



Republika e Kosovës
Republika Kosova-Republic of Kosovo

Qeveria-Vlada-Government

Ministria e Ekonomisë dhe Financave - Ministarstvo Privrede i Finansija -
Ministry of Economy and Finance

Administrata Tatimore e Kosoves - Poreska Administracija Kosova - Tax
Administration of Kosovo

ON ADMINISTRATIVE INSTRUCTION NO. 08 / 2010
ON APPLICATION OF LAW NO. 03/L-162, ON CORPORATE INCOME TAX

Ministry of Economy and Finance

Based on Article 39 of Law No. 03/L-162, “*On Corporate Income Tax*,” the Minister of the Ministry of Economy and Finance, hereby

issues:

ADMINISTRATIVE INSTRUCTION
ON APPLICATION OF LAW NO 03/L-162, ON CORPORATE INCOME TAX

Section 1
Goal and Scope

The goal of this Administrative Instruction is the establishment of procedures and requirements for application of provisions of Law No. 03/L-162, “*On Corporate Income Tax*,” (hereafter referred to as The Law).

Section 2
Definitions

1. Paragraph 1.3 of Article 2 of the The Law defines “**Dividend**” “*as a distribution made by a company to a shareholder*”. Whether or not a distribution is a dividend shall be based only on the definition given in the Law without regard to whether or not the entity has earned profits during the current or previous tax periods.

2. Paragraph 1.13 of Article 2 of The Law defines “**Resident**” as “*a person or group of persons that is established in Kosovo or that has its place of effective management in Kosovo*”.

2.1 The requirement of being ‘**Established**’ in Kosovo means that the entity whether being a business organization or a not-for-profit organization or a

governmental body etc., is established under the Kosovo law and registered by respective competent authorities in Kosovo.

2.2 The term '**Place of Effective Management**' means the place where the majority of the executive directors convene and direct the work on day to day operations. It does not necessarily mean the headquarters of the entity.

Section 3 Taxable Income

1. Paragraph 1 of Article 5 of The Law provides that "*taxable income for a tax period shall mean the difference between gross income received or accrued during the tax period and the deductions and allowances allowable under this law with respect to such gross income*". In respect of the following gross income, other than gross income from long-term construction contracts and projects, the expression '*received or accrued*' shall have the following meaning:

2. *Business Activity.* For businesses that are subject to presumptive taxation, the accounting method will be the cash one, so the income is to be reported in the tax period the money is received. For businesses that are subject to real income taxation the method of accounting will be the accrual one so, income is to be reported in the tax period where goods are supplied and services rendered, invoice is issued or money is received, whichever happens first.

3. *Rents.* Rental income from the lease of immovable or movable property shall be reported in the tax period that rental services are supplied, an invoice is issued or money is received, whichever happens first.

4. *Use of intangible property.* Income from patents, copyrights, trademarks, franchise etc., shall be reported in the tax period in which income from the use of intangible property is received.

5. *Interest* Income from interest is to be reported in the tax period such interest is paid or credited to the account of the receiver.

Example:

A legal person invests funds in a bank term deposit for a six month period. Interest is added to the balance on term deposit every month. At the end of the six month period, the legal person decides to keep the funds on term deposit for a further six months.

Interest credited to the account balance each month will be included in gross income in the month in which it is credited. The tax treatment remains the same whether or not the interest is withdrawn or not each month, and whether or not the funds from the term deposit are withdrawn and reinvested after the end of the first six months or whether the term deposit is simply “rolled over”. Although technically interest could be said to accrue on a daily basis, it will only be included in gross income when an amount is actually paid or credited.

6. *Capital Gain. ‘Received’* means that a gain from the sale of immovable property or securities has resulted and payment is received during the tax period. For those who are subject to presumptive taxation, the accounting method will be the cash one so the income is to be reported in the tax period the money is received. For those who are subject to real income taxation the method of accounting will be the accrual one. *‘Accrued’* for this category means that income is to be reported in the tax period in which money is received, invoice is issued or immovable property or securities are disposed, whichever happens first.

7. *Lottery and gambling winnings.* Income from such winnings are reported in the tax period in which it is received or credited to the account of the winner.

Section 4 Exempt Income

1. Paragraph 1.2 of Article 7 of The Law provides that “*income of the Central Bank of Kosovo, and of entitled and duly authorized international governmental financial institutions operating in Kosovo*” shall be exempt from corporate income tax. For the purposes of that paragraph international governmental financial institutions shall include:

- 1.1 International Monetary Fund (IMF);
- 1.2 World Bank – International Bank for Reconstruction and Development (IBRD) and International Development Association (IDA);
- 1.3 International Finance Corporation (IFC) and other members of the World Bank Group;
- 1.4 European Commission (EC);
- 1.5 European Bank of Reconstruction and Development (EBRD);
- 1.6 European Investment Bank (EIB);

- 1.7 Inter-American Development Bank (IADB);

- 1.8 Asian Development Bank (ADB);

- 1.9 African Development Bank (AfDB);
- 1.10 International Fund for Agricultural Development (IFAD);
- 1.11 Islamic Development Bank (IDB).

2. For the purposes of paragraphs 1.6 and 1.7 of Article 7 of The Law, the expression “*other than a local person*” means contractors established outside Kosovo who are

not required to register with the Ministry of Trade and Industry in Kosovo but who are required to notify TAK in writing that they are working in Kosovo.

2.1 If a non-local contractor performs other activities in Kosovo, other than those in relation with the organizations mentioned in those paragraphs, it should register in Kosovo with the Ministry of Trade and Industry and with TAK (in the latter case either by applying for a fiscal number or by appointing a fiscal representative who will be liable for all Kosovo taxes of the contractor) and income generated from these other activities is inclusive in the gross income of the taxpayer.

2.2 Such non-local contractors, whether they have other activities or not, are also responsible (whether directly or through their fiscal representative) for meeting any applicable withholding tax obligations provided under Chapter VII of The Law.

3. For the purposes of paragraph 1.7 of Article 7 of The Law, the expression “international inter-governmental organizations” shall include:

3.1 International Finance Corporation (IFC) and other members of the World Bank Group;

3.2 Inter-American Development Bank (IADB);

3.3. Asian Development Bank (ADB);

3.4. African Development Bank (AFDB);

3.5. Islamic Development Bank (IDB).

Section 5 **Allowable Expenses**

1. Paragraph 5 of Article 9 of The Law provides that no deduction will be allowed for any accrued expenses related to income which is subject to withholding tax unless such expense is paid on or before 31 March of the following year.

Example:

A company business that has a turnover of more than 50,000 euro (and thus accounts for income tax on a “real” basis) rents its business premises. At the end of 2010, it owes the landlord 3,000 euro for 3 months rent to 31 December 2010. The business claims that rental expense on an accrual basis. Provided the accrued rent is paid on or before 31 March 2011, the rental expense deduction claimed in the 2010 tax period in respect of the last 3 months will be allowed. However, if that rent is not paid by 31 March 2011, then the company will not be able to claim the accrued rent in the 2010 tax period. Such rent will only be able to be claimed as an expense in the tax period (2011 or later) when the owed rent is actually paid.

Section 6 **Withholding Tax on Interest and Royalties**

1. Paragraph 1 of Article 30 of The Law requires taxpayers to withhold tax on payments of interest and royalties. Interest or royalties paid or credited to a person who is exempt from corporate income tax under Article 7 of The Law, under any other law of Kosovo or under an international agreement or convention, shall not be subject to withholding. In such cases, the onus is on the recipient of the interest and royalties to provide written evidence to the payer that their income is exempt from corporate income tax. Until such evidence is produced, the obligation remains on the payer to withhold.

2. The written evidence required under paragraph 1 of this section shall be:

2.1 in the case of organizations exempt from corporate income tax under paragraph 1.1 of Article 7 of The Law, a copy of the non-governmental organization registration certificate;

2.2 in the case of organizations exempt from Corporate Income Tax under paragraphs 1.7 or 1.8 of Article 7 of The Law, a copy of their contract;

2.3 in the case of international governmental financial institutions that are not specifically mentioned in paragraph 1 of section 4 of this Administrative Instruction, a copy of a letter which authorizes their operations in Kosovo;

2.4 in the case of foreign governmental and diplomatic organizations, a copy of a letter which authorizes their operations in Kosovo;

2.5 in any other case, other than in the case of public authorities (where no written evidence is necessary), a copy of a letter from TAK confirming exemption from corporate income tax.

3. Paragraph 4 of Article 30 of The Law provides that interest on loans provided by financial institutions licensed by CBK to their customers in the ordinary course of business shall not be subject to withholding.

Example:

Kosovo Bank A makes a loan to Kosovo Business B as part of its normal commercial lending business. Since the loan is made in the ordinary course of Kosovo Bank A's business, Kosovo Business B does not have a requirement to withhold tax on the interest component of the loan repayment.

4. The exemption from withholding tax provided under paragraph 3 of this section only applies in respect of interest on loans provided by financial institutions licensed by CBK. It does not apply in respect of interest paid on loans from non-resident financial institutions – in such cases the interest payer is required to withhold tax from their interest payments to the non-resident financial institution.

5. For the purpose of remitting tax withheld on interest and/or royalties under this Section, withholders shall complete a tax withholding and remittance statement form

as prescribed by TAK and shall submit the form and payment to a bank or financial institution licensed by the Central Bank of Kosovo.

Section 7

Withholding Tax on Rents

1. Paragraph 2 of Article 30 of The Law requires taxpayers to withhold tax on payments of rent. Rent paid or credited to a person who is exempt from Corporate Income Tax under Article 7 of The Law, under any other law of Kosovo or under an international agreement or convention, shall not be subject to withholding. In such cases, the onus is on the recipient of the rent to provide written evidence to the payer that their income is exempt from corporate income tax. Until such evidence is produced, the obligation remains on the payer to withhold.

2. The written evidence required under paragraph 1 of this section shall be:

2.1 in the case of organizations exempt from corporate income tax under paragraph 1.1 of Article 7 of The Law, a copy of the non-governmental organization registration certificate;

2.2 in the case of organizations exempt from corporate income tax under paragraphs 1.7 or 1.8 of Article 7 of The Law, a copy of their contract;

2.3 in the case of international governmental financial institutions that are not specifically mentioned in paragraph 1 of section 4 of this Administrative Instruction, a copy of a letter which authorizes their operations in Kosovo;

2.4 in the case of foreign governmental and diplomatic organizations, a copy of a letter which authorizes their operations in Kosovo;

2.5 in any other case, other than in the case of public authorities (where no written evidence is necessary), a copy of a letter from TAK confirming exemption from corporate income tax.

3. For the purpose of remitting tax withheld on rents under this Section, withholders shall complete a tax withholding and remittance statement form as prescribed by TAK and shall submit the form and payment to a bank or financial institution licensed by the Central Bank of Kosovo.

4. The requirement to withhold tax from rents only applies to “taxpayers” who are paying rent. Taxpayers are defined under Article 3 of The Law, but this does not cover foreign or Kosovo governmental institutions, including municipalities. Such organizations are not required to withhold taxes on rental payments they make but are required to notify TAK in writing of who they pay such rental payments to and of the amount of those payments.

Section 8

Withholding Tax on Lottery Winnings and Games of Chance

[Note: This Section of the Administrative Instruction, as far as it relates to games of chance, will become obsolete when a new Law on Games of Chance and Lottery comes into force, pursuant to paragraph 1 of Article 38 of The Law.]

1. Paragraph 3 of Article 30 of The Law requires taxpayers to withhold tax on payments of lottery and game of chance winnings. Lottery, or game of chance, winnings paid or credited to a person who is exempt from corporate income tax under Article 7 of The Law, under any other law of Kosovo or under an international agreement or convention, shall not be subject to withholding. In such cases, the onus is on the recipient of the winnings to provide written evidence to the payer that their income is exempt from corporate income tax. Until such evidence is produced, the obligation remains on the payer to withhold.

2. The written evidence required under paragraph 1 of this section shall be:

2.1 in the case of organizations exempt from corporate income tax under paragraph 1.1 of Article 7 of The Law, a copy of the non-governmental organization registration certificate;

2.2 in the case of organizations exempt from corporate income tax under paragraphs 1.7 or 1.8 of Article 7 of The Law, a copy of their contract;

2.3 in the case of international governmental financial institutions that are not specifically mentioned in paragraph 1 of section 4 of this Administrative Instruction, a copy of a letter which authorizes their operations in Kosovo;

2.4 in the case of foreign governmental and diplomatic organizations, a copy of a letter which authorizes their operations in Kosovo;

2.5 in any other case, other than in the case of public authorities (where no written evidence is necessary), a copy of a letter from TAK confirming exemption from Corporate Income Tax.

3. For the purpose of remitting tax withheld on lottery, or game of chance, winnings under this Section, withholders shall complete a tax withholding and remittance statement form as prescribed by TAK and shall submit the form and payment to a bank or financial institution licensed by the Central Bank of Kosovo.

Section 9

Withholding Tax on Certain Non-Residents

1. Paragraphs 1 and 2 of Article 31 of The Law require the withholding of tax from income attributable to non-resident entertainers and to non-residents who perform services in Kosovo. Where such income is paid or credited to a non-resident person who or entity which is exempt from corporate income tax under Article 7 of the Law, under any other law of Kosovo or under an international agreement or convention, that income shall not be subject to withholding tax. In such cases, the onus is on the recipient of the income to provide written evidence to the payer that their income is

exempt from Corporate Income Tax. Until such evidence is produced, the obligation remains on the payer to withhold tax.

2. The written evidence required under paragraph 1 of this section shall be:

2.1 in the case of organizations exempt from corporate income tax under paragraph 1.1 of Article 7 of The Law, a copy of the non-governmental organization registration certificate;

2.2 in the case of organizations exempt from corporate income tax under paragraphs 1.7 or 1.8 of Article 7 of The Law, a copy of their contract;

2.3 in the case of international governmental financial institutions that are not specifically mentioned in paragraph 1 of section 4 of this Administrative Instruction, a copy of a letter which authorizes their operations in Kosovo;

2.4 in the case of foreign governmental and diplomatic organizations, a copy of a letter which authorizes their operations in Kosovo;

2.5 in any other case, a copy of a letter from TAK confirming exemption from corporate income tax.

3. The requirement to withhold tax from income paid to non-residents under this section applies in respect of income paid to certain non-residents by any person. Unlike the withholding tax provisions which apply in respect of interest, royalties and rent, where the requirement to withhold is restricted to “taxpayers” under The Law, the obligation to withhold under this section also applies to other persons such as public authorities.

4. The requirement to withhold tax from income attributable to non-resident entertainers under paragraph 1 of Article 31 of The Law relates to personal activities of the entertainer that are exercised in Kosovo. Payments to non-resident entertainers that are not in relation to their personal activities (e.g. from sales of merchandise) are not subject to withholding. Payments from Kosovo for personal activities exercised outside Kosovo are also not subject to withholding.

5. The requirement to withhold tax from income attributable to non-resident entertainers under paragraph 1 of Article 31 of The Law relates to income attributable (whether paid in cash or kind, the latter of which would be valued at open market value) to the entertainer whether paid directly or indirectly. Withholding is also required where the entertainer is paid indirectly, for example where payment is made to a corporation or other legal person which is held 100% by the entertainer or which is otherwise beneficially owned by the entertainer rather than directly to the entertainer.

6. Income attributable to a non-resident entertainer under paragraph 1 of Article 31 of The Law which is paid or credited in any case other than that covered by paragraph 1 of this section, shall be subject to withholding unless the gross compensation paid or credited to a non-resident entertainer in respect of their personal activities from all payers for such activities will not exceed 1,000 euro in a tax period (in accordance with paragraph 1 of Article 41 of Law No. 03/L-161 “On Personal Income Tax”). In situations where the payer is not sure whether the gross compensation of the entertainer from his or her personal activities in the tax period will exceed 1,000 euro, the payer is obliged to ask the entertainer about his or her expected gross compensation and only if the entertainer indicates that their gross compensation from

personal activities in the taxable period will be 1,000 euro or less should payments or crediting not be subject to withholding.

7. The requirement to withhold tax from income paid to non-residents under paragraph 2 of Article 31 of The Law relates to payments for services performed in Kosovo. No withholding is required from payments made to non-residents for goods or from payments made to non-residents for services performed outside Kosovo (e.g. international transport services, computer system support provided remotely from another country). An apportionment will be needed where services are performed both inside and outside Kosovo except in cases where the services performed in one country are merely incidental to the services performed in the other country.

Example:

A Kosovo business enters into a contract for a non-resident supplier to design computer software for the Kosovo business use. All the design work and testing is performed outside Kosovo, However a representative of the supplier is required to visit Kosovo to ensure that the software is properly installed. In such circumstances, the installation visit would be regarded as merely incidental to the main software design work, and as that was performed outside Kosovo, no withholding tax would apply in respect of payments to the non-resident supplier. In contrast, if the supplier subsequently entered into a maintenance contract for the software which envisaged some system testing from outside Kosovo but also some site visits to Kosovo then withholding tax would apply in respect of the maintenance contract costs in respect of that portion of the cost that related to site visit work performed in Kosovo.

8. The requirement to withhold tax under paragraph 2 of Article 31 of The Law applies only to those who are regarded as non-residents for corporate income tax purposes and who have no permanent establishment in Kosovo. Paragraph 4 of Article 31 of The Law provides that in such cases “*withholding under this article shall be considered to be a final tax and the recipients of such income subject to the withholding shall not submit a declaration to the tax administration, notwithstanding the provisions of Article 34 of this Law*”. The 5% withholding will be their final corporate income tax liability in Kosovo and they are not allowed to submit an annual corporate income tax declaration to claim back the withholdings on the basis that they are not liable for corporate income tax in Kosovo because they have no permanent establishment there.

9. For the purpose of remitting tax withheld on income of the types referred to in paragraphs 1 and 2 of Article 31 of The Law, payers shall complete a tax withholding and remittance statement form as prescribed by TAK and shall submit the form and payment to a bank or financial institution licensed by the Central Bank of Kosovo.

10. For the purposes of this section, the term “payer” shall mean any person or entity, whether an organization or individual, which has agreed to pay a non-resident person or entity for entertainment or other services performed in Kosovo.

Section 10
General Provisions Applying to Withholding Taxes

1. Chapter VII of The Law provides that withholding taxes are to be deducted from various types of payments to “persons”, whether those persons are “taxpayers” under The Law or not. While this Administrative Instruction provides that withholdings shall not apply in respect of persons who are taxpayers that are exempted from corporate income tax, they will apply to persons who are not taxpayers.

Example:

1. A non-resident company with no permanent establishment in Kosovo is not a “taxpayer” for the purposes of Kosovo’s corporate income tax law. Interest paid to that company by a Kosovo bank will be subject to withholding tax. Even though the company is not liable to corporate income tax in Kosovo, it cannot submit a corporate income tax declaration to Kosovo to claim back the withholdings as it is not a “taxpayer”.

2. Chapter VII of The Law provides that withholding taxes shall be remitted to a bank or financial institution licensed by the Central Bank of Kosovo. Such remittances may be submitted to any branch of an authorized bank or financial institution that accepts them. Except in cases where specific tax officials have been designated to collect tax by the TAK Director General under the Law on Tax Administration and Procedures, such remittances shall not be submitted to any office or officer of TAK.

3. The remittances referred to in paragraph 2 of this section shall be accompanied by a statement of tax withholding. The statement of tax withholding shall be:

3.1 for those withholders who wish to and are able to file their tax withholding information to TAK electronically, a tax withholding payment voucher

3.2 for other withholders, a completed tax withholding and remittance statement form as prescribed by TAK.

4. Chapter VII of The Law provides that annual reconciliation statements, together with copies of tax withholding certificates, are required to be provided to the Tax Administration. Such statements and certificates can be provided to any office of the

Tax Administration of Kosovo or to any branch of an authorized bank or financial institution that accepts them.

5. Chapter VII of The Law provides specific dates by which withholding taxes are to be paid, certificates of withholding taxes are to be provided to recipients, and withholders are required to provide annual reconciliation statements to the Tax Administration. In each case, where the specific filing and/or payment date is a Saturday, Sunday or National Holiday, such forms and/or payments shall be submitted at the latest on the first working day following the Saturday, Sunday or National Holiday. Interest and penalties for late filing or payment will not apply where filing and/or payment occurs on or before that next working day.

6. Chapter VII of The Law provides various filing and payment requirements for withholders and payers. Where these requirements are not met, TAK will apply interest and administrative penalties under the Law on Tax Administration and Procedures in respect of, as applicable:

6.1 failure to withhold, collect or pay over a withholding tax;

6.2 failure to provide the recipient of income subject to withholding tax with a tax withholding certificate;

6.3 failure to file an annual reconciliation statement with TAK by its due date;

6.4 filing an inaccurate or incomplete annual reconciliation statement with TAK.

7. The failure to withhold tax penalty under the Law on Tax Administration and Procedures will apply to the person who was required to withhold tax from the due date that the withholding tax should have been paid to the date that the annual corporate income tax liability of the recipient was paid or otherwise finalized.

Section 11

Quarterly Advance Payments

1. In accordance with paragraph 2.1 of Article 35 of The Law, taxpayers with annual gross income of 50,000 euro or less and those who do not opt to prepare financial statements are required to make quarterly advance payments of corporate income tax. Such taxpayers shall submit Quarterly Advance Payment Statements for Small Corporations in the format prescribed by TAK to any authorized bank or financial institution on or before 15 April, 15 July, 15 October and 15 January with respect to the calendar quarters immediately preceding these dates. Alternatively, where taxpayers have filed their Quarterly Advance Payment Statement for Small Corporations to TAK electronically, payment to an authorized bank or financial institution shall be accompanied by a quarterly advance payment voucher.

2. In accordance with paragraph 2.2 of Article 35 of The Law, taxpayers with annual gross income in excess of 50,000 euro and those who opt to prepare financial statements are required to make quarterly advance payments of corporate income tax. Such taxpayers, and insurance companies, shall submit Quarterly Advance Payment Statements for Large Corporations in the format prescribed by TAK to any authorized bank or financial institution on or before 15 April, 15 July, 15 October and 15 January with respect to the calendar quarters immediately preceding these dates. Alternatively, where taxpayers have filed their Quarterly Advance Payment Statement for Large Corporations to TAK electronically, payment to an authorized bank or financial institution shall be accompanied by a quarterly advance payment voucher.

3. Taxpayers covered by paragraph 2.2 of Article 35 of The Law are required to use the estimate basis in their first year of making quarterly advance payments and the estimates are based on $\frac{1}{4}$ of estimated annual tax liability for the first year. For those who commence as taxpayers during the first quarter this is not an issue, but for those who commence later in the year, they are only required to pay $\frac{3}{4}$, $\frac{1}{2}$ or only $\frac{1}{4}$ of their first year liability in installments during the first year. For their second year, by making quarterly advance payments on the basis of annual tax liability in respect of their economic activity for their first year, increased by 10%, no interest penalty is payable. Taxpayers whose advance payments are insufficient compared with final tax liability will be only penalized in respect of the last quarter of their first year but based on cumulative installment amounts compared with annual liability, rather than simply considering the last installment in isolation. In such cases, interest penalty will only apply where quarterly advance payments made have been less than 90% of the annual tax liability in respect of their economic activity for their first year. For the second and other subsequent years as the option of paying with no interest penalty is available they will be penalized per each quarterly installment if insufficient payments are made during the year.

Example 1:

A corporate taxpayer has started his activity in 2010. He has paid in 3 installments (quarters 2, 3 and 4) respectively 100 euro, 200 euro and 620 euro. Annual corporate income tax liability for 2010 turns out to be 1,000 euro. In this case, as total installments (920 euro) were more than 90% of annual liability (90% of 1,000 = 900 euro) no interest penalty applies (as per paragraph 8.3 of Article 35 of The Law).

Example 2:

A corporate taxpayer has started his activity in 2010. He has paid in 2 installments (quarters 3 and 4) respectively 200 euro and 500 euro. Annual corporate income tax liability for 2010 turns out to be 1,000 euro. In this case, as total installments (700 euro) were less than 90% of annual liability (90% of 1,000 = 900 euro) interest is payable starting from 15 January 2011 (the due date of the last quarterly installment in

respect of the 2010 tax year). Such interest is based on 300 euro, the difference between annual liability (1,000 euro) and cumulative total installments paid (700 euro) and is computed from 15 January 2011 until the due date for submitting the final declaration (31 March 2011). At that point the interest penalty for underpaying an advance payment ends but regular penalties would then apply in respect of any period between that due date until the tax is paid.

4. In cases where early installments were too low and later installments were too high, interest penalties shall apply for earlier installments until later excess payments cover the earlier shortfalls. In cases where early installments were too high and later installments were too low, TAK shall recognize excesses in earlier periods covering shortfalls in later periods and interest penalties might or might not apply depending on the amounts of excesses and shortfalls.

Example:

In 2010 a taxpayer's business made a profit and 1,000 euro corporate income tax was payable. For 2011, another profit was made and 2,000 euro corporate income tax was payable (in 2012). During 2011 quarterly installments were made of 600 euro, 100 euro, no installment, and 350 euro respectively. Given the 2010 annual liability of 1,000 euro and adding 10%, quarterly installments during 2011 should have been at least 275 euro each. No interest penalty was payable in respect of the first installment (as the 600 euro payment exceeded the 275 euro payable). No interest penalty was payable in respect of the second installment (as the 100 euro payment plus the 325 (600 less 275) euro excess from the first installment exceeded the 275 euro payable). Interest payable on the third installment would be based on 125 euro (being 275 euro payable less the remaining 150 (two payments totaling 700 euro less liability for those two installments of 550 euro) euro excess from the previous quarters). No interest was payable on the fourth installment and the excess of 75 euro (350 paid compared with 275 payable) can be applied to reduce the interest payable on the third installment but only with effect from the date of the payment of the fourth installment.

5. Sub-paragraph 2.2.2 of Article 35 of The Law refers to payments based on past year tax liability. Where a taxpayer has a tax loss for a particular year, then rather than using the past year tax liability basis and applying a 110% calculation, the taxpayer is required to calculate and pay installments based on estimated taxable income for the current year. If the taxpayer estimates that they will also make a loss in the current year, or that any profit will be exceeded by losses carried forward, no installments would be necessary but interest penalty could apply if the taxpayer's estimate turned out to be incorrect.

Example:

In 2010 a taxpayer's business had a loss. In 2011, the taxpayer estimates that the business will make a profit (after allowing for losses carried forward) and annual tax

liability will be 1,000 euro. Installments are required to be paid during 2011 based on ¼ of the estimated annual tax liability.

6. In cases where there has been a tax audit or other occurrence in a subsequent year that determines a different annual tax liability in respect of an earlier tax year, if the annual tax liability is found to be higher, penalties would apply for under-declaration, for late payment and also interest in respect of the underpaid annual liability. Such penalties and interest for subsequently discovered additional tax liability shall be applied to the annual tax liability only, and no adjustment will be made to past quarterly installment amounts where the result of the tax audit or other occurrence was to increase the tax liability by up to 20%. In cases where there has been an increase in tax liability of more than 20%, then interest penalty will apply to the extent that quarterly installments were below ¼ of 110% of the adjusted income tax liability as a result of the tax audit or other occurrence.

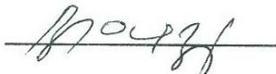
7. The preceding paragraphs of this Section provide specific dates by which quarterly advance payment forms are required to be furnished and by which quarterly advance payments are required to be paid. In each case, where the specific filing and/or payment date is a Saturday, Sunday or National Holiday, such forms and/or payments shall be submitted at the latest on the first working day following the Saturday, Sunday or National Holiday. Interest and penalties for late filing or payment will not apply where filing and/or payment occurs on or before that next working day.

8. The annual corporate income tax form is a tax declaration but the quarterly advance payment statements are not considered to be tax declarations. In accordance with paragraph 8 of Article 35 of The Law, late filing and late payment penalties shall not apply to late filed quarterly installment forms, but interest shall apply except where the provisions of sub-paragraphs 8.1, 8.2 or 8.3 of that Article apply.

Section 12 **Entry into Force**

This Administrative Instruction enters into force on the day of its signature by the Minister of Economy and Finances

Bedri HAMZA



Deputy Minister

Date 30 / 07/ 2010