

**REGULATION NO. 2005/17**

**ON THE PROMULGATION**  
**OF THE LAW ON TAX ADMINISTRATION AND PROCEDURES**  
**ADOPTED BY THE ASSEMBLY OF KOSOVO**

The Special Representative of the Secretary-General,

Pursuant to the Authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999,

In conformity with Chapter 8 and sections 9.1.44 and 9.1.45 of the Constitutional Framework for Provisional Self-Government in Kosovo (UNMIK Regulation No. 2001/9 of 15 May 2001),

Taking into account a communication from the President of the Assembly of Kosovo, dated 21 October 2004, concerning the Law on Tax Administration and Procedures adopted by the Assembly on 27 September 2004,

Noting that the provisions of the Law shall be without prejudice to the authority of the Special Representative of the Secretary-General under United Nations Security Council resolution 1244 (1999) or his reserved powers and responsibilities under the Constitutional Framework, including section 8.1(c) and section 8.1(x) of the Constitutional Framework for Provisional Self-Government in Kosovo,

Hereby promulgates, effective as of the date of signature, the Law on Tax Administration and Procedures (Law No. 2004/48) adopted by the Assembly of Kosovo attached to the present Regulation, provided that:

- (a) In article 1:
  - (i) In the definition of “Employer”, the wording “except for those exempt from taxes under the applicable law” shall be added at the end of subparagraph (e);
  - (ii) In the definition of “Entity”, the wording “public and” shall be added before “socially owned”; and

(iii) In the definition of “Tax Declaration”, a new subparagraph (g) shall be added which reads: “a corporate income tax declaration”;

(b) Article 2.1 shall be revised to read as follows:

The Tax Administration of Kosovo (hereinafter “TAK”), as established, shall have the status of an Executive Agency, which shall function with full operational autonomy within the Ministry of Finance and Economy;

(c) A new article 2.3 shall be added which reads:

In meeting its responsibility under article 2.2 it shall be the duty of TAK to collect over time the highest revenue that is practicable within the law having regard to:

- a. The resources available to TAK;
- b. The importance of promoting compliance, especially voluntary compliance, by all taxpayers with Kosovo’s tax legislation; and
- c. The compliance costs incurred by taxpayers;

(d) Article 3.1 shall be revised to read as follows:

TAK shall be headed by a Director who shall be appointed by the SRSB based on a recommendation submitted by the Minister of Finance and Economy through the Government;

(e) Article 3.2 shall be revised to read as follows:

The Director may be removed by the SRSB in consultation with the Government solely on grounds of professional incompetence or misconduct or after having been convicted of a criminal offence and sentenced to serve a prison term of six months or more;

(f) In article 11.5, the words “the UNMIK Non-Governmental Organization liaison office” shall be deleted and replaced by the word “UNMIK”;

(g) In article 13.1, the words “without any prior notice” shall be replaced by “with prior notice, unless in the opinion of the Director exceptional circumstances warrant otherwise,”, and the words “any premises, place” shall be replaced by “any premises where a business is conducted”;

(h) In article 13.3, subparagraphs (b) and (e) the word “seize” shall be replaced by “require transfer of possession of”;

(i) A new article 13.6 shall be added which reads:

At the time of obtaining possession of a document or item under subparagraphs (b) and (e) of this article, TAK shall, at the request of the

taxpayer concerned, issue a receipt which shall specify the document or item, the date on which the document or item was taken into possession and the officer of TAK to whom it was handed over;

(j) In article 21.6 the words “licensed by the Banking and Payments Authority of Kosovo (BPK)” shall be added after “bank” and before “authorized”;

(k) In article 34.1 the words “in compliance with the Memorandum of Understanding between TAK and the UNMIK Customs Service” shall be added at the end of the sentence;

(l) Article 46.2 shall be revised to read as follows:

Any person who is required to create or retain records under the legislation applicable in Kosovo and who fails to do so shall be liable to a fine of 125 euro. In addition, the person shall be liable to a penalty of:

- a. twenty-five percent (25%) of the tax assessed to which the records relate if the failure to do so was due to the gross carelessness on the part of the person; and
- b. one hundred percent (100%) of the tax assessed to which the records relate if the failure to do so was due to a deliberate attempt to avoid payment of tax;

(m) Article 51.3 shall be deleted;

(n) Articles 52 through 55 and, consequentially, the phrases “or who commits an offense set out in Articles 52 to 55,” “or having committed such an offense” and “or offense” in article 51, shall be deleted, and subsequent sections shall be renumbered;

(o) Article 57.2 shall be revised to read as follows:

Members of the Board shall be proposed by the Government based solely on their fitness to perform their functions. Members shall be appointed by the Assembly, except for two (2) members of the Board who shall be appointed by the SRSG following consultations with the Government. For the first appointment following the entry into force of this Law, seven (7) members shall be appointed for one (1) year term and eight (8) members shall be appointed for a two (2) year term, which may be renewed for one further term of two (2) years. Thereafter, the term of appointment of each member shall be two (2) years. Appointments under the present article shall commence on 1 June 2005;

(p) Article 57.5 shall be revised to read:

The Assembly may remove one or more members of the Board with the advice of the Government, if it determines that the member is unfit to

execute his/her functions or is in a position of a conflict of interest contrary to article 59.5, except that any member of the Board appointed by the SRSG may only be removed by the SRSG on the same grounds following consultations with the Government. The Assembly or the SRSG, as appropriate, shall appoint a new member to replace any member who has been removed under this article, or has resigned from membership on the Board or has become unable to perform his/her functions. The member so appointed shall serve for the remainder of the term of the member being replaced, and such appointment shall be deemed a first appointment;

(q) In article 59.1, the wording “, at the request of the Board,” shall be added after “may” and before “establish”;

(r) Article 59.6 shall be revised to read as follows:

Members of the Board shall maintain the confidentiality of all taxpayer information and data obtained. This obligation shall continue even after their term of appointment has ended;

(s) Article 65 shall be revised to read:

The present Law shall replace UNMIK Regulation No. 2000/20 on Tax Administration and Procedures and it shall supercede any provision in the applicable law which is inconsistent with it;

(t) Article 66 “Repealed Law” shall be deleted and subsequent sections shall be renumbered;

(u) References to “penalties” shall be deleted and replaced by references to “sanctions” wherever they appear throughout the text of the law, except for the reference in article 15.4; and

(v) Article 67 shall be revised to read as follows:

The present Law shall enter into force on 1 May 2005.

These changes shall be reflected in the final official text of the Law.

Signed on this 9<sup>th</sup> day of April 2005.

Søren Jessen-Petersen  
Special Representative of the Secretary-General