period** – calendar year or every other period of the reporting, foreseen by this Law.

1.32 **Financial evidences** – financial evidences with general purposes prepared in accordance with the legislation that regulates Kosovo Board on Standards for Financial reporting and legislation that regulates financial reporting of business organizations (trading company);

1.33 **KTA** – Kosovo Tax Administration

1.34 **Minister** - Minister of the Ministry of Economy and Finance

1.35 **Kosovo** - shall include all the land, inland waters and airspace of Kosovo, as defined by the Constitution of the Republic of Kosovo.

1.36 **Operating leasing** – every leasing that is not a financial leasing.

1.37 **Financial leasing** – a leasing that transfers, in a substantial way, all casual risks and rewards for the ownership of a property item. The title can or can not be transferred to the end of leasing. A financial leasing fulfills one of the four following conditions:

1.37.1 if the longevity of the leasing exceeds seventy-five percent (75%) of the longevity of the property

1.37.2 if there exists a transfer of ownership in the leasing-receiver at the end of leasing term

1.37.3 if there exists a possibility to purchase the property in an “ agreed prize” at the end of leasing term

1.37.4 if the actual value of leasing payments, decreased in an adequate decrease rate, exceeds ninety percent (90%) of the open market value for property.

Article 3 Taxpayers

According to this law taxpayers are resident and non-resident natural persons, personal business enterprise, partnerships, or associations of persons who receive or accrue gross income described in Article 7 of this Law during the tax period.

Article 4 Object of taxation

1. The object of taxation for a resident taxpayer shall be taxable income from Kosovo source income and foreign source income.
2. The object of taxation for a non-resident taxpayer shall be taxable income from Kosovo source income.

Article 5 Taxable income

Taxable income for a tax period shall mean the difference between gross income received or accrued during the tax period and the deductions allowable under the present law with respect to such gross income.

Article 6 Tax rates

1. For taxable income in tax period that begins on 1 January 2009 and following tax periods, personal income tax shall be charged at the following rates:
 - 1.1. For taxable income 960 euro or less, zero percent (0%);
 - 1.2. For taxable income over nine hundred and sixty (960) € up to three thousand (3.000) euro, including also the amount of three thousand (3.000) €, four percent (4%) of the amount over nine hundred and sixty (960) €;
 - 1.3. For taxable income over three thousand (3.000) € up to five thousand and four hundred (5.400) €, including also the amount of five thousand and four

- hundred (5.400) €, eighty-one euros and sixty cents (€81.6) plus eight percent (8%) of the amount over three thousand (3.000) €; and
- 1.4. For taxable income over five thousand and four hundred (5.400) €, two hundred and seventy-three euros and sixty cents (€273.6) plus ten percent (10%) of the amount over five thousand and four hundred (5.400) €.
2. For income taxable in tax periods prior to 1 January, 2009, income is taxed at the following rates;
- 2.1. For taxable income nine hundred and sixty (960) € or less, zero percent (0%);
- 2.2. For taxable income over nine hundred and sixty (960) euro up to three thousand (3.000) €, including also the amount of three thousand (3.000) €, five percent (5%) of the amount over nine hundred and sixty (960) €;
- 2.3. For taxable income over three thousand (3.000) € up to five thousand and four hundred (5.400) €, including also the amount of five thousand and four hundred (5.400) €, one hundred and two (102) € plus ten percent (10%) of the amount over three thousand (3.000) €; and
- 2.4. For taxable income over five thousand and four hundred (5.400) €, three hundred and forty-two (342) € plus twenty percent (20%) of the amount over five thousand and four hundred (5.400) €.

Article 7

Gross income

1. Except for income that is exempted under the present law, gross income means all income actually or constructively received from the following sources:
- 1.1. Wages
- 1.2. Rents
- 1.3. The use of intangible property
- 1.4. Interest, except interest which is exempted under this law
- 1.5. Replacement income, such as that mentioned in Article 8.1.8 of this Law;
- 1.6. Capital Gains resulting from an increase or decrease in the value of shares
- 1.7. Capital Gains resulting from an installment sale of a capital asset

- 1.8. Lottery Winnings and, in accordance with Article 49, winnings in Games of Chances.
 - 1.9. Pensions paid by a previous employer, or according to the Law on Pensions in Kosovo
 - 1.10. Economic activity generated by businesses with annual gross income of fifty thousand euros (50,000) € or less unless those businesses have opted to maintain books and records required in Article 33 of this law.
2. Except as provided in paragraph 1 of this Article, gross income also means all income accrued from the following sources:
- 2.1. Economic activity
 - 2.2. Capital Gains, except those Capital Gains described in paragraph 1 of this Article
 - 2.3. Any other income not described in the sub-law act issued by the Minister.

Article 8

Exempt income

1. The following income shall be exempt from personal income tax:
 - 1.1. Wages of foreign diplomatic and consular representatives and foreign personnel of Embassies and foreign Liaison Offices in Kosovo, as defined in applicable legislation on the establishment and functioning of liaison offices and diplomatic services in Kosovo;
 - 1.2. Wages of foreign representatives, foreign officials and foreign employees of international governmental organizations and international non-governmental organizations that have registered in accordance with applicable legislation in Kosovo and have received and maintained public benefit status under such legislation;
 - 1.3. Wages of foreign representatives, foreign officials and foreign employees of donor agencies or their contractors or grantees carrying out humanitarian aid, reconstruction work, civil administration or technical assistance within Kosovo;
 - 1.4. Wages received by foreign and locally- recruited officials of the United Nations and its Specialized Agencies, and the International Atomic Energy Agency, which according to the present law shall include foreign and locally recruited UNMIK personnel as defined in legislation regarding the Status,

Privileges and Immunities of KFOR and UNMIK and their Personnel in Kosovo. The same exemption shall apply to entitled and duly authorized international inter-governmental financial institutions operating in Kosovo.

1.5. Wages of foreign personnel of KFOR; ICO and EULEX.

1.6. Compensation for the damage or destruction of property;

1.7. Proceeds of life insurance policies payable as the result of the death of the insured person;

1.8. Reimbursement or compensation for medical treatment and expenses, including hospitalization and medication, other than wages paid during the periods of absence from work due to sickness or injury;

1.9. Interest on financial instruments which are issued or guaranteed by a public authority of Kosovo paid to resident or non-resident taxpayers;

1.10. Income of a prime contractor or a subcontractor, other than a local person, generated from contracts for the supply of goods and services to the United Nations (including UNMIK), the Specialized Agencies of the United Nations, KFOR and the International Atomic Agency that are directly engaged in projects and programs of the organizations mentioned before;

1.11. Income of a prime contractor or a subcontractor but other than a local person, generated from contracts with foreign governments, their organs and agencies, the European Union, the Specialized Agencies of the European Union; the World Bank, the IMF and international inter-governmental organizations for the supply of goods and services in support of programs and projects for Kosovo.

1.12. Dividends received by resident and non-resident taxpayers;

1.13. Wins from games of chance, except lottery winnings in accordance with the provisions of Article 49 of this Law;

1.14. Pensions and social welfare payments paid by the Government;

1.15. Assets received, or value of assets received, as a result of inheritance;

1.16. Educational expenses paid by an employer on behalf of an employee provided that such expenses are paid directly to an educational institution that is recognized in accordance with the applicable law in Kosovo and provided that onwards the employee to remain employed at the employer for at least twenty-four (24) months after the termination of the education for which the expenses are paid by the employer.

1.17. Scholarships received by an individual to attend an institution of higher learning, trade school, or vocational school, so long as the scholarship is paid directly to the institution and no part of the scholarship is refundable to the student;

1.18. Training expenses paid by an employer for an employee to attend formal training programs to acquire basic skills necessary for the employee to perform assigned tasks or necessary to provide updated skills to the employee which are job-related so long as such expenses do not exceed one thousand euros (€ 1,000) in that tax period.

1.19 Expenses in excess of one thousand euros (1,000) € in any tax period shall be considered taxable income to the employee and subject to withholding in accordance with the provisions of this Law.

1.20 Expenses for subsistence while attending a formal training program shall be allowable up to a maximum established by the Minister in a sub-legal act.

1.21 Such sub-legal act shall also specify what kind of training expenses qualify for this exemption. Training expenses for this sub-paragraph will not include amounts equivalent to wages and salaries which are paid to beginners or apprentices.

CHAPTER II

EMPLOYMENT INCOME

Article 9

Income from wages

1. Gross income from wages shall include:

1.1.Salaries paid on behalf of an employer for work that the employee does under the direction of the manager or employer;

1.2.Bonuses, commissions, and other forms of compensation that an employer or some other person, on behalf of the employer, pays to employees over and above salary;

1.3.Income from temporary work performed by an employee;

1.4.Income from prospective employment, such as signing of a salary bonus;

1.5.Health and life insurance premiums that an employer pays for the employee;

1.6. Forgiveness of an employee's debt or obligation to the employer;

1.7. Payment of an employee's personal expenses by an employer; and

1.8 Except as otherwise provided in the present Law, benefits in things given by an employer to an employee that exceed the minimum amount determined in a sub-legal act issued by the Minister.

2. Gross income from wages shall not include:

2.1. Reimbursement of actual business travel expenses up to the amounts to be specified in a sub-legal act issued by the Minister;

2.2. Indemnity for accidents at work; and

2.3. Benefits in goods given by employers to foreign employees to facilitate their living in Kosovo, such as housing and school tuition.

2.4. Gains in kind in form of meal provided by the employer to employee, exempting the compensation in money.

2.5. Reimbursement, limited in less than the cost of public transportation or 0.16 Euro/KM, for the expenses in-and-out for the employees, whose distance of in-and-out from their main residence to the regular working place is longer than twenty (20) kilometers.

2.6. Benefits in nature that are given to employees in the form of public transport tickets limited in transportation on public authorized transport from the main residence of the employees to the regular working place. Benefits in nature can be given to the employees whose distance of in-and-out from their main residence to the regular working place is longer than one (1) kilometer.

2.7. Such reimbursement or giving of the benefits in nature shall not be considered as business deducted expenses by any donator of such reimbursement or benefits in nature, and even they will not be deducted as expense of any kind.

2.8. The Minister will issue a sub-legal act in order to determine the requests of reporting regarding the giving of reimbursement or benefits in nature allowed by sub-paragraphs 2.5 and 2.6.

3. With respect to pension contributions, gross income shall include:

3.1. Contributions made by an employer on behalf of an employee to the Individual Savings Pension system, a supplementary employer pension fund and

a supplementary individual pension scheme under legislation on Kosovo Pension Savings Trust; and

3.2. Contributions made by an employee to the Individual Savings Pension system, a supplementary employer pension fund and a supplementary individual pension scheme under legislation on savings pension in Kosovo.

CHAPTER III

INCOME OTHER THAN EMPLOYMENT INCOME

Article 10

Income from business activities

1. Gross income from economic activity means gross receipts generated by a person or entity, except legal persons for purposes of this Law, engaged in such activities. For taxpayers with annual gross income of more than fifty thousand euros (50,000) €, or those who opt to maintain books and records in accordance with Article 33 of this Law, income must be reported in the tax period during which it is received or accrued.
2. Businesses with annual gross income of fifty thousand euros (50,000) € or less, which do not opt to maintain books and records in accordance with Article 33 of this Law, shall report income from business activities in the tax period in which that income is actually or constructively received.
3. Businesses with annual gross income of more than fifty thousand euros (50,000) € shall report income from business activities in the tax period in which the income is received or accrued.
4. Taxpayers with income from the sale of goods who maintain inventories to determine the cost of goods sold, shall use the FIFO (first-in-first-out) or such other method as may be set out in a sub-legal act issued by the Minister.
5. When a registration method of goods is selected, that method shall be used for the year in which it has been selected plus at least for three additional tax periods. A taxpayer who aspires to change the registration method of goods, after that period of time should require an individual explaining decision by KTA in compliance with the applicable provisions of the Law on Tax Administration and Procedures amended with the Law 03/L-071.
6. Taxpayers who are charged in contracts and long-term constructive projects shall report the taxable income from those contracts and long-term projects in a descriptive way in a sub-legal act that is issued by the Minister.

7. The taxable income from operating and financial leasing will be determined and reported in a descriptive way in a sub-legal act that will be issued by the Minister. The sub-legal act shall describe operating and financial leasing.

Article 11
Income from rents

1. Gross income from rents include:

1.1 income realized by rental of real estate such as buildings, land or apartments;

1.2 income realized by rental of equipments, transport vehicles and other kinds of property.

2. Regardless of provisions of paragraph 1 of this Article, income of rent realized by persons charged in economic activities of rental of movable or immovable property for clients, shall be treated and taxed as income from economic activities.

Article 12
Income from intangible property

Gross income from intangible property includes income realized from patents, copyrights, licenses, franchises, and other property that consists of rights only, but are incorporeal. The right to use immovable property is intangible. That right, as well as other property comprised only by the rights, but is incorporeal, will be further defined in a sub-legal act issued by the Minister.

Article 13
Interest income

1. Gross income from interest includes:

1.1. Interest from loans made to persons or entities;

1.2. Interest from bonds or other securities issued by business organizations;

1.3. Interest from (savings) accounts that bring interest, and are maintained in banks and other financial institutions.

1.4. Gross income from interest does not include interest from the assets of the Kosovo Pension Savings Trust or any other pension fund defined under legislation on pension savings in Kosovo.

Article 14
Other income including gifts

1. Gross income includes every other form of income from whatever source, such as income from lottery wins or income from debt forgiveness, except those that are released from tax in compliance with the provisions of this Law.
2. Monetary gifts or gifts in things received by residents shall be included in other income, if the value of such gift amounts exceeds five thousand euros (5,000) € in a tax period.
3. Gifts, either monetary or in things, given between spouses, or by a parent to their natural born, or legally adopted, children, or by children to their parents are exempt from income irrespective to the amount or value of the gift.
4. Gifts given for educational purposes are exempt from taxation so long as the gift is given in the form of tuition paid directly to an educational institution recognized by public law, irrespective to the relationship between the donor and recipient.

CHAPTER IV

ALLOWABLE BUSINESS EXPENSES

Article 15
Expenses General Provisions

1. Subject to the provisions of this Article, there shall be allowed as a deduction from gross income generated from intangible property, rents or business activities those expenses paid or incurred during the tax period that are wholly, exclusively and directly related to such income generating activities, including premiums for health insurance paid in behalf of an employee and those dependents eligible to be included on the insurance policy of the employee.
2. Pension contributions paid by an employer are deductible, limited in the amount of personal contributions that are really paid, as those pension contributions do not exceed the amount of pension contributions allowed by the applicable Law.
3. No deduction shall be allowed for any accrued expense related to income which is subject to withholding (wages, dividends, interest, royalties, rents, lottery winnings, etc.) unless it is paid on or before 31 March of the subsequent tax period. Any expense not

allowed by this sub-paragraph shall be deductible in the tax period in which it is actually paid.

4. Businesses with annual gross income of fifty thousand (50,000) € and more, and those businesses which have opted to maintain books and records as required in Article 33 of this Law, shall deduct the expenses that are allowed and paid or accrued during the tax period.

5. There shall not be allowed any deduction for any expense while it is not documented in the required way as foreseen by the sub-legal act issued by the Minister.

6. Expenses, including the expenses of depreciation, regarding the operating and financial leasing shall be reported in the way as foreseen in a sub-legal act that shall be issued by the Minister.

Article 16 Representation Expenses

Expenses incurred for representation shall be limited to fifty percent (50%) of the amount invoiced for business entertainment. The maximum amount of all representation expenses shall not exceed two percent (2%) of annual gross income.

Article 17 Bad Debt Expenses

1. A bad debt shall be considered an expense if it meets all the following conditions:

1.1. The amount that corresponds to the debt has previously been included in income;

1.2. The debt is written off in the taxpayer's books as worthless for accounting purposes;

1.3. There is no dispute of the legal validity of the debt;

1.4. At least six months of the debt have exceeded of term;

1.5. There is adequate evidence of substantial attempts made by the taxpayer to collect the debt, including any applicable actions to maximize collection of the debt, such as:

1.5.1. Taxpayer has offset any undisputed debt owed to the debtor against the bad debt;

1.5.2. Correspondence and contacts attempting to collect the debt;

1.5.3. Legal action was considered to be uneconomical for documented reasons or legal action was unsuccessful, or

1.5.4. a claim was filed in a bankruptcy/liquidation proceeding, if applicable, and the amount that will be taken is determined in a reasonable way by the administrator/executor. As long as those means deriving from the bankruptcy are applied in the unredeemed debt.

2. Bad debt deductions are limited to the non-recovered portion of the debt. Any bad debt deducted as an expense and then subsequently collected shall be included in income at the time of collection.

3. No bad debt deduction shall be allowed for debts between related parties.

4. The Minister shall issue a sub-legal act to describe the requirements for bad debt deductions as provided in this Article.

Article 18 Business Travel Expenses

1. Business travel expenses include transportation, various travel expenses (such as daily expenses) lodging and meals for business trip but do not include allowances for commuting to and from the place of work.

2. Expenses for travel, meals, lodging, and moving shall be limited to the amounts to be specified in a sub-legal act to be issued by the Minister.

Article 19 Payments to Related Persons

1. Compensation or emoluments paid to a related person shall be allowed as an expense in an amount equal to the minimal actual salary or the open market value.

2. Interest, rent, and other expenses paid to a related person shall be allowed as an expense in an amount equal to the minimal actual salary or the open market value.

Article 20 Depreciation

1. Expenditures on tangible property, other than expenditures for land, works of art, and other property which are not subject to wear, owned by the taxpayer and used for the

taxpayer's economic activity, shall be recovered over time by depreciation deductions in the manner prescribed by the present Article.

2. Expenditures on improvements to leaseholds used for the taxpayer's economic activity shall be recovered through depreciation deductions calculated using the straight-line method with a period equal to the life of the leasehold.

3. All tangible property of the taxpayer that is subject to depreciation under this Article shall be placed in one of the following categories:

3.1. **Category 1:** Buildings and other construction structures;

3.2. **Category 2:** Automobiles and light trucks, heavy transport vehicles, earth moving equipment, bulldozers, scrapers and other heavy vehicles, computers, peripherals and other data processing equipment, office furniture and equipment, instruments, sundries and other accessories; and livestock used for production or breeding.

3.3. **Category 3:** Plant and machinery; rolling stock and locomotives used for rail transport; airplanes; ships; perennial plants and trees used for viniculture or production of fruits such as apples, pears, walnuts, blueberries, etc.; and all other tangible assets not included in Category 1 or Category 2.

4. The amount allowed as a depreciation deduction for the tax period shall be determined by applying the following percentages individually to the individual tangible property under the straight line method at the close of the tax period according to the category to which the asset belongs:

4.1. Category 1: five percent (5%);

4.2. Category 2: twenty percent (20%); and

4.3. Category 3: ten percent (10%)

5. According to this Article, an asset shall first be taken into account when it is first placed into service.

6. The initial amount to be depreciated shall be the purchase price or, in the absence of a purchase price, the cost price. The initial amount shall also include:

6.1. taxes, duties, levies and charges, and

6.2. incidental expenses such as commission, packing, assembling, transport, and insurance costs charged by the supplier.

7. Individual depreciation of property of Category 2 and Category 3 shall be implemented only for those properties that have been taken in the date or after the date of entering into force of this Law.

8. The purchase of a property for a price of one thousand (1.000) € or less shall be allowed as a current expense.

9. Capital goods (assets) that were purchased and their depreciation has started under the pooling method prior to the entry into force of this Law , shall continue to be depreciated under the previous legislation until the value of the pool equals zero.

10. Tangible assets (property) with the purchase price of more than one thousand (1.000) € and less than three thousand (3.000) €, provided after the date that this Law enters into force, shall be disposed into a one group of assets and depreciated with the twenty percent (20%) rate of the value of the assets in group, not considering that in which category of assets it would be disposed according to the provisions of paragraph 3 of this Article. When the qualified assets are purchased, their purchase price shall be added to the value of group. When the assets are sold by the group, the purchase price of the sold asset will be reported as a usual business income in the year in which the asset has been sold, but the value of group will not be decreased as a result of the sale.

Article 21 Depreciation of Livestock

Depreciation of livestock is allowed only if such animals are used in the course of economic activity. Animals which breed offspring used only for personal use or dairy animals used only for personal use are not subject to depreciation.

Article 22 Special Deduction for New Assets

1. If a taxpayer purchases production lines for plant and machinery, rolling stock and locomotives used for railway transportation, airplanes, ships, heavy transport vehicles, earth moving equipment, bulldozers, scrapers and other heavy vehicles for the purpose of the taxpayer's economic activity between 1 January 2010 and 31 December 2012, a special deduction of ten percent (10%) of the cost of acquisition of the asset shall be deducted in the year in which the asset has been first placed into service.

2. This deduction shall be in addition to the normal allowable depreciation deduction.

3. The deduction shall be allowed only if the asset is new or is placed into service in Kosovo for the first time. A deduction shall not be allowed if the asset is transferred from an existing or a former business in Kosovo.

4. Other special allowances may only be granted if so provided by specific Law.

Article 23 **Repairs and Improvements**

1. In the case of any depreciable asset, amounts expended for repairs or improvements, excluding repairs of usual maintenance, shall be capitalized and added to the basis of the asset if the repairs or improvements extend the useful life of the asset for at least one (1) year and the amount of repair or improvement is greater than one thousand (1,000) € for that asset. If the repair or improvement is one thousand (1,000) € or less for any asset, the amount of the repair or improvement shall be an expense in the year that it has been paid or occurred.

2. If the repairs or improvements meet the criteria for capitalization according to paragraph 1 of this Article, the amount shall be capitalized and added to the remaining book value of the capital asset. The new book value of the asset will be used as the basis for depreciating the asset. The asset will be depreciated in accordance with the rules of the applicable category.

3. Minister shall issue a sub-legal act for implementation of this Article.

Article 24 **Amortization**

1. Expenditures on intangible assets that have a limited useful life including, but not limited to patents, copyrights, licenses for drawings and models, contracts and franchises are deductible in the form of amortization charges.

2. The method of amortization shall be the straight-line method and the allowance shall be based on the useful life of the asset as determined by the legal agreement governing the acquisition and use of the intangible asset.

Article 25 **Costs for Research and Development**

1. All research and development costs in respect of the natural reserves of minerals and other natural resources and interest attributable thereto shall be added to a capital account and amortized under the present Article.

2. The amount allowed as an amortization deduction with respect to the research and development costs referred to in paragraph 1 of this Article for the tax period shall be determined by multiplying the balance in the capital account by a fraction of:

- 2.1. the numerator of which is the units extracted from the natural reserves during the year; and
 - 2.2. the denominator of which is the estimated total units to be extracted from the natural deposit over the life of the asset.
3. The estimated total units to be extracted referred to in paragraph 2 of this Article shall be determined in accordance with instructions concerning such estimates to be set out in a sub-legal act issued by the Minister.

Article 26 **Tax Losses**

1. A tax loss as defined by this Law is the negative difference between the taxpayer's income and expenses and allowances determined in accordance with this law.
2. The amount of the tax loss determined under the present Article may be carried forward for up to seven (7) successive tax periods and shall be available as a deduction towards any income in those years.
3. The amount of the carry forward taken into account for any tax period after the year of the tax loss shall be the entire amount of the loss, reduced for the aggregate amount previously allowed as a deduction.
4. If a taxpayer has a tax loss in more than one (1) year, the present Article shall be applied to the losses in the order in which they have arisen.
5. The provisions of this Article shall be allowable only to the business which incurred the loss. If the business has an ownership change of more than fifty percent (50%) or if a personal business enterprise is changed in any other form of business (legal entity, partnership, etc.) the loss carried forward shall not be allowed anymore. Minister may issue a sub-legal act in order to regulate the provisions of loss bearing regarding the change of the kind of business organization or the change of ownership, as well as every other necessary provision of loss bearing for the implementation of this Article.

Article 27 **Rental Expenses**

If a taxpayer, other than a taxpayer engaged in the business of renting movable or immovable property, opts to not maintain records of actual expenses incurred in the rental activity, such taxpayer shall be allowed a deduction from gross income from rent an amount equal to ten percent (10%) of the rents received in order to cover the costs of repairs, collection charges and other expenses paid or incurred in generating the rent.

Article 28
Deduction for charitable contributions

1. Contributions made by taxpayers who maintain records under Article 33.4 of this Law for humanitarian, health, education, religious, scientific, cultural, environmental protection and sports purposes are allowed as a deduction up to a maximum of five percent (5%) of taxable income computed before the charitable contribution is deducted.

2. A charitable contribution according to paragraph 1 of this Article must be made to:

2.1. An organization registered under Legislation on registration and operation of non-governmental organizations that has received and maintained public benefit status;

2.2. Any other non-commercial organizations that directly perform not for profit activities in the public interest, such as:

2.2.1. Medical institutions;

2.2.2. Educational institutions;

2.2.3. Organizations to protect the environment;

2.2.4. Religious institutions;

2.2.5. Institutions that care for disabled or elderly persons;

2.2.6 Orphanages; and

2.2.7 Institutions that promote science, culture, sports or arts.

3. A charitable contribution shall not include a contribution that directly benefits the donor, or related persons of the donor.

4. Any taxpayer that is object of real tax, who claims a deduction for a charitable contribution must file an annual declaration and furnish a receipt in respect of such contribution, in the manner prescribed by a sub – legal act issued by the Minister.

Article 29
Educational and Training Expenses

1 .Educational expenses paid by an employer to an educational institution for an employee shall be allowable in full in the year in which such expenses are paid, provided that:

1.1.education expenses are paid directly to the educational institution;

1.2. the educational institution is recognized by effective public Law in Kosovo;

1.3. the education is relevant to the employee's position and does not qualify that employee for work in a different occupation; and

1.4.the employee remains in the employment of the employer for at least twenty-four (24) months after completion of the education for which the expenses were paid by the employer.

2. Training expenses (expenses incurred by an employer to provide basic skills necessary for the employee to perform assigned tasks or necessary to provide updated skills to the employee) which are job-related shall be allowable in full in the year in which such training expenses are incurred. The amount of such expenses shall not exceed one thousand Euros (€1,000) per employee in any tax period. Any training expenses incurred above that amount will not be allowable in that tax period.

CHAPTER V

UNALLOWABLE EXPENSES

Article 30

Unallowable Expenses

1. No deduction shall be allowed for:

1.1. Cost of land acquisition;

1.2. Fines and penalties, and related costs and interest for any violation of law or administrative procedure;

1.3. Income taxes paid or accrued (does not include taxes withheld from employees);

1.4. Value Added Tax for which the taxpayer claims a rebate or credit for deductible tax under the legislation on Value Added Tax;

1.5. Personal, living, or family expenses;

1.6. Any loss from the sale or exchange of property between related persons; and

1.7. Amusement or recreation expenses, unless they are incurred in connection with the taxpayer's business of providing amusement or recreation activities.

1.8. Expenses not documented per requirements set out in a sub-legal act issued by the Minister shall be considered as unallowable expenses.

2. On general income are not included pension contributions, as follows:

2.1. Pension contributions above maximum amount allowed by the Law on Pensions in Kosovo.

2.2. Treatment of expenses which may be partially personal and partially business, or which may be subject to question as to whether they are personal or business, will be defined in a sub-legal act to be issued by the Minister.

CHAPTER VI

CAPITAL GAINS AND LOSSES

Article 31

Incomes from capital gains

1. Gross incomes from capital gains means the gain that a taxpayer realizes through the sale or other disposition of capital assets including real estate and securities.

2. The amount of capital gain is the positive difference between the sales price of the asset and the cost of the capital asset as determined under paragraph 5 of this Article.

3. The sales price of the capital asset shall be the sum of any money received, plus any other compensation received for the sale.

4. If the parties are related persons and the sales price is lower than the open market price, then the sales price will be adjusted to the open market price in the manner prescribed in a sub-legal act issued by the Minister.

5. The cost of the capital asset is the amount that the taxpayer paid for the acquisition of the asset, increased for the cost of improvements and reduced by depreciation and other expenditures allowable by this Law.

6. Capital gains shall be recognized as business income and capital losses as business losses, if not foreseen otherwise by this Law.

7. Capital gains and losses shall not be recognized for pooled asset (asset in Category 2 and Category 3 acquired prior to the date of entry into force of this Law) referred to in Article 20 of this Law.

8. Capital loss means a loss that a taxpayer realizes through the sale or other disposition of capital assets including real estate and securities.

9. The amount of capital loss is the negative difference between the sales price of the asset according to paragraph 3 or 4 of this Article and the cost of the capital asset, according to paragraph 5 of this Article.

10. Capital loss means a loss that a taxpayer realizes through the sale or other disposition of capital assets including real estate and securities. The provisions of Article 26 of this Law shall apply to the losses described in this paragraph.

11. Gross income from capital gains does not include capital gains realized from the sale of the assets of the Kosovo Pension Savings Trust or any other pension fund defined under legislation on Pensions in Kosovo.

12. A capital gain shall not be recognized on the involuntary conversion of property to the extent that the consideration received from the conversion consists of either property of the same character or nature or money that is invested in property of the same character or nature within a replacement period of two (2) years.

13. If a sale of capital assets involves an installment agreement that lasts more than the tax period in which the sale is finalized (all applicable documents are signed by all parties and the sales agreement is legally enforceable), any gain must be amortized on a straight-line basis over the life of the installment agreement and the amount of gain attributable to any tax period must be reported on the tax declaration as income in that tax period. Further provisions related to installment sales shall be described in a sub-legal act.

14. The capital gain shall not be recognized in case of involuntary conversion of property if the consideration is received from the conversion consisting of either property of the same character or nature or money that is invested in property of the same character or nature within the replacement period of two (2) years.

Article 32

Cash and Accrual Method of Accounting

1. Taxpayers not engaged in economic activity shall report the income in accounting on the cash basis. Such income is reported on the actual year or is constructively received in the form of cash, it is equivalent of it or other property.

2. Taxpayers engaged in economic activity with an annual gross income of five thousand (5.000) € or less and the taxpayers with annual gross income from economic activities of

more than fifty thousand (50.000) € up to, including, fifty thousand (50.000) €, who are not required and have not opted to keep books and records listed in Article 33.4 of this Law, shall report their various income components in accounting on the cash basis (income reported when actually or constructively received).

3. Taxpayers engaged in economic activity with an annual gross income in excess of fifty thousand (50,000) €, taxpayers who are required to keep the books and records listed in article 33.4 of this Law, and the taxpayers who opt to keep these books and records as well as general and limited partnerships and grouping of persons shall report their various income components on the accrual basis of accounting, except those items of income described in Article 7.1 of this Law.

4. Taxpayers described in paragraph 3 of this Article shall report their various components of expenses on the accrual basis of accounting, except if provided otherwise in paragraph 3 of Article 15 of this Law.

CHAPTER VII

BOOKS AND RECORDS

Article 33

Requirement for Books and Records

1. A taxpayer with annual gross income of more than fifty thousand (50.000) €, from business activities for the tax period, as well as partnerships and groups of persons, shall keep the books and records identified in paragraph 4 of this Article.

2. A taxpayer with annual gross income of fifty thousand (50.000) € or less, from business activities for the tax period may opt to prepare the books and records identified in paragraph 4 of this Article.

3. A taxpayer who opts to prepare books and records identified in paragraph 4 of this Article for any tax period shall be required to prepare such books and records for the tax period in which the option is made plus at least three (3) succeeding tax periods, as provided in a sub-legal act issued by the Minister.

3.1 A taxpayer wishing to opt the option described in paragraph three (3) of this Article shall submit a statement to the tax administration by 1 March of the tax period in which the taxpayer wishes to make the option and that the option is made. The statement to be submitted shall be in a format prescribed by the tax administration. Once such option is made, the taxpayer must continue to prepare financial statements and adjust income and expenses recorded in such statements for the tax period in which the option is made and, at least, for the next succeeding three tax periods as provided in paragraph 3 of this Article.

- 3.2 A taxpayer eligible to opt the maintaining of books and records as required in paragraph 4 of this Article, must submit a request for explanatory ruling to TAK, in accordance with applicable provisions of the Law on Tax Administration and Procedures, and receive approval from TAK before maintaining books and records in accordance with Article 34 of the Law. Approval must be received by 1 March of the year for which the taxpayer requests the explanatory ruling.
4. The books and records required under this Article, maintained in accordance with the Accounting Standards of Kosovo, are as follows:
- 4.1. A sales book in which all sales and returns must be recorded;
 - 4.2. A purchase book in which all purchases and returns must be recorded;
 - 4.3. A Cash receipts diary and a cash payments diary that relate to the sales book and purchase book.
 - 4.4. A capital account, if applicable, that includes the opening balance, additions to capital, expenses to be capitalized, depreciation rate, amount of depreciation, dispositions, and closing balance; and
 - 4.5. Such other books and records as necessary to provide an accurate accounting of all income and expenses so that a correct determination of tax can be made;
 - 4.6. Notwithstanding the requirement in paragraph 1 of this Article that partnerships and groups of persons must maintain the books and records described in Paragraph 4 of this Article, partnerships and groups of persons with annual gross turnover of fifty thousand (50,000) € or less shall not be required to maintain income or financial statements as required by the Accounting Standards of Kosovo. They shall, however, be required to maintain the books and records described in sub-paragraphs 4.1 through 4.5, and any other records required in order to accurately determine the amount of profit, or loss, to be distributed to the separate partners.
 - 4.7. The content of books and records required by this paragraph and any other books or records required, including those maintained in an electronic format, shall be defined in a sub-legal act issued by the Minister.

Article 34

Requirements for Books and Records for Small Businesses

1. A taxpayer with annual gross income of fifty thousand (50,000) € or less, who does not opt to prepare the books and records required under paragraph 4 of Article 33, must maintain the following minimal books and records:

- 1.1 A sales book in which all sales and returns must be recorded;
- 1.2. A purchase book in which all purchases and returns must be recorded;
- 1.3 A Cash receipts diary and a cash payments diary that relate to the sales book and purchase book.
- 1.4 The content of books and records required by this paragraph and any other books or records required for small business, including those maintained in an electronic format, shall be defined in a sub-legal act issued by the Minister.

CHAPTER VIII

INTERNATIONAL PROVISIONS

Article 35

Permanent Establishment

1. “Permanent establishment” shall include:
 - 1.1. Any place of management;
 - 1.2. Any branch;
 - 1.3. Any office;
 - 1.4. Any factory;
 - 1.5. Any workshop;
 - 1.6. Any mine; and
 - 1.7. Any oil or gas source, quarry or other place of exploitation of natural resources.
2. “Permanent establishment” shall also include;
 - 2.1. Any building site, construction, assembling or installation project, or supervisory activity in connection herewith, but only if such site, project or activity lasts longer than one hundred and eighty-three (183) days. Where the building site, project, or activity lasts longer than one hundred and eighty-three (183) days, including any preparatory activity, the building site, project, or activity shall be deemed to have been or created a permanent establishment from the day such work was commenced;

- 2.2. The furnishing of any service, including any consultancy service but excluding any supervisory activity referred to in paragraph 2.1 of this Article, carried out in Kosovo by a non- resident person through employees or other personnel, but only if such activities continue within Kosovo for a period or periods totaling ninety (90) days or more within any twelve -month period. Where the activities do continue within Kosovo for a period or periods totaling 90 days or more within a twelve –month period, the activities shall be deemed to have created a permanent establishment from the day such activities commenced;
- 2.3. Any site used for the search for natural resources within Kosovo, where such activities within Kosovo continue for a period or periods totaling one hundred and eighty-three (183) days or more within any twelve – month period. Where the activities do continue for a period or periods totaling one hundred and eighty-three (183) days or more within a twelve -month period, the activities shall be deemed to have created a permanent establishment from the day such activities commenced; and
- 2.4. Any immovable property situated in Kosovo and owned by a non-resident person.
3. Notwithstanding paragraph 1 of this Article, where a person, other than an agent of an independent status to whom paragraph 6 of this Article applies, acts in Kosovo on behalf of a non-resident person, the non-resident person shall be deemed to have a permanent establishment in Kosovo in respect of the activities which that person undertakes for the non-resident person, if such a person:
- 3.1. Has and usually exercises an authority in Kosovo to conclude contracts on the name of the non-resident person, unless the activities of such person are limited to those mentioned in paragraph 6 of this Article which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that sub-article; or
- 3.2. Has no such authority, but habitually maintains in Kosovo a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the taxpayer.
4. A non-resident person who provides insurance shall, except in regard to reinsurance, is deemed to have a permanent establishment in Kosovo if he/she collects premiums in Kosovo or insures risks situated in Kosovo through a person other than an agent of an independent status to whom paragraph.6 of this Article applies.
5. Notwithstanding paragraphs 1 and 2 of this Article, “permanent establishment” shall be deemed not to include:
- 5.1. The use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the non-resident person;

- 5.2. The maintenance of a stock of goods or merchandise belonging to the non-resident person solely for the purpose of storage or display;
- 5.3. The maintenance of a stock of goods or merchandise belonging to the non-resident person solely for the purpose of processing by another taxpayer;
- 5.4. The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information for the non-resident person;
- 5.5. The maintenance of a fixed place of business solely for the purpose of carrying on, for the non-resident person, any other activity of a preparatory or auxiliary character; and
- 5.6. The maintenance of a fixed place of business solely for any combination of activities mentioned in paragraphs 1 to 5 of the present sub-article, provided that the overall activity of the fixed place of business resulting from this combination is only of a preparatory or auxiliary character.
6. A non-resident person shall not be deemed to have a permanent establishment in Kosovo merely because he/she carries on business in Kosovo through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that taxpayer, and conditions are made or imposed between that taxpayer and the agent in their commercial and financial relations which differ from those which would have been made between independent taxpayers, he will not be considered an agent of an independent status within the meaning of this sub-article.
7. The fact that a non-resident person controls or is controlled by a company which is a resident of Kosovo, or which carries on business in Kosovo (whether through a permanent establishment or otherwise), shall consider no company a permanent establishment of the other.”

Article 36

Prices of Transfer

1. The price used in conjunction with means transactions or contracting obligations between related persons shall be considered the price of transfer.
2. The price expected to be received in conjunction with asset transactions or contract obligations between parties that had worked according to market dominance shall be considered the open market value.

3. The open market value shall be determined under the comparable uncontrolled price method and, when this is not possible, there is used the resale price method or the cost-plus method, or any other method as defined by sub-legal act .
4. The difference between the open market value and the transfer price shall be included in taxable income.
5. A sub-legal act shall be issued by the Minister for implementation of this Article.

Article 37
Avoidance of Double Taxation

1. The resident taxpayer who receives income from economic activities outside of Kosovo and who pays income tax on that income to any other State, shall be allowed a tax credit under this Law for the amount of income tax paid to such State, that is attributable to the income generated from the other state.
2. The tax credit allowed in paragraph 1 of this Article is limited to the amount of foreign tax paid on the income earned outside Kosovo, and shall not exceed the amount of obligatory tax in Kosovo on that same income. To the extent that Kosovo tax on that income exceeds the foreign tax paid, the excess amount must be included in the computation of Kosovo obligatory tax.
3. Any applicable international agreement negotiated by Minister and ratified by the Assembly on the avoidance of double taxation shall supersede the provisions of the present Article as they relate to the parties to that international agreement.

CHAPTER IX

WITHHOLDING PROVISIONS

Article 38
Withholding tax on wages

1. Each employer shall be responsible for withholding tax from the taxable wages paid to its employees during any payroll period for in which wages are paid.
2. An employer who is the employee's principal employer shall withhold an amount for the appropriate payroll period, in accordance with the rates established in Article 6 of this Law. Any tentative tax for a given month shall be reduced for the amount withheld by the principal employer for the previous month in the year.
3. An employer who is not the employee's principal employer shall withhold an amount equal to ten percent (10%) of the wages for each tax period.

4. Pensions paid by, or on behalf of, Kosovo Pension Saving Trust, or by an authorized supplementary pension fund regulated by the law on pension contributions shall be subject to withholding by the payer of such pensions at the rates provided in Article 6 of this law.

5. Each employer, or person required to withhold according to paragraph 4 of this Article, shall submit a statement of tax withholding and remit the amount of tax withheld to an account designated by the Tax Administration in a bank, or financial institution, licensed by the Central Bank of Kosovo within fifteen (15) days after the last day of each calendar month, in accordance with a sub-legal act issued by the Minister.

6. Each employer or person required to withhold according to paragraph 4 of this Article that makes wage payments during the tax period shall submit to the Tax Administration by 31 January of the year following the tax period an annual tax reconciliation statement with information about wages paid and tax withheld and remitted with respect to each employee in accordance with the form and procedures specified in a sub-legal act issued by the Minister.

7. Each employer or person required to withhold in principle according to paragraph 4 of this Article shall provide by 1 March of the year following the tax period to every employee from whom wage tax has been withheld, a certificate of tax withholding in the form specified in a sub-legal act issued by the Minister.

Article 39

Withholding Tax on Interest and Royalties

1. Each personal business enterprise, entity, public authority, partnership or grouping of persons, bank or other financial institution who pays interest or royalties, except interest that is exempt under this law, to resident or non-resident persons, shall withhold tax at the rate of ten (10%) at the time of payment or credit.

2. Notwithstanding paragraph 1 of this Article, interest on loans provided by financial institutions licensed by CBK to their customers shall be subject to withholding.

3. Each personal business enterprise, entity, public authority, partnership or grouping of persons, bank or other financial institution shall submit a statement of tax withholding and remit the amount of tax withheld to an account designated by the Tax Administration in a bank licensed by the Central Bank of Kosovo within fifteen (15) days after the last day of each calendar month, in accordance with a sub-legal act issued by the Minister.

4. Each personal business enterprise, entity, public authority, partnership or grouping of persons bank or other financial institution that pays interest or royalties during a tax period shall, upon request by the recipient, provides a certificate of tax withholding by 1

March of the year following the tax period, in the form specified in a sub-legal act issued by the Minister.

5. Each personal business enterprise, entity, public authority, partnership or grouping of persons, bank, or other financial institution who withholds tax under this article during a tax period shall submit to the tax administration an annual reconciliation statement in the form and format specified by the Tax Administration no later than 1 March of the year following the tax period. Each personal business enterprise, entity, public authority, bank or other financial institution must include a copy of all withholding certificates, required by paragraph 4 of this Article, with the annual reconciliation statement submitted to the tax administration.

Article 40

Withholding Tax on Lottery and Game of Chance Winnings

1. Each organizer of a lottery shall withhold tax in an amount equal to ten percent (10%) of each payment for winners.

2. Subject to the provisions of Article 49 of this Law, each organizer of a game of chance shall withhold tax in an amount equal to ten percent (10%) of each payment for winnings

3. Each organizer of a game of chance and organizer of a lottery shall submit a statement of withholding and transfer the amount of tax withheld to an account designated by the Tax Administration in a bank licensed by the Central Bank of Kosovo within fifteen (15) days after the last day of each calendar month, in accordance with a sub-legal act issued by the Minister.

4. Each organizer of a game of chance and organizer of a lottery during a tax period shall, upon request by the winner, provide by March 1 of the year following the tax period a certificate of tax withholding in the form specified in a sub-legal act issued by the Minister.

5. Each organizer of a game of chance and organizer of a lottery who withholds tax under this Article during a tax period shall submit to the tax administration an annual reconciliation statement in the form and format specified by the Tax Administration no later than 1 March of the year following the tax period. Each organizer of a lottery must include a copy of all withholding certificates, required by paragraph three of this article, with the annual reconciliation statement submitted to the tax administration.

Article 41

Withholding on certain payments to non-residents

1. Income attributable to a non-resident of Kosovo as an entertainer, such as a theatre, motion picture, radio or television artiste, or a singer or musician, or as a sportsman, from

his or her personal activities exercised in Kosovo shall be subject to withholding by the payer of that income, whether paid directly or indirectly to the non-resident, so long as the gross compensation from such activities exceeds one thousand (1,000) € in a tax period.

2. Income, other than income described in paragraph 1 of this Article, earned from agreements or contracts, whether written or verbal, with Kosovo persons or entities by a non-resident person or entity from services performed in Kosovo shall be subject to withholding by the payer of that income, so long as the non-resident person or entity has no permanent establishment in Kosovo and the gross compensation paid to the non-resident is more than five thousand (5,000) € in any tax period.

3. Notwithstanding any other provisions in this Law, the amount of withholding according to paragraph 1 and 2 of this Article shall be five percent (5%) of the gross compensation. Each payer shall submit a statement of withholding and remit the amount of tax withheld to an account designated by the Tax Administration in a bank licensed by the Central Bank of Kosovo within fifteen (15) days after the last day of each calendar month, in accordance with a sub-legal act issued by the Minister.

4. Withholding under this Article shall be considered to be a final tax and the recipients of such income subject to the withholding shall not submit a declaration to the tax administration, notwithstanding the provisions of Article 48 of this Law.

5. Each payer who withholds under this Article during a tax period shall, upon request of the recipient of the income, by March 1 of the year following the tax period shall provide a certificate of tax withholding in the form specified in a sub-legal act issued by the Minister.

6 Each taxpayer who withholds tax under this Article during a tax period shall submit to the tax administration an annual reconciliation statement in the form and format specified by the Tax Administration no later than 1 March of the year following the tax period. Each taxpayer must include a copy of all withholding certificates, required by paragraph 5 of this Article, with the annual reconciliation statement submitted to the tax administration.

7. The Minister shall issue a sub-legal act which will specify those persons or entities who will be considered as ‘payers’ under this Article and all other activities required for implementation of this Article.

CHAPTER X

PARTNERSHIPS AND GROUPING OF PERSONS

Article 42

Partnerships and Grouping of Persons

1. Each partnership and grouping of persons that receives or accrues gross income in accordance with the provisions of this Law, shall for personal income tax purposes, submit an annual income tax declaration on or before 31 March of the year following the tax period but will make no payment of income tax liability.
2. The tax declaration shall be made in the form prescribed by the Tax Administration of Kosovo and shall include, inter alia, gross income from all sources, allowable deductions, taxable income and each partner's or member's distributive share, along with their Kosovo fiscal number and their respective addresses. Each partner or group member shall report their distributive share of taxable income in their individual income tax declaration submitted in accordance with Article 48 of this Law.
3. The partnership and grouping of persons shall also submit the quarterly advance payments according to paragraph 2.2 of Article 43 and pay the amount obligatory for each partner or each member of the group in the name of each partner or member, using each partner's or member's fiscal number.
4. Partnerships and grouping of persons, as well as individual partners of partnerships and members of groups, must maintain books and records in accordance with paragraph 4 of Article 33 of this Law and must pay obligatory income taxes in accordance with paragraph 2.2 of Article 43 of this Law.
5. The partnership and grouping of persons is required to withhold tax and pension contributions from the wages of the employees of the partnership or grouping of persons and make payment in accordance with the requirements of this Law.
6. The partnership, or grouping of persons, is responsible for submitting declarations and making payment of all taxes for which the partnership or grouping of persons becomes liable, except for income taxes which are to be declared in accordance with subparagraphs 1 and 2 of this Article.

7. The partnership and grouping of persons shall file all declarations and statements by using the fiscal number assigned by the tax administration.

8. Each partnership and grouping of persons shall appoint one of the general partners or one of the persons belonging to the grouping as representative. This representative shall, on basis of a written authorization provided by all partners or persons belonging to the grouping, act in their name and on their behalf and be authorized to fulfill all tax obligations of the partnership or grouping of persons, including the payment obligations, as defined by Law. However, the assignment of a representative shall not relieve the individual partners or members from their individual liability for their own income taxes or partnership or group debts as provided in the Law on Business Associations, if the partnership fail to meet its fiscal obligations

CHAPTER XI

PAYMENTS, CREDITS, AND DECLARATIONS

Article 43

Payment of tax for economic activities

1. Each taxpayer who receives or accrues income from economic activities shall make quarterly payments of tax to an account designated by the Tax Administration in a bank licensed by the Central Bank of Kosovo no later than fifteen (15) days after the close of each calendar quarter (15 April, 15 July, 15 October, 15 January).

2. The amount of each quarterly payment of tax under paragraph 1 of this Article shall be as follows:

2.1. Taxpayers with annual gross income from business activities of up to fifty thousand (€50.000) € who are not required and do not opt to keep the books and records listed in paragraph 4 of Article 33, must pay:

2.1.1. Three percent (3%) of each quarter's gross income from trade, transport, agriculture and similar economic activities, and but not less than thirty seven euros and fifty cents (€37.50) per quarter.

2.1.2. Five percent (5%) of each quarter's gross income from services, professional, vocational, entertainment and similar activities. but not less than thirty seven euros and fifty cents (€37.50) per quarter.

2.1.3. If a taxpayer described in paragraph 2.1 of this Article has no income in a quarterly period, no payment shall be required, but the taxpayer must submit the quarterly installment declaration for the period with no tax obligation.

2.2 Taxpayers with annual gross income from business activities in excess of fifty thousand (50,000) €; and taxpayers who are required, or opt as provided in paragraph 3 of Article 33, to keep the books and records listed in paragraph 4 of Article 33 must make advance payments:

2.2.1. One-fourth (1/4) of the total tax liability for the current tax period based on estimated taxable income, deducted by any amount of tax withheld pursuant to Article 39 of this Law and Article 30 of the Law on Corporate Income Tax; or

2.2.2. For the second tax period and those subsequent, for which a taxpayer makes payments under this Article, one-fourth (1/4), or more, of one hundred and ten percent (110%) of the total tax liability for the tax period immediately preceding the current tax period, deducted by any amount of tax withheld pursuant to Article 39 of this Law and Article 30 of the Law on Corporate Income Tax.

2.2.3. A taxpayer who has exceeded annual gross income of fifty thousand (50,000) € in any year is required to report income and make payments in accordance with paragraph 2.2 of this Article for the tax period in which annual gross income exceeded fifty thousand (50,000) € and, at least, the three succeeding tax periods. If, after that time, the taxpayer's annual gross income has dropped below the fifty thousand (50,000) € threshold and the taxpayer wishes to return to reporting income and making payments in accordance with sub-paragraph 2.1 of this Article, such taxpayer shall submit a request for ruling to the tax administration in accordance with Article 10 of the Law on Tax Administration and Procedures prior to 1 March of the year in which the change is being requested.

3. If an advance payment is not made timely, or in an amount that is less than that required, the tax administration may impose a penalty in an amount equal to the rate of interest in effect at the time the advance payment was obligatory to be made. There shall be no other additions to tax, for late or inadequate advance payments. If the payments of quarterly installments have been made on or before the due dates, and a final settlement has been made as required by paragraph 4 of Article 38 of this Law, no penalty shall be charged for insufficient payments, if:

3.1. The difference between the amount due in each installment and the amount paid for each installment is not greater than ten percent (10%) of the amount due; or

3.2. After the taxpayer's first tax period, the amount paid in each installment is a minimum of ten percent (10%) at least higher than one-fourth (1/4) of the tax liability on the tax declaration for the preceding tax period.

3.2.1 If the tax administration performs an audit of any year and makes an adjustment to the tax of that year of more than twenty percent (20%), the relief from penalty provided in sub-paragraph 8.2 will not apply to the advance payment requirements for the succeeding tax period.

3.3. For the first tax period during which a taxpayer has been in business (the tax period in which the taxpayer requested a fiscal number, or if taxpayer conducted business prior to that time, the tax period in which economic activity started), there shall be no penalty charged if, including the fourth quarterly installment due on 15 January, the taxpayer has made quarterly advance payments equal to at least ninety percent (90%) of the final tax obligatory for that tax period.

3.4. A taxpayer that had a loss on the previous year Personal Income Tax declaration is not eligible to use the provisions of sub-paragraph 2.2.2 of this Article in making advance payments for the current year. Such taxpayer must make advance payments in accordance with the provisions of sub-paragraph 2.2.1 of this Article.

3.5. The penalty to be charged under this Article shall be applied only to the underpaid amount from the date of the underpayment until the date described in paragraph 3 of this Article for making the final settlement for the tax period, or, if earlier, the payment date on which the taxpayer's advance payment includes an amount sufficient to pay the advance payment for that quarter plus the underpaid amount.

Article 44 **Payment of tax for rents**

1. Each taxpayer covered by Article 27 of this law who receives income from rent, except those taxpayers whose economic activity is renting movable or immovable property, shall make quarterly payments of tax to an account designated by the Tax Administration in a bank or financial institution licensed by the Central Bank of Kosovo no later than fifteen (15) days after the close of each calendar quarter (15 April, 15 July, 15 October, 15 January).

2. The amount of each quarterly payment, under paragraph 1 of this Article, shall be ten percent (10%) of the taxable rental income (gross rental income minus ten percent (10%) deduction provided in Article 27 of this Law) received in the calendar quarter immediately preceding the payment date reduced by any amount held during the quarter pursuant to Article 30.2 of the Law on Corporate Income Tax.

Article 45 **Payment of tax for intangible property**

1. Each taxpayer who receives income from intangible property shall make quarterly payments of tax to an account designated by the Tax Administration in a bank, or financial institution, licensed by the Central Bank of Kosovo no later than fifteen (15) days after the close of each calendar quarter (15 April, 15 July, 15 October, 15 January).

2. The amount of each quarterly payment under paragraph 1 of this Article shall be ten percent (10%) of the taxable income from intangible property received in the calendar quarter immediately preceding the payment date deducted by any amount that was withheld on royalties pursuant to Article 39 of this Law.

Article 46

Payment of tax for other taxable income, including capital gains

1. Each taxpayer who receives taxable income from capital gains or any other source not described in Articles 38 to 43 of this Law shall make payments of tax on or before 31 March of the year following the tax period in accordance with the provisions set out in Article 48 of this Law.

2. Taxpayers who receive taxable gifts according to Article 14 of this Law, must make an advance payment of ten percent (10%) of the amount of the gift which is in excess of five thousand (5,000) € by the last day of the month following the quarter in which the gift is received.

Article 47

Credits against tax

1. Taxpayers may credit against the amount of tax owed under this Law for the taxable year the following amounts:

1.1. Amounts withheld during the same tax period under the provisions of this Law and Article 30.2 of Law on Corporate Income Tax;

1.2. Payments of tax under Articles 42, 43, 44, 45, or 46 of the present Law;

1.3. Income taxes paid to any foreign country as provided in Article 37 of this Law, if the income on which the foreign tax is paid is subject to tax under the present Law. The amount of the foreign tax credit is limited to the amount of tax that would have been paid on such income under the present Law.

Article 48

Tax declarations and payments

1. Except where paragraph 2 of this Article applies, all taxpayers are required to prepare and submit an annual tax declaration on or before 31 March of the year following the tax period. The declaration shall be made on the forms prescribed by the Tax Administration and shall include, inter alia, gross income from all sources, allowable deductions, taxable income, applicable credits, and the tax due pursuant to Article 6 of this Law.

2. Taxpayers who receive or accrue income only from one of the following sources are not required to submit an annual declaration:

2.1. Wages;

2.2. Economic activities where tax is paid under paragraph 2.1 of Article 43 of this Law;

2.3. Rent where full payment has been made according to Article 44 of this Law;

2.4. Interest;

2.5. Lottery winnings, and being subject to Article 49 of this Law, Game of Chance winnings;

2.6. Income from intangible property; or

2.7. Income from gifts

3. Taxpayers who receive or accrue income only from the sources foreseen in paragraph 2 of this Article may opt to prepare and submit an annual declaration on or before 31 March of the year following the tax period. The declaration shall be made on the forms prescribed by the Tax Administration and shall include, inter alia, gross income from all sources, allowable deductions, taxable income and the tax due pursuant to Article 5 of the present Law.

4. Any taxpayer who opts to submit an annual declaration under this Article shall be subject to the requirements established in paragraph 3 of Article 33 of this Law for making and reversing that option. Such taxpayers shall be required to submit annual declarations in the year in which the option is made plus the three succeeding tax periods.

5. Taxpayers who are required to submit an annual tax declaration shall submit, together with such declaration, the final owing amount of tax. The final owing amount of tax shall be the difference between the total tax unpaid for the tax period determined in accordance with the present Law and the total credits in tax under Article 47 of the present Law.

6. If the total of the amount of credits in tax pursuant to Article 47 of the present Law exceeds the total tax unpaid for the tax period, the taxpayer shall be entitled to a refund of the excess tax paid.

7. The location for submitting tax declarations, remitting tax, and claiming refunds shall be specified in a sub-legal act issued by the Minister.

Article 49

Appeals and temporary measures

1. Any person unsatisfied with the decision taken according to the provisions of this Law by the Kosovo Tax Administration has the Right of submitting the request for review in the department of Appeals of the Tax Administration.

1.1. Taxpayers who do not accord with the decision of Department of Complaints may submit the complaint in the Independent Board for Reviews.

1.2. Submission of the Complaint does not suspend the execution of decision issued by Kosovo Tax Administration.

1.3. If a Taxpayer is not satisfied with the decision taken by Independent Board for Reviews, may submit a complaint in the competent Court.

2. The provisions relative to Games of Chance in sub-paragraph 1.8 of Article 7, sub-paragraph 1.13 of Article 8, Article 40, and sub-paragraph 2.5 of Article 48 shall become obsolete and superseded by provisions in the Law on Games of Chance and Lottery (or similar law related to the regulation and taxation of games of chance and lottery) relative to fixed quotes upon its date of entering into force.

3. In accordance with the Law on VAT, a taxpayer must register for VAT when reaching the threshold of fifty thousand (50,000) € of gross turnover in a twelve (12) consecutive month period. The Law on VAT includes provisions under which the registration threshold may be changed with the approval of the Assembly. If the VAT registration threshold is increased or decreased, the threshold for determining personal income tax liability based on an accounting for income and expenses (currently fifty thousand (50,000) € annual turnover) shall be increased or decreased accordingly.

3.1. An increase or decrease in the threshold for determining personal income tax liability shall be reflected in the applicable provisions of Articles 7, 10, 15, 32, 33, 34, and 43 of this Law.

3.2. Any increase or decrease in the personal income tax threshold shall be effective for the tax period beginning on 1 January of the year following the revision of the VAT threshold and each successive tax period thereafter. If the

increase in the VAT threshold is effective as of 1 January of a tax period, revision of the personal income tax threshold shall be effective beginning with 1 January of that same tax period.

3.3. Upon an increase or decrease in the threshold approved by the Assembly, the Minister shall issue a sub-legal act to implement the revised threshold level, which will reflect the necessary revisions to Articles 7, 10, 15, 32, 33, 34, and 43 of this Law.

Article 50 Implementation

1. The Minister shall issue the sub-legal acts required by this Law for the implementation of this Law.

Article 51 Applicable Law

This Law shall repeal Law No. 03/L- 115, date 18 December 2008, as well as any other provision that is in contradiction with this Law.

Article 52 Entry into Force

1. This Law shall enter into force fifteen (15) days after the publication in the Official Gazette of the Republic of Kosovo.
2. By the entry into force of this Law, its effects will be from 1 January 2010.

**Law No.03/L-161
29 December 2009**

The President of the Assembly of Republic of Kosovo

Jakup Krasniqi

