Pursuant to the provisions of Article 9 of Law no. 03/L-222 on Tax Administration and Procedures and authorization allowed by Article 6 of Law no. 04/L-101 amended by Law no. 04/L-168 on Kosovo Pension Funds, for the part that deals with responsibilities of the Tax Administration, The Director of Tax Administration, issues:

**PUBLIC EXPLANATORY DECISION No. 01/2013**

**IMPLEMENTING RULES OF THE LAW ON PENSION FUNDS OF KOSOVO**

**Article 1**

**Aim**

The purpose of issuing these implementing rules is to clarify how the Tax Administration will interpret and implement the provisions of the Law Nr.04/L-101, dated March 30, 2012, amended by Law 04/L-168, dated March 12, 2013, for Kosovo Pension funds, in the areas related to the Kosovo Tax Administration.

**Article 2**

**Definitions**

"Law" shall mean Law Nr.04/L-101 Law amended by Law 04/L-168, on Kosovo Pension Funds.

"KPST" shall mean the Kosovo Pension Savings Trust an independent institution established by law for the purpose of administering and managing the Individual accounts of pensions savings.

"Supplementary fund" are funds of the third pillar of the pension system in Kosovo that are established and operates according to Law on Pension Funds of Kosovo.

"TAK" shall mean Tax Administration of Kosovo that according to the Law collects Pension Contributions in Kosovo and sets rules on collecting the contributions for financing pensions of individual savings.

"EDI" shall mean the online system for generating the payment forms of pension contributions and wage tax.

"Employee" is a physical person who performs work for wage under the direction and control of the employer, regardless of whether the work is performed under the contract or any other form of agreement be it in written or not.
"Employer" any physical or legal person acting directly or indirectly in the interest of employer, and includes an association or group of employers acting for an employer in such capacity. The employer may be state owned or socially owned controlled by state, and privately owned or may be a combination of state, social and private ownership or control, as well as may be a profitable or unprofitable legal person.

"Self-employed Persons" persons who (a) receive incomes from the sale of goods (also including technological, commercial, agricultural, artistic, educational goods or intellectual property) or by providing services and (b) make such sale or provide services, which are not under the control or supervision of the employer and therefore are not considered employed.

"Minimum wage" as announced by the Economic and Social Council.

**Article 3**

**Scope of work**

All employees, employers and self-employed who are citizens of Kosovo and perform their economic activity in Kosovo are obliged to contribute into financing of pension savings.

Employees in Kosovo, who have permanent residence under Article 51 of the Law on Foreigners (No. 04/L-069) and their respective employers are also obliged to pay pension contributions. The employees with temporary residence are banned to pay pension contributions.

ATK is the Agency charged with fulfilling the obligation to pay pension contributions; hence at any occasion TAK reserves the right of control and enforced collection.

**Article 4**

**Mandatory contributions**

The mandatory rate of pension contribution for employees is 5% of the employees’ gross monthly salary and the other 5% comes from the employer assets. Both these two shares are intended for employee’s saving.

The mandatory rate of pension contribution for self-employed who claim tax on presumptive base (individual small businesses) is 1/3 of the tax liability declared on a quarterly basis or 600€, whichever is lower.

The mandatory rate of pension contribution for self-employed who declare tax in real incomes (large individual businesses) is 10% to 30% of incomes, before deduction of pension contribution, or 600 €, whichever is lower.

Pension contributions of self-employed for a quarterly period cannot be lower than 30% of the minimum wage in Kosovo.
Mandatory contributions may have as destination only KPST.

**Article 5**

**Voluntary contributions**

The employer and the employee are allowed to contribute voluntarily more than the mandatory rate of 5% of the gross salary of the employee. The employer is not obliged to follow the level of voluntary contributions to the employee and vice versa.

Voluntary contributions to the self-employed can be up to two hundred (200) percent of the compulsory contribution according to Article 4.

Voluntary contributions may have two destinations: to KPST or Supplementary Funds.

**Voluntary contributions in KPST** - The maximum allowable rate of voluntary contributions is 10% of the gross salary of the employee and 10% of gross salary by the employer, to achieve jointly the required contributions to a maximum of 30% of gross salary (15% by the employee and 15% by employer).

**Article 6**

**Tax implications**

The bases for calculation of Personal Income Tax for employees will be considered gross salary after deduction of Pension Contribution (employee’s share). The share of the employee's pension contribution (up to 15% of gross salary) is deductible from Personal Income Tax for the employee. Also, the Pension Contribution share (up to 15% of employee’s gross salary) by the employer would be recognized as employer’s expense for the purpose of Personal Income Tax and/or Corporate Income Tax.

For the self-employed only the share of mandatory pension contributions will be exempt from personal income tax.

**Article 7**

**The basis for calculation of employees’ pension contribution**

**Gross wage** - is any compensation to the employee from the employer for work or services provided, be it by written or other agreement. In addition to basic salary, also allowances/other benefits as defined by the Law on Personal Income Tax are considered as gross salary, and accordingly shall be added to calculation basis of pension contributions.

**Minimum wage** - For secondary employers (secondary) or when the employee works part-time at the primary employer, then the employer should take as base gross salary according to above paragraph for calculating pension contributions even if gross salary is lesser than the minimum salary. If the employee works full-time at primary employer but is compensated for his/her work with incomes (whether in cash or in kind) lesser than the minimum wage, the employer should take as base minimum wage for calculating pension contributions.
**Wages paid in kind** - means market’s open monetary value for goods or services provided by the employer to the employee, in the absence of cash compensation, as common form for compensation of employees. The example for calculating wage in kind is given in the annex.

If the employer pays wages more than once per month, he/she is required to make calculations solely in monthly basis. So, in these cases, the monthly obligation is the sum of all obligations created from wages paid within the month.

**Article 8**

**Withholding of pension contributions**

Each employer is obliged, at the time of delivery/provision of salary to employees, to withhold the Mandatory Pension Contribution of the employees. Voluntary Pension Contributions of employees, with the destination to KPST, should be withheld as well.

**Article 9**

**Identification of physical persons**

For the purpose of reporting pension contributions and personal income tax, personal number issued by the Ministry of Internal Affairs (MIA) of Kosovo, or individual fiscal number issued by TAK, are solely identification numbers for each employee. Both citizens of Kosovo as well as residents who have acquired permanent residence should have permanent personal number, issued by the Ministry of Internal Affairs (MIA).

For the purpose of reporting the Personal Income Tax, non-resident employees of Kosovo can also be identified with fiscal number for individuals.

The self-employed are identified by offering individual fiscal number and personal number in the respective boxes of pension contributions’ payment form for the self-employed. Partners of individual business are identified by individual fiscal number (not by entity’s fiscal number) and personal number.

**Article 10**

**Declaration of pension contributions and wage tax of employees**

Through online declaration system (EDI), the employer should fill in monthly payroll in MS Excel ® format by following all instructions in the reporting manual of Pension Contributions and Wage Tax.

Once the payroll is filled in, EDI will generate receipt, by which the payment of Pension Contribution and Wage Tax shall be carried out. Since the payment is defined by filled in
payroll, employer should ensure that all employees for whom the contribution are paid be included in the list and be identified with respective personal numbers. Receipt could not be generated if the employer has errors in identification of the employees and in the calculation of pension contributions when declares.

**Article 11**

**Correction of statements**

Employers can correct statement of pension contributions and wage tax through online declaration system (EDI). If one of the employees that appears in the corrected statement (original) do not appear in corrective statement or is declared by less pension contributions that have as destination KPST, then declaration shall be deemed suspended and the employer should request approval from the Tax Inspector that corrective statement be received by TAK. In other occasions corrective statement will be accepted automatically and there will be no need for approval from the Tax Inspector.

The procedure of improving employer reports is given in detail in the reporting manual of pension contributions and wage tax through EDI.

**Article 12**

**Payment of pension contributions and wage tax**

Payment of pension contributions and wages tax for employees can solely be done by forms generated from EDI, in which necessary payment details are given. Payment form can neither be changed manually, to pay with it other tax periods or for other taxpayers, nor to pay twice with it. For each improvement, online declaration rules should be respected.

Payment of Pension Contributions and income tax for the self-employed can solely be done by downloading the respective statement from the TAK website.

Payment forms must be printed on copies. The Bank holds sufficient copies for itself, and one copy shall be returned to the party.

Payment of Pension Contributions, where applicable, can be also done with e-banking. In these cases, the taxpayer should be ensured that the information required by bank software, are given accurately (fiscal number, form serial number - uniref, period, amount). Description of the transaction, at least should have the serial number of the form, fiscal number and the tax period for which payment is made. For the self-employed description should also contain the ID number of self-employed person. Also, physical declaration of self-employed should be sent to ATK for processing.
Article 13
Certificate of Contribution and Wage Tax, Withholding and Paid

Each employer, by 31 January of the following year is required to submit to each employee Certificate of Contribution and Wage Tax, withheld and paid on behalf of each employee. Certificate format is given in the annex.

Article 14
Keeping the book on pension contributions and wage tax

For the purpose of this rule, each employer is obliged to keep accurate information on the identity, gross salary and pension contributions of its employees. This information should be kept as a monthly payroll of salaries in the given format in the annex, in the period of 6 years.

The book should be a monthly summary of details of employees, where each row contains one person alongside with personal number and information on gross salary and pension contributions.

If, after the initial declaration, additional obligations and liabilities arise for contributions or wage tax for a certain period (as a voluntary act of the employer or as a result of the control by the Tax Inspector), a new list should be compiled and kept with new details and totals of the payroll for respective period. The revised declaration must be submitted as specified in Article 11.

Article 15
Declaration and payment of pension contributions from self-employed, partners and shareholders of Limited Liability Companies

Each self-employed and/or business partner in the individual business, or a shareholder of Limited Liability Companies in Kosovo (shareholder that is engaged in working with respective shareholding company), who is a Kosovo citizen or permanent resident, is obliged to declare and pay pension contributions from wages.

Determination of minimum wage and categories for them could change over time.

For the purposes of pension contributions, the shareholders of shareholding companies of limited liability are required to enter the payroll if they have engagement in the activities of the company with limited liability. Shareholders who do not perform any work on the respective shareholding company (silent shareholders) are not obliged to enroll in payroll (accordingly they are exempt from the obligation to pay tax and pension contributions).

Improvement of declaration at self-employed consists in correcting the information and/or correcting the declaration and payment. Depending on the case, the self-employed have to tick respective box.
In the end of the year, the self-employed (owners of large individual businesses) upon the annual declaration of personal income tax, they have the opportunity to make additional payment or refund of pension contributions as a result of the annual reconciliation of obligations.

Article 16
Voluntary participation in pension savings scheme

All physical persons who are citizens of Kosovo and who are exempted from the obligation to personal income tax in Kosovo (under the law of the Personal Income Tax in Kosovo) can pay each month pension contributions from their incomes realized in Kosovo being equipped with individual tax number and choosing the option of voluntary declaration in EDI.

Article 17
Refund of pension contributions

All employers and self-employed can apply for refund of pension contributions. Refund may be a return of money in cash or redistribution of payment in other tax periods. Request for refund should be made through the respective forms. Refund must be approved by the Tax Inspector. Approved form must be submitted for processing at KPST.

Article 18
Entry into force

This ruling sets implementing rules of the Law on Pension Funds of Kosovo and enters into force on the date of signature by the Director General of Tax Administration.

Date: 12/09/2013
Prishtina,

Mr. Behxhet Haliti
General Director of TAK
ANNEX

Example of Pension Contribution’s Calculation

If an employee has a gross monthly salary of 500 €, then calculation of minimum pension contribution rate is 500€ x 5% = 25 € as part of the employee and 500€ x 5% = 25 € as part of the employer. The total expense of the employer for the employee by the example mentioned is 525€.

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Wage</td>
<td>500.00€</td>
</tr>
<tr>
<td>Other additions*</td>
<td>20.00€</td>
</tr>
<tr>
<td>Total gross wage</td>
<td>520.00€</td>
</tr>
<tr>
<td>Employer pension contribution</td>
<td>26.00€</td>
</tr>
<tr>
<td>Employee pension contribution</td>
<td>26.00€</td>
</tr>
<tr>
<td>Net pre-tax wage</td>
<td>494.00€</td>
</tr>
<tr>
<td>wage tax **</td>
<td>27.20€</td>
</tr>
<tr>
<td>net wage</td>
<td>466.80€</td>
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</table>

* All other additions are all other compensation made to the employee that are incorporated in gross wage as defined in the Law on Personal Income Tax

** Tax is calculated as in the case of the primary employer, i.e. by progressive rate. In cases where the employer is secondary, tax rate is direct (10%).

Example of wage paid in kind

An employee in winery site 'X' is paid in kind for the month of May, 2012 since the employer is short in cash. Employee takes 80 litre of wine. Commodity market value for that wine is 4€/litre. The monthly wage of the employee for that month will be 80€ x 4l = 320€. The contribution of employee and employer for those months will be 16€ for each or 32€ in total.

Sample of the Book for pension contributions

<table>
<thead>
<tr>
<th>Serial No.</th>
<th>Personal No.</th>
<th>Name</th>
<th>Surname</th>
<th>Gross Wage</th>
<th>The contribution of the employee in KPST</th>
<th>Employer contribution in KPST</th>
<th>Total contributions in KPST</th>
<th>Net pre-tax wage</th>
<th>Wage tax</th>
<th>Net wage</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>B</td>
<td>C</td>
<td>D</td>
<td>E</td>
<td>F = E*(from 5% to 15%)</td>
<td>G = E*(from 5% to 15%)</td>
<td>H = F + G</td>
<td>L</td>
<td>M</td>
<td></td>
</tr>
</tbody>
</table>

Personal Number - is the number which is issued by the Ministry of Internal Affairs of Kosovo, which is printed in the ID card, driving license and passport of all holders of this number. In the absence of a personal number it can be used individual fiscal number of employee, issued by TAK.

Name and Surname - is information provided by the Civil Registry of Kosovo, through identity card, driving license or passport

Gross wages - the sum of all incomes provided by the employer to the employee, as defined in the Law on Personal Income Tax and bylaws.

The contribution of the employee in KPST - Pension contributions are mandatory (5% of gross salary) and voluntary which may not exceed 10% of gross wage (E) that is paid to KPST.

Contribution of employer at KPST - are mandatory pension contributions (5% of gross salary) and voluntary which may not exceed 10% of gross wages (E) that is paid to KPST.

Net pre-tax wage - the wage remaining after deducting pension contributions of the employee.

Wage tax – is the tax applied to net pre-tax wage, according to respective rules

Net wage - is the wage available to the employee.
Sample of receipt

<table>
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<th>Tax type:</th>
<th>PENSIONET</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax Period:</td>
<td>4 2013</td>
</tr>
<tr>
<td>Fiscal number:</td>
<td>600588977</td>
</tr>
<tr>
<td>Name of Business/Individual</td>
<td>TEST CORP</td>
</tr>
<tr>
<td>Filing Date:</td>
<td>19/09/2013 13:42</td>
</tr>
</tbody>
</table>

| Stamp/Signature:   |                                  |
| Account number:    | 1000430110000214                 |
| Payment amount:    |                                  |

<table>
<thead>
<tr>
<th>Tax type:</th>
<th>PENSIONET</th>
</tr>
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<tr>
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<td>Filing Date:</td>
<td>19/09/2013 13:42</td>
</tr>
</tbody>
</table>

| Stamp/Signature:   |                                  |
| Account number:    | 1000430110000214                 |
| Payment amount:    |                                  |
CERTIFICATE OF CONTRIBUTIONS AND TAX WITHHELD PAID BY THE EMPLOYER

CERTIFICATE OF PENSION CONTRIBUTION AND WAGE WITHHOLDING TAX

**Employer Information**

[1] Name of the employer: _______________________

[2] Employer’s Fiscal Number: ________________


[4] Owner’s/manager’s name: ______________________


[6] E-mail: ______________________

*This Certificate of Pension Contribution and Personal Income Tax Withholding is issued to the following employee:*

**Employee Information**

[7] Name of the employee: ______________________

[8] Employee’s Individual Number: ________________

[9] Address of the employee: ______________________

[10] Telephone: ______________________

[11] E-mail: ______________________

I declare that the data shown hereby are true:

<table>
<thead>
<tr>
<th>Tax Period</th>
<th>Gross Income</th>
<th>Employer’s Pension Contribution</th>
<th>Employee’s Pension Contribution</th>
<th>Tax Withheld</th>
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<tbody>
<tr>
<td>[12]</td>
<td>[13]</td>
<td>[14]</td>
<td>[15]</td>
<td>[16]</td>
</tr>
</tbody>
</table>

__________________________  ________________________
Name, Signature and Stamp of the Employer/Designated Person  Date