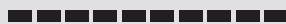




**OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVA**

**PRISTINA**



**No. 22 / 14 AUGUST 2015**

## THE OFFICIAL GAZETTE OF THE REPUBLIC OF KOSOVO

The Official Gazette of the Republic of Kosovo is published by: The Office for Publishing the Official Gazette of the Republic of Kosovo.

The Official Gazette of the Republic of Kosovo is being published pursuant to the Law on the Official Gazette of the Republic of Kosovo No. 03/L-190.

The Official Gazette of the Republic of Kosovo publishes the following: the Constitution of the Republic of Kosovo; legislation adopted by the Assembly of the Republic of Kosovo and promulgated by the President of the Republic of Kosovo; legislation adopted by the Assembly of the Republic of Kosovo pursuant to paragraphs 4 and 5 of Article 80 of the Constitution of the Republic of Kosovo; international agreements ratified pursuant to Article 18 of the Constitution of the Republic of Kosovo; decisions of the Constitutional Court; decrees of the President of the Republic of Kosovo where so requested by the President; declarations and resolutions adopted by the Assembly of the Republic of Kosovo where so requested by the President of the Assembly; bylaws adopted by the Government and/or its ministers where so requested by the Prime Minister; other legal acts as prescribed by the special laws, as well as the Official Gazette Annual INDEKS.

The Official Gazette of the Republic of Kosovo is published in five languages: in Albanian, English, Serbian, Turkish and Bosniak.

The Official Gazette of the Republic of Kosovo is administered by the Office for Publishing the Official Gazette, which operates within the Office of the Prime Minister of the Republic of Kosovo.

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Design & Print:

Shtypshkronja "Blendi", Prishtinë

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**LAW No. 05/L -028**

**ON PERSONAL INCOME TAX**

**Assembly of Republic of Kosovo;**

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves

**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 shall 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 term of use for more than one (1) year;

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

1.4. **Employee** - natural person, who performs work for wage 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.

1.5. **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 this law. A self-employed person includes a personal business enterprise and a partner engaged in an economic activity;

1.6. **Employer** – any person or entity that pays wages, including:

1.6.1. a public authority;

1.6.2. a permanent establishment of a non-resident person;

1.6.3. a non-governmental organisation;

1.6.4. an international organization, including KFOR and EULEX, with the exception of the United Nations, its Specialised Agencies and the International Atomic Energy Agency;

1.6.5. Diplomatic, Consular and liaison offices of foreign states in Kosovo when they agree to take on the responsibilities of an employer in Kosovo; and

1.6.6. Religious Communities foreseen by the Law on Freedom of Religion in Kosovo.

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

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

1.9. **Taxable Wages** - wages paid in line with Article 9 paragraph 1. of this law, deducting those amounts excluded from gross income from wages in line with of this law;

1.10. **Foreign source income** - gross income that is not Kosovo source income;

1.11. **Kosovo source income** - gross income that arises in Kosovo;

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

1.12.1. **A natural person** – for purposes of this law shall be considered:

1.12.1.1.- non-business natural person (no registered business activity); and

1.12.1.2.- business natural person (having a registered business based on legislation and conducting regular business activity).

1.12.2. **Legal person** – business organisation established under relevant legislation on business organisations, other persons established under this legislation which exercise profitable activity in the Republic of Kosovo and other persons established or recognised as such by special laws;

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



1.12.4. **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 endeavour, particularly the division of profits. An association is established by contract, which delineates the rights and obligations of each member.

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

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

1.15. **Public authority** - a central, regional, municipal or local authority, public body, ministry, department, or other authority exercising public executive, legislative, regulatory, administrative or judicial power;

1.16. **Related persons** - persons having a special relationship which may materially influence the economic results of transactions between them. Persons are considered to have special relationship when they:

1.16.1. are officers or directors of one another's businesses;

1.16.2. are legal partners in business;

1.16.3. have an employer-employee relationship;

1.16.4. one person holds or controls fifty percent (50%) or more of the shares or voting rights in the other legal person;

1.16.5. one directly or indirectly controls the other;

1.16.6. both are directly or indirectly controlled by a third person; or

1.16.7. the persons are husband and wife or relatives to the third degree inclusive as well as relatives to the second degree inclusive of husband or wife.

1.17. **Open Market Value** – shall mean the full amount to be paid by the customer at the same market level wherewith the supply of goods or services occurs, under equal competition conditions for the supplier under market dominance within Kosovo where the supply took place in order to obtain concerning goods or services at that moment. When no comparisons for supply with goods and services can be secured, an open market value shall mean the following:

1.17.1 regarding goods, an amount not less than the purchase price of the goods or similar goods, or in absence of the purchase price, the cost price determined at the time of supply;

1.17.2. regarding services, an amount not less than the full cost to the taxable person providing the service.

1.18. **Resident** – shall mean:

1.18.1. a natural person who has a principal residence in Kosovo, or is physically present in Kosovo for one hundred and eighty-three (183) days in any twelve-month period of time;

1.18.2. a personal business enterprise, partnership, or association of persons which is established in Kosovo or has its place of effective management in Kosovo;

1.19. **Main residence or Permanent residence** - a place where a natural person has his/her usual place of residence or lives permanently; a place where the natural person is subject to income tax for the reason of residence or dwelling;

1.20. **Non-resident** - any person or entity who is not a resident of Kosovo;

1.21. **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 addition (subsidiary) to immovable property; the rights applying provisions of the general Law following 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;

1.22. **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 cinematography films, and patent, trademark, design or model plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

1.23. **Subcontractor** - any person performing a part of a project which has been undertaken by a prime contractor. The subcontractor is directly engaged in execution and realization of the 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;

1.24. **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 to be done by others for them;

1.25. **Constructive acceptance** – basic taxpayers with in cash, whose income are accepted in a constructive way when they have been made available to taxpayers without substantial limitations, as credit in his amount, are put alongside for him, or otherwise they have been made available in that way that he may withdraw them any time, or in that way that he could withdrew them during the taxable year if the notification for the purpose of withdrawal is given;

1.26. **Benefits in nature or Benefits in things** – different compensations for employees, except their normal wage given in things, goods, items but not in cash;

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

1.28. **Financial Statements** – financial statements prepared in line with the applicable legislation for accounting, financial reporting and audit;

1.29. **TAK** – Tax Administration of Kosovo;

1.30. **Minister** - Minister of the Ministry of Finance;

1.31. **CBK** - Central Bank of Kosovo;

1.32. **Operating leasing** – every leasing which is not a financial leasing;

1.33. **Financial leasing** – a leasing that substantially transfers, all casual risks and rewards for the ownership of a property item. The title can or cannot be transferred to the end of leasing;

1.34. **Dividend** - a distribution by a company to a shareholder:

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

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

1.35 **FIFO** – evidence of the stock according to the principle: first in, first out.

### **Article 3**

#### **Taxpayers**

The taxpayers are resident and non-resident natural persons, personal business enterprises, partnerships and 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 incomes 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. Personal Income Tax shall be charged at the following rates:

1.1 for taxable income nine hundred sixty (960) Euro or less, zero percent (0%);

1.2. for taxable income over nine hundred sixty (960) Euro up to three thousand (3000) Euro including the amount of three thousand (3000) Euro, four percent (4%) of the amount over nine hundred sixty (960) Euro;

1.3. for taxable income over three thousand (3.000) euro up to five thousand four hundred (5.400) euro, including the amount of five thousand four hundred (5.400) euro, eighty one point six (81.6) plus eight percent (8%) of the amount over three thousand (3.000) euro; and

1.4. for taxable income over five thousand four hundred (5.400) euro, two hundred seventy three point six (273.6) euro plus ten percent (10%) of the amount over five thousand four hundred (5.400) euro.

**Article 7**  
**Gross income**

1. Except for incomes exempted under this Law, gross incomes shall mean 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 the interest which is allowed by this law;

1.5. Replacement income, such as that mentioned in Article 8 paragraph 1. sub-paragraph 1.8. of this Law;

1.6. Capital gains resulting from sale of a capital asset including movable, immovable property and securities;

1.7. Pensions paid according to the respective Law on Pensions in Kosovo;

- 1.8. Lottery Winnings and winnings in Games of Chances.
  - 1.9. Economic activity generated by businesses with annual gross income of fifty thousand (50.000) euro 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 shall also mean all income accrued from the following sources:
- 2.1. Business activities object of taxation in real incomes;
  - 2.2. Capital Gains, except those Capital Gains described in paragraph 1. of this Article;
  - 2.3. Any other income not included in this Article or any other income to be determined under sub-legal act issued by the Minister;

### **Article 8**

#### **Exempted income**

1. The following income shall be exempted 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 having registered in accordance with applicable legislation in Kosovo and 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 Specialised Agencies and the International Atomic Energy Agency. The same exemption shall apply to entitled and duly authorised international inter-governmental financial institutions operating in Kosovo;
  - 1.5. wages of foreign personnel of KFOR 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, the Specialized Agencies of the United Nations, KFOR and the International Atomic Agency which are directly engaged in projects and programs of the organizations mentioned above;

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. wages of persons with disabilities as foreseen under relevant laws for these categories;

1.13. pensions and social welfare assistance paid by the Government of Kosovo;

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

1.14.1. the heir is a spouse, biological or adopted child, or parent of the deceased; or

1.14.2. the heir is a person other than those mentioned in sub-paragraph 1.14.1. of this paragraph and heritage value does not exceed five thousand (€5,000);

1.15. educational expenses paid by an employer on behalf of an employee provided that such expenses are paid directly to an educational institution that is recognised in accordance with the applicable law in Kosovo and provided that onwards the employee remains employed at the employer for at least twenty four (24) months after the education is finalized for which the expenses were paid by the employer;

1.16. scholarships received by an individual to attend an institution of higher education, occupational school or vocational school, as long as the scholarship is paid directly to the institution.

1.17. expenses for attending the training program paid by an employer for an employee to attend formal training programs to acquire skills necessary for the employee to perform assigned tasks;

1.18. expenses for subsistence while attending a formal training program shall be allowable up to a maximum established by the Minister through a sub-legal act.

1.19. Sub-legal act referred to in paragraph 1.18. of this paragraph shall also specify what kind of training expenses qualify for this exemption. Training expenses for this sub-paragraph shall not include amounts equivalent to wages and salaries paid to apprentices or interns;

1.20. Income received, including income in cash or in kind by a non- business natural person, for expropriation made by the state for public interest;

- 1.21. Mandatory contributions paid by the employer for health insurance for the employee, as defined by relevant legislation on health insurance;
- 1.22. Compensation benefits received through final decisions by courts and certain compensation for court costs;
- 1.23. Income in the form of remuneration from state institutions for achievements in science, sports and culture;
- 1.24. Income received as a result of financial compensation to former political prisoners and other compensations for similar categories;
- 1.25. Income received from grants, subsidies and donations in accordance with the terms and conditions of their benefit;
- 1.26. Dividend received from by resident and non-resident person;
- 1.27. Tax holidays and other special facilities for new businesses shall be defined under sub-legal acts issued by the Minister.

## **CHAPTER II EMPLOYMENT INCOME**

### **Article 9 Income from wages**

1. Gross income from wages shall include:
  - 1.1. Wages paid on behalf of an employer for work carried out by an employee under the direction of the manager or employer;
  - 1.2. Bonuses, commissions, per diems 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 a wage 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 if provided otherwise 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 as defined in a sub-legal act issued by the Minister;

2.2. Indemnity for accidents at work;

2.3. Gains in kind in form of meal and transport provided by the employer to employee, exempting the compensation in money;

2.4. Reimbursement, limited in less than the cost of public transportation or zero point sixteen (0.16) euro per kilometer, for the in-and-out expenses for the employees, whose distance of in-and-out from their main residence to the regular working place is longer than twenty (20) kilometers.

2.5. Benefits in nature 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 may 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.

2.6. The Minister shall issue a sub-legal act in order to determine the reporting requirements related to giving reimbursement or benefits in nature allowed by sub-paragraphs 2.4 and 2.5. of this paragraph.

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 THOSE OF EMPLOYMENT**

**Article 10**  
**Income from business activities**

1. Gross income from economic activity shall mean 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 (50.000) euro, 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. Natural Business persons with annual gross income of fifty thousand (50.000) euro who 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. Natural Business persons with annual gross income of more than fifty thousand (50,000) euro 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 or any 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 and at least for three (3) subsequent 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 TAK in compliance with the applicable provisions of the Law on Tax Administration and Procedures;

6. Taxpayers engaged in contracts and long-term construction projects shall report the taxable income from those contracts and long-term projects as described in a sub-legal act issued by the Minister.

7. The taxable income from operating and financial leasing shall be determined and reported as described by the sub-legal act issued by the Minister. The sub-legal act shall describe operating and financial leasing.

#### **Article 11**

##### **Income from rents**

1. Gross income from rents shall include:

1.1. income generated by renting immovable property such as buildings, land or apartments;

1.2. income generated by renting equipment, transport vehicles and other kinds of property.

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

#### **Article 12**

##### **Income from intangible property**

Gross income from intangible property includes income generated from patents, copyrights, licenses, franchises and other property that consists of rights only, having no physical form. 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 regulated by 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 Fund or any other pension fund defined under legislation on pension savings in Kosovo.

### **Article 14**

#### **Other income including gifts**

1. Gross income include 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 (5.000) euro in a tax period.

3. Gifts, either monetary or things given, between spouses, a parent to their natural born, or legally adopted children, or from children to their parents are exempted from income regardless of the amount or value of the gift.

4. Gifts given for educational purposes are exempted from taxation as long as the gift is given in the form of tuition paid directly to an educational institution recognised by public law.

## **CHAPTER IV**

### **ALLOWABLE BUSINESS EXPENSES**

### **Article 15**

#### **General Provisions of Expenses**

1. Subject to the provisions of this Article, a deduction shall be allowed from gross income generated from intangible property, rents or business activities those expenses paid or incurred during the tax period are fully, exclusively and directly related to such income generating activities, including premiums for health insurance paid on behalf of an employee and those dependents eligible to be included in the insurance policy of the employee.

2. Employee`s Pension contributions paid by an employer are deductible, limited in the amount of personal contributions that are really paid, given that 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 or derived expense related to income which is subject to withholding wages, dividends, interest, royalties, rents, lottery winnings, unless it is paid on or before 31 March of the subsequent tax period. Any expense not allowed by this 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) euro and more, and those businesses which have opted to maintain books and records as required in Article 33 of this Law, may deduct the expenses that are allowed and paid or accrued during the tax period.

5. No deduction shall be allowed for any expense unless documented in the way required 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 to be issued by the Minister.

#### **Article 16**

##### **Expenses for representation, advertisement and economic promotion**

1. Representation expenses include costs of general character that a business person makes for his dignified presentation in relation to his partners or other institutions, such as organising meetings, presentation of new projects, inauguration of new production lines, treats and receptions related to business activity.

2. Representation costs will be limited to one percent (1%) of annual gross income.

3. The costs of advertising and promotion which are made through different forms of media, such as television, radio, newspapers, magazines, direct advertising, the Internet, posters, placards, billboards, transit advertising and similar are fully deductible expenses for tax purposes.

#### **Article 17**

##### **Bad Debt Expenses**

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

1.1. payment is not fully or partly received and is declared as uncollectible by initiating judicial procedures;

1.2. at least six (6) months have exceeded from debt payment deadline;

1.3. the amount that corresponds to the debt has previously been included in accounting registers as income;

1.4. there is no dispute of the legal validity of the debt;

1.5. there is sufficient evidence that substantial efforts were made to collect the debt, including any applicable actions to maximize collection of the debt, such as:

1.5.1. taxpayer has balanced 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. a claim was filed on a bankruptcy/liquidation proceeding, if applicable, and the amount that will be taken is determined in a reasonable way by the administrator/executor. To the extent deriving from the bankruptcy are applied in the unsettled debt.

1.6. the taxpayer must issue a receipt for the uncollected amount writing down the words "bad debt" as well as invoice number, linked to this debt, an invoice which serves the vendor to deduct income and purchaser to deduct spending-cost;

1.7. for the amount up to five hundred (500) euro treated as bad debt, it is not required the initiation of judicial procedures.

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

3. The amount shall not be deemed as uncollectable bad debt if:

3.1. transactions with the same debtor are repeated after the bad debt is declared, except the public services;

3.2. bad debt is between related parties;

3.3. there is no sufficient evidence that substantial efforts were made to collect the debt, including any applicable actions to maximize collection of the debt;

3.4. over twenty four (24) months have passed from the date when it should have been paid.

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

#### **Article 18**

##### **Business Travel Expenses**

1. Business travel expenses include transportation, different travel expenses for employees such as daily expenses accommodation and meals for business trip but do not include allowances for commuting to and from the place of work.

2. Expenses for travel, meals, accommodation, and moving out 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. Remunerations or wages paid to a related person shall be allowed as an expense in an amount equal to 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 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 out, 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 this 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 duration 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, dirt 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 viticulture or production of fruits such as apples, pears, walnuts, blueberries, etc.; and all other tangible assets not included in Category 1 or Category 2 of this paragraph.

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 closing of the tax period according to the category where 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. For depreciation purposes, an asset shall first be taken into account when it is firstly put in place.

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

6.1. taxes, duties, levies and interest charged to this asset before it is put into service;

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

7. Capital assets that were purchased and started to be depreciated under the pooling method prior to the entry into force of Law No. 03/L-161 on Personal Income Tax shall continue to be depreciated under the previous legislation until the value of the pool equals zero (0).

8. The purchase of a property for a price up to one thousand (1.000) euro shall be allowed as a current expense with an exception when the asset functions as a part of whole and the value of whole exceeds one thousand (1.000) euro.

9. Depreciation of pool assets from one thousand (1.000) to three thousand (3.000) euro purchased from 1 January 2010 until the entry into force of this Law shall continue to be depreciated by twenty percent (20%), until the value of the pool equals zero (0). Upon the sale of any asset from pool, the rules from the Law No. 03/L-161 on Personal Income Tax apply.

### **Article 21**

#### **Depreciation of Livestock**

1. Depreciation of livestock is allowed only if they are used in the course of economic activity.

2. Depreciation of livestock as referred to in paragraph 1. of this Article shall be specified under a special sub-legal act issued by the Minister.

### **Article 22**

#### **Special Deductions 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, a special deduction of ten percent (10%) of the asset acquisition price shall be deducted in the year when the asset has been first put into service.

2. Deduction of ten percent (10%) as referred to in paragraph 1. of this Article, shall be made in addition to the normal allowable depreciation deduction.

3. The deduction shall be allowed only if the asset is new or is put into use 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 provided so by specific Law.

### **Article 23**

#### **Repairs and Improvements**

1. In case of any depreciable asset, amounts spent 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 lifespan of the asset for at least one year and the amount of repair or improvement is bigger than one thousand (1.000) euro for that asset. If the repair or improvement is one thousand (1.000) euro 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 accounting value of the capital asset. The new accounting 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 having a limited lifespan 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 settling method and the allowance shall be based on the lifespan of the asset as determined by the legal agreement governing the acquisition and use of the intangible asset.

3. In cases when the term of use is not defined by an agreement, amortization expenses are allowed up to twenty (20) years.

#### **Article 25**

##### **Research and Development Costs**

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 this 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. whose numerator are the units extracted from the natural reserves during the year; and

2.2. whose denominator are estimated total units to be extracted from the natural deposit over the lifespan 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 this Article may be carried forward for up to six (6) years of successive tax periods and shall be available as a deduction towards any income in those years.

3. The carried forward amount 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 suffered a tax loss more than one (1) year, this 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 created 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 no longer be allowed.

6. The Minister shall issue a sub-legal act in order to regulate the provisions for carrying forward the loss related to the changing the type of business organization or changing ownership, as well as every other necessary provision of carrying forward loss for the implementation of this Article.

### **Article 27** **Rent Expenses**

If a taxpayer, other than a taxpayer engaged in business of renting movable or immovable property, opts to not maintain records of actual expenses incurred in the renting activity, such taxpayer shall be allowed a deduction from gross income from rent in 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 when generating the rent.

### **Article 28** **The deduction allowed for public interest activities**

1. Contributions given by taxpayers who maintain records under paragraph 5. of Article 33 of this Law in form of donations of humanitarian sponsorship, health, education, religious, scientific, cultural, environmental protection and sports purposes, in accordance with this law, are considered as contributions given for public interest and are allowed as expenditure up to a maximum of ten percent (10%) of taxable income computed before this contribution is deducted.

2. An allowed 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.

2.2. any other organization which in direct way carries out activities for the public interest, such as:

2.2.1. medical institutions;

2.2.2. educational institutions;

2.2.3. organizations for environment protection;

2.2.4. religious institutions;



2.2.5. institutions taking care for disabled or elderly persons;

2.2.6. orphanages; and

2.2.7. institutions promoting science, culture, sports or arts.

3. Allowed deduction shall not include a contribution which is directly beneficial to the donor, or persons related to the donor.

4. Any taxpayer who claims allowable deduction must present to the TAK the proof sheet of payment in respect of such deduction.

5. In addition to the deductions allowed under paragraph 1. of this Article, taxpayers who will contribute in certain areas, will have an additional allowance to ten percent (10%) if provided so by special laws of Kosovo.

6. For implementation of this Article, Minister will issue a sub-legal act.

#### **Article 29** **Educational and Training Expenses**

1. Educational expenses paid by an employer to an educational institution for an employee shall be fully allowable for the year when such expenses were paid, provided that:

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

1.2 the educational institution is recognised by applicable Law;

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

1.4. the employee remains in the employment relationship with the employer for at least twenty four (24) months after the education is completed for which the expenses were paid by the employer.

2. Training expenses which are job-related paid by the employer for an employee shall be fully allowable for the year when such training expenses incurred.

#### **CHAPTER V** **UNALLOWABLE EXPENSES**

#### **Article 30** **Unallowable Expenses**

1. No deduction shall be allowed for:

- 1.1. cost of land acquisition;
- 1.2. fines, penalties, and interest imposed by any public authority and expenses and costs related to them;
- 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 crediting for deductible tax under the legislation on Value Added Tax;
- 1.5. personal, living, or family expenses;
- 1.6. tax loss from transactions between related persons cannot be deducted, except when it is in accordance with the open market value;
- 1.7. amusement or recreation expenses, unless they have incurred in connection with the taxpayer's business providing amusement or recreation activities;
- 1.8. expenses for gifts, except those having business name and logo which are part of the representation costs;
- 1.9. losses in specific weight or substance, damages, remains, overstock, ruins or breakage during production, transport, exposure and storage, beyond the rates specified in separate legal and sub-legal acts;
- 1.10. benefits in kind in the form of meal and ticket for transportation, except in cases when organized by the business;
- 1.11. expenses on housing rents, which serve to accommodate resident and non-resident employees, regardless of the employment or service contract terms;
- 1.12. the cost of improvement, renovation and reconstruction of assets capitalised and depreciated, shall not be recognised as expense for the period, but will be handled in accordance with Article 23 of this Law;
- 1.13. expenses covered from grants, subventions and donations in compliance with regulations and criteria's for earning the same ones.
- 1.14. expenses not documented according to requirements set out in a sub-legal act issued by the Minister shall be considered as unallowable expenses.

2. Pension contributions are not included in general income, as follows:

- 2.1. pension contributions above maximum amount allowed by respective legislation on Pensions in Kosovo;
- 2.2. handling expenses which may be partially personal and partially business, or which may be subject to question as to whether or not 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 Capital Gains and Losses**

1. Gross incomes from capital gains means the gain that a taxpayer makes by selling or other forms of alienation of capital assets including movable and immovable property 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 allowed by this Law.
6. Capital gains shall be recognised 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 in Category 2 and Category 3 referred to in Article 20 paragraph 3. sub-paragraph 2. and sub-paragraph 3. of this Law, appropriated before the entry into force of this Law.
8. Capital loss means a loss that a taxpayer suffers from selling or any other form of alienating capital assets including movable and immovable property 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 the same Article.
10. Capital loss means a loss that a taxpayer suffers from selling or any other form of alienating capital assets including movable and immovable property 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 generated from the sale of the assets of the Kosovo Pension Savings Fund or any other pension fund defined under legislation on Pensions in Kosovo.
12. Handling of capital gains/losses for individuals (natural non-business person,) shall be determined with sub-legal act issued by the Minister.
13. 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.

14. 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 sales on installment shall be described in a sub-legal act.

### **Article 32**

#### **Cash and Accrual Method of Accounting for Recognition of Incomes**

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

2. Taxpayers engaged in economic activity with an annual gross income up to fifty thousand (50.000) euro, who are not required and have not opted to maintain books and records listed in Article 33 paragraph 5. of this Law, shall report their various income components in cash based accounting (income reported when actually or constructively received).

3. Taxpayers engaged in economic activity with an annual gross income over fifty thousand (50.000) euro, taxpayers who are required to maintain books and records listed in Article 33 paragraph 5. of this Law, and the taxpayers who opt to maintain 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 paragraph 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 exceeding fifty thousand (50.000) euro, from business activities for the tax period, as well as partnerships and groups of persons, shall maintain books and records identified in paragraph 5. of this Article.

2. A taxpayer with annual gross income up to fifty thousand (50.000) euro or less, from business activities for the tax period may opt to prepare the books and records identified in paragraph 5. of this Article.

3. A taxpayer, according to paragraph 1. of this Article and taxpayer who opts to prepare books and records identified in paragraph 5. of this Article for tax period when the selection is made, is

obliged to stay under the option selected at least for additional three (3) subsequent tax periods.

3.1. a taxpayer wishing to opt the option described in paragraph 5. of this Article shall submit a statement to the TAK by 1<sup>st</sup> of March of the tax period in which the taxpayer wishes to select option and that the option is made.

3.2. for new taxpayer, the first quarterly statement filed, will serve as an information for TAK that the option was selected in line with paragraph 5. of this Article.

4. A taxpayer under paragraph 1. and the one who has chosen to maintain books and records under paragraph 5. of this Article, may return to maintain books and records under Article 34 of this law, only when the period of three (3) years has passed after the period when the option is made provided that the incomes in last period were under the limit of fifty thousand (50.000) euro.

4.1. a taxpayer eligible to opt the maintaining of books and records as required in paragraph 4. of this Article, must submit a request for approval to TAK, in accordance with applicable provisions of the Law on Tax Administration and Procedures, and get approval from TAK before maintaining books and records in accordance with Article 34 of this Law. Approval must be received by 1<sup>st</sup> of March of the year for which the taxpayer requests the approval.

5. The books and records required under this Article, maintained in accordance with the Law on Tax Administration and Procedures, are as follows:

5.1. a sales book where all sales and returns must be recorded;

5.2. a purchase book where all purchases and returns must be recorded;

5.3. a cash receipts diary and a cash payments diary that relate to the sales book and purchase book;

5.4. 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;

5.5. other books and records in line with accounting standards to provide an accurate account of all income and expenses so that a tax can be correctly determined;

5.6. 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) euro or less, who does not opt to prepare the books and records required under paragraph 5. of Article 33 of this Law, must maintain the following minimal books and records:

- 1.1. a sales book where all sales and returns must be recorded;
- 1.2. a purchase book where all purchases and returns must be recorded;
- 1.3. a cash register diary recording all cash inflows and outflows;
- 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**

### **PROVISIONS REGULATING THE INTERNATIONAL TRANSACTIONS**

#### **Article 35**

##### **Transfer of Prices**

1. The price used in conjunction with means transactions or contracting obligations between related persons shall be considered the transfer of prices.
2. The price expected to be received in conjunction with asset transactions or contract obligations between parties who have worked according to market dominance shall consider the open market value.
3. The open market value shall be determined under the comparable uncontrolled price method and, when this is not possible, the resale price method or the cost-plus method is used or any other method as defined by sub-legal act.
4. The difference between the open market value and the transfer of price shall be included in taxable income.
5. A sub-legal act for implementation of this Article shall be issued by the Minister.

#### **Article 36**

##### **Avoidance of Double Taxation**

1. The resident taxpayer in Kosovo who receives income from economic activities outside Kosovo and who pays income tax to any other State, according to this law is allowed a tax crediting for income tax paid to any other state, attributed to generated incomes from the other state.
2. The tax crediting allowed in paragraph 1. of this Article is limited to the amount of foreign tax paid on incomes received outside Kosovo and does not exceed the amount of tax due in Kosovo on that 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 tax due.
3. Any applicable international agreement negotiated by Minister and ratified by the Assembly on the avoidance of double taxation shall supersede the provisions of this Article as they relate to the parties to that international agreement.

## **CHAPTER IX SOURCE WITHHOLDING TAXES**

### **Article 37 Source Withholding Tax on Income**

1. All natural business persons are obliged to withhold tax on:
  - 1.1. wages;
  - 1.2. payments for copyrights and royalties;
  - 1.3. payments to non-business natural persons (farmers, collectors of recycling materials, berries, herbs and similar)
  - 1.4. payments to agents dependent from non- business natural persons;
  - 1.5. payments to non-business people who have an agreement, service or special services contract;
  - 1.6. payments for performances of actors, musicians, athletes, etc. made for non-business natural persons;
  - 1.7. payments for professional, technical, management, financial services made for natural non-business persons;
  - 1.8. interest; and
  - 1.9. rent payments.

### **Article 38 Source Withholding Tax on Wages and Source Withholding of Contributions**

1. Each employer shall be responsible for withholding tax from the taxable wages paid to its employees including professional, technical, management, financial services, service contract, and payments for performances of actors, musicians, athletes, dependent agents etc during any payroll period when wages are paid.
2. A principal employer of an employee 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 Fund, or by an authorized supplementary pension fund regulated by the law on pension contributions as well as the health insurances according to the Law on Health Insurance, shall be subject to withholding by the payer of such pensions and health insurances 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 source withholding tax and transfers the amount of tax withheld to an account designated by the TAK 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 at source according to paragraph 4. of this Article shall provide by 1<sup>st</sup> of March of the year following the tax period to every employee from whom wage tax has been withheld, a certificate of tax withholding in a form specified in a sub-legal act issued by the Minister.

### **Article 39**

#### **Withholding Tax on Interest, Royalties and Rent**

1. Each business natural person, partnership or grouping of persons, who pays interest or royalties, except interest exempt under this law, to resident or non-resident persons, shall withhold tax at the rate of ten per cent (10%) at the time of payment or crediting.

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 business natural person, partnership or grouping of persons, shall submit a statement of tax withholding and transfer the amount of tax withheld to an account designated by the TAK 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.

4. Each business natural person, partnership or grouping of persons, paying rent shall withhold nine per cent (9%) of tax on gross income at the time of payment or crediting and transfer the amount of tax withheld to an account designated by the TAK in a bank or financial institution licensed by the Central Bank of Kosovo. Source withhold tax is paid up to 15<sup>th</sup> day of the following month.

5. Each business natural person, partnership or grouping of persons who is required to withhold tax under this article until 1<sup>st</sup> of March of the year following the tax period insures certificate of tax withheld for incomes receiver in the form specified by sublegal act issued by Minister.

### **Article 40**

#### **Source withholding tax for Special Categories**

1. Each business natural person paying for natural non-business person farmers, collectors of recycling materials, berries, herbs and similar is obliged to withhold tax at source at the rate of three percent (3%) in gross payments at the time of payment.

2. Each business natural person required to withhold tax at source under paragraph 1. of this Article, shall submit a statement of tax withholding and transfer the amount of tax withheld to an account designated by TAK 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 line with sub-legal act issued by the Minister.

3. Each business natural person required to withhold under paragraph 1. of this Article, by 1<sup>st</sup> March of the year following the tax period shall, for each non-business natural person whose



income tax is withheld, provide a certificate tax withheld in a form specified within sub-legal act issued by the Minister.

#### **Article 41**

##### **Withholding at source for 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 artist, 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 or not paid directly or indirectly to the non-resident.

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, as long as the non-resident person or entity has no permanent establishment in Kosovo.

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 transfer the amount of tax withheld to an account designated by the TAK in a bank licensed by the Central Bank of Kosovo within fifteen (15) days after the last day of each calendar month, in line 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 TAK, 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 1<sup>st</sup> of March of the year following the tax period 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 an annual reconciliation statement to the TAK in form and format specified by the TAK no later than 1<sup>st</sup> of 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 TAK.

7. The Minister shall issue a sub-legal act determining those persons or entities who will be 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<sup>st</sup> of March of the year following the tax period but no payment of income tax liability will be made.

2. The tax declaration shall be made in form prescribed by the TAK 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 quarterly advance payments according to sub-paragraph 2.2 of Article 43 of this Law 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 5. of Article 33 of this Law and must pay obligatory income taxes in accordance with sub-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 line 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 become liable, except for income taxes which are to be declared in accordance with paragraphs 1. and 2. of this Article.
7. The partnership and grouping of persons shall submit all declarations and statements by using the fiscal number assigned by the TAK.
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 meet all tax obligations of the partnership or grouping of persons, including the payment of obligations, as defined by Law.
9. 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 Organizations, if the partnership fail to meet its fiscal obligations.

## **CHAPTER XI PAYMENTS, CREDITS AND DECLARATIONS**

### **Article 43 Payment of tax for business activities**

1. Each taxpayer who receives or accrues income from business activities shall make quarterly payments of tax to an account designated by the TAK in a bank licensed by the Central Bank of Kosovo no later than fifteen (15) days after the close of each calendar quarter.
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) euro who are not required and do not opt to keep the books and records listed in Article 33 paragraph 5. of this law, must pay:

2.1.1. three percent (3%) of gross income from trade, transport, agriculture and similar economic activities for each quarter, and but not less than thirty seven Euros and fifty cents (37.50) per quarter.

2.1.2. nine percent (9%) of gross income from services, professional, vocational, entertainment and similar activities for each quarter but not less than thirty seven Euros and fifty cents (37.50) for quarter.

2.1.3. if a taxpayer described in sub-paragraph 2.1 of this paragraph 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 exceeding fifty thousand (50.000) euro and taxpayers who are required, or opt as provided in paragraph 2. of Article 33 of this Law, to maintain the books and records listed in paragraph 5. of Article 33 of this Law 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 during three months connected with those incomes in compliance with relevant legislation for Tax on Personal Incomes or:

2.2.2. for the second tax period and those subsequent, for which a taxpayer makes payments under this paragraph, at least one-fourth (1/4), of more than one hundred and ten percent (110%) of the total tax liability for the previous tax period immediately, for actual period deducted from whichever amount withheld on incomes during the last three months in connection with those incomes in compliance with the relevant legislation for Tax on Personal Incomes.

3. A taxpayer who has exceeded annual gross income of fifty thousand (50.000) euro is required to report income and make payments in accordance with paragraph 1. of Article 33 of this law, and sub-paragraph 2.2 of this Article for the tax period when annual gross income exceeds fifty thousand (50.000) euro and at least for three (3) successive tax periods.

4. Taxpayer who carries out quarterly payment in compliance with sub-paragraph 2.2 of this Article, will perform final statement of taxes and pays necessary amount until 31<sup>st</sup> March of the following tax period.

5. The amount for final regulation is totaling sum of tax for tax period assigned in compliance with this law, deducted from:

5.1 amount of the withheld tax from the others, and paid in TAK with relevant legislation for Tax on Personal Income.

5.2. amount paid in quarters:

5.3. foreign tax credit allowable under this law.

6. If paid amount, or credited amount in compliance with the paragraph 5. of this Article are higher than total amount of tax assigned in compliance with this law, the taxpayer has the right to:

6.1. reimbursement on the excess amount of paid tax: or

6.2. with the request of the taxpayer, has the right to carry out as advanced payment for the following year.

7. If an advance payment is not timely made, or in an amount that is less than that required, the TAK 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 or corrected 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 this Article, no interest or penalty shall be charged for insufficient payments, if:

7.1. the difference between the amount due in each installment and the amount paid for each installment that is not greater than twenty percent (20%) of the amount due; or

7.2. after the first taxpayers tax period, amount paid for each installment is at least ten percent (10%) more than one fourth (1/4) of the tax obligation in the tax statement for previous tax period.

7.2.1. if the TAK performs a control for any of the years and makes an adjustment to the tax of that year of more than twenty percent (20%), the relief from penalty provided in sub-paragraph 7.2 of this Article will not apply to the advance payment for the succeeding tax period.

7.3. for the first business period, a taxpayer shall not be subject to penalties if the amount of advance payments for quarters including that the installment of fourth quarters is over eighty percent (80%) of the final obligatory tax for that tax period.

7.4. taxpayer who had losses in Tax Declaration on Personal Incomes from the previous year, has no right to use provisions of sub-paragraph 2.2.2 of this Article on carrying of advanced payments for the actual year. Such a taxpayer shall carry out advanced payments in compliance with provisions of sub-paragraph 2.2.1 of this Article.

7.5. penalties which will be charged in compliance with this Article will be applied only on the amount subpayed from date described in paragraph 4. of this Article for final regulation for the tax period.

8. Minister will issue sub-legal act for implementation of this Article.

#### **Article 44**

##### **Payment of tax for incomes from rents**

1. Each taxpayer in compliance with 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 TAK in a bank or financial institution licensed by Banking and Payments Authority of Kosovo, no later than fifteen (15) days after the close of each calendar quarterly.

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 respective provisions of the legislation 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 TAK 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.

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 or pursuant to respective provisions of the legislation on Corporate Income Tax.

#### **Article 46**

##### **Payment of tax for other taxable income, including capital gains**

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<sup>st</sup> of March of the year following the tax period in accordance with the provisions set out in Article 48 of this Law.

#### **Article 47**

##### **Credits against tax**

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

1.1 amounts withheld during the same tax period under the provisions of this Law and pursuant to respective provisions of the legislation on Corporate Income Tax;

1.2. payments of tax under Articles 42, 43, 44, 45 or 46 of this 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 this Law. The amount of the foreign tax credit is limited to the amount of tax that would have been paid on such income under this Law.

#### **Article 48**

##### **Tax declarations and payments**

1. Except in cases where paragraph 2. of this Article applies, all taxpayers are required to prepare and submit an annual tax declaration on or before 31<sup>st</sup> of March of the year following the tax period. The declaration shall be made on the forms prescribed by the TAK 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 sub-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,

2.6. income from intangible property;

2.7. income for special categories (farmers, collectors of recycling materials, berries, herbs and similar)

3. Taxpayers who receive or accrue income only from the sources foreseen in paragraph 2. of this Article with exception of sub-paragraphs 2.2 and 2.3 of paragraph 2. of this Article may opt to prepare and submit an annual declaration on 31<sup>st</sup> of March or before 31<sup>st</sup> of March of the year following the tax period. The declaration shall be made on the forms prescribed by the TAK and shall include, inter alia, gross income from all sources, allowable deductions, taxable income and the tax due pursuant to Article 6 of this Law.

4. 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 this Law and the total credits in tax under Article 47 of this Law.

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

6. The Minister may issue a sub-legal act regarding the tax declarations and payments according to this Article.

#### **Article 49**

##### **Sub-legal acts for Implementation of the law**

The Minister of Finance shall issue sub-legal acts required and referred to in this Law, not later than 31 December 2015, from the day of entrance into force of this Law.

#### **Article 50**

##### **Repealing provisions**

1. By the entry into force of this Law, the Law no. 03/L-161 on Personal Income Tax, adopted by the Assembly on 29<sup>th</sup> of December 2009 and published in Official Gazette of the Republic of Kosovo No.64, on 01 February 2010, Law no. 04/L-104 on Amending and Supplementing the

Law on Personal Income Tax no. 03/L-161, adopted by the Assembly on 3<sup>rd</sup> of May 2012, and published in the Official Gazette of the Republic of Kosovo N0.13, on 30 May 2012 and any other provision in contradiction to this law shall be repealed.

2. Regardless of paragraph 1., the provisions of repealed legislation of paragraph 1. of this Article shall continue to be applied by the TAK in reviewing the tax issues that pertain to periods until the entry into force of this Law.

**Article 51**  
**Entry into Force**

This law shall enter into force on 1<sup>st</sup> of September 2015.

**Law No. 05/L -028**  
**22 July 2015**

**Promulgated by Decree No.DL-020-2015, dated 07.08.2015, President of the Republic of Kosovo Atifete Jahjaga**

