

**LAW No. 05/L -037**

**ON VALUE ADDED TAX**

**Assembly of Republic of Kosovo;**

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

Approves

**LAW ON VALUE ADDED TAX**

**CHAPTER I  
GENERAL PROVISIONS**

**Article 1  
Purpose**

1. This Law establishes the system of Value Added Tax in the territory of the Republic of Kosovo.

2. This Law is in accordance with Directive on the common system of value added tax (Directive 2006/112/EC), Directive on the common system of value added tax with regard to the implementation period of agreements on the value added tax applicable to radio and television, services and certain electronically supplied services (Directive 2006/138 /EC), Directive with regard to certain temporary provisions concerning rates of value added tax (Directive 2007/75 /EC), Directive as regards the place of supply of services (Directive 2008/8/EC), Directive on the common system of value added tax to combat tax evasion connected with intra-Community transactions (Directive 2008/117 /EC), Directive as regards reduced rates of value added tax (Directive 2009/47/EC), Directive on the common system of value added tax as regards tax evasion linked to imports (Directive 2009/69 /EC), Directive on the common system of value added tax (Directive 2009/162 /EC), Directive on the common system of value added tax, as regards an optional and temporary application of the reverse charge mechanism in relation to supplies of certain services susceptible to fraud (Directive 2010/23 /EC), Directive on the common system of value added tax with regard to the rules on invoicing (Directive 2010/45 / EC) and Directive on the common system of value added tax, with regard to the duration of the obligation to respect a minimum standard rate (Directive 2010/88 /EC).

**Article 2  
Definitions**

1. Terms used in this Law shall have the following meaning:

1.1. **TAK** - Tax Administration of Kosovo;

1.2. **VAT**- Tax on Added Value includes overall tax applied in consumption for goods and services, exactly proportional with the cost of goods and services, calculated in this

cost according to the applicable rate, charged in different production phases, delivery and living cycle of trading with goods and services, and in the end is hold by the last consumer;

1.3. **Director** - General Director of Tax Administration of Kosovo;

1.4. **In rem right** - it is a right granted by its holder to use and gain goods of the immovable property. Forms of in rem rights are usufruct and long term leasing and other similar rights as regulated by the legislation into force. Mortgages and burdens are not considered as in rem right;

1.5. **Capital goods** - goods such as equipment and machinery used for manufacturing other goods and services with a usefulness life of one year or more secured for a cost price equal to or higher than one thousand (1,000) €. Capital goods shall be considered services having similar features with those attributed to capital goods if total cost of these services exceed twenty thousand (20,000) €;

1.6. **Tangible property** - any property which shall include the following:

1.6.1. interest on immovable property;

1.6.2. in rem rights giving the holder of those rights a right of use over immovable property; and

1.6.3. shares or interests equivalent to shares giving the holder de jure or de facto rights of ownership or possession of immovable property or any part of immovable property.

1.7. **Intangible property** - patents, copyrights, licenses, franchises, and other property consisting of rights only, not having a physical form;

1.8. **Consideration** - any act or act of forbearance in respect of a supply with goods or services, and/or shall include any amount payable or goods or services received in a barter transaction;

1.9. **Barter transaction** - a transaction including two parties, where one party provides goods, services or means excluding cash for the other party, in exchange for goods, service or mean excluding cash;

1.10. **Economic activity** - any activity of manufacturers, traders or persons supplying goods or services including mining and agricultural activities and activities of the professions. The exploitation of tangible or intangible assets for purposes of obtaining income on a ongoing basis shall in particular be regarded as an economic activity;

1.11. **Employer** - any person who pays wages and includes:

1.11.1. a public authority,

1.11.2. a business organization,

1.11.3. a permanent establishment of a non-resident as defined in the Corporate Income Tax legislation,

1.11.4. a non-governmental organization,

1.11.5. an international organization,

1.11.6. a foreign government; and

1.11.7. a physical person who pays wages in course of carrying on business within Kosovo;

1.12. **Employee** - a physical person bound to an employer by an employment contract or by any other legal ties creating the relationship of employer and employee regarding working conditions, remuneration and the employee's obligations, regardless of whether the work is performed under a contract, some other commercial agreement, or whether there is a written or an unwritten agreement. An employee includes all public officials and members of executive, representative and judicial bodies.

1.13. **Resident in Kosovo** - a person having a business place or a fixed unit, or in absence of such business place or a fixed unit, has a place with permanent address or where usually residing in Kosovo.

1.14. **Derogation** - means non-implementation or exclusion from general or standard rule of the provisions of this Law.

1.15. **Rebate** - discount paid for purchasers after the transaction. Examples include total or partly repayment of money from the seller on returned goods or on non-adequacy with goods quality.

1.16. **Discounts** - discount from the list or the cost of advertised good or service that is available for buyers in specific conditions. Examples include discount of cash money, discount for quick payments, discount in volume, trade discounts;

1.17. **Fiscal Electronic Device (FED)** - for the purpose of this Law, the term "Fiscal Electronic Device" shall include electronic devices such as fiscal cash registers and electronic devices for points of sales which shall be licensed and authorised by authorised bodies of the Ministry of Finances in order to be recognised as fiscalised. These devices use electronic developed memories integrated in cash registers or computer based developed systems for registering selling transactions, printing through fiscal printers and certifying through fiscal electronic devices for endorsement and similar devices. Fiscal Electronic Device is used for issuing fiscal receipts for revenues. Issuing receipts for revenues does not depend on the payment manner, payment by cash, payment by credit card or any equivalent payment instrument such as cheque;

1.18. **Reimbursement for returned good** – a reimbursement of the total or partly selling cost of an item, which is returned when the selling cost is registered in FED in compliance with this Law.

1.19. **Cash Back** – is a bank instrument through which the client after purchasing the goods uses debit card to pay the purchased goods and at the same time withdraws cash

from his account through the cashier. These two actions are made through a payment card;

1.20. **Output tax** - VAT on supplies which a taxable person makes or goods a taxable person exports;

1.21. **Input tax**- shall mean:

1.21.1. VAT due f or paid by a taxable person in respect of goods or services supplied or to be supplied by another taxable person;

1.21.2. VAT due or paid by a taxable person in respect of imported goods in Kosovo;

1.22. **Taxable supply** - any supply of goods or services made in support of any economic activity developed in Kosovo, other than an exempted supply;

1.23. **Exempted supply** - any supply of goods or services made in support of any economic activity carried out in Kosovo, for which the taxable person – supplier is not entitled to charge VAT to the customer;

1.24. **An Entity** – shall mean:

1.24.1. a corporation or other business organisation having a status of a legal person as defined by the legislation on business organisations;

1.24.2. a business organisation operating with publicly and socially owned assets;

1.24.3. a non-governmental organisation; and

1.24.4. a permanent establishment of a non-resident;

1.24.5. the term entity shall not include a personal business enterprise or a partnership.

1.25. **Person** - a physical person, a legal person or an entity and for VAT purposes shall include a partnership and a grouping of persons;

1.26. **Legal person** - a corporation or other business organisation having a status of a legal person under the legislation on business organisations in force and other legislation applicable in Kosovo;

1.27. **Partnership**- a general partnership and a limited partnership not a legal person under the legislation on business organisations in force which under normal conditions proportionately share items of capital, income, profit and loss among partners;

1.28. **Non-Governmental Organisation in Kosovo** - any organisation registered as a non-governmental organisation under applicable legislation governing the registration and operation of Non-Governmental Organisations in Kosovo;

1.29. **Grouping of persons for VAT purposes** - an association of persons set up for a common purpose to develop a special economic activity, including consortiums but excluding partnerships;

1.30. **A moment of charging with VAT** – an event whereby all legal conditions required for VAT to be chargeable are met;

1.31. **Charging with VAT** - when TAK under this Law, becomes eligible to claim VAT from the person liable to pay, even though the time of payment may be deferred;

1.32. **Tax invoice** - an invoice or any other document required in Chapter XV of this Law to be issued by a taxable and non-taxable person regarding the supply of goods and services;

1.33. **Credit note** - a document issued by a taxable person to a recipient of goods or services after a tax invoice or a document serving as an invoice has been issued, for the purposes of an adjustment, where the amount of VAT charged on the tax invoice or a document serving as an invoice exceeds the actual VAT due for that taxable supply;

1.34. **Debit note** - a document issued by a taxable person to a recipient of goods or services after a tax invoice or a document serving as an invoice has been issued, for the purposes of an adjustment, where the amount of VAT charged on the tax invoice or a document serving as an invoice is less than the actual VAT due for that taxable supply;

1.35. **Fiscal receipt** - a document having some, but not all attributes of an invoice referred to in Chapter XV of this Law and therefore cannot be used as evidence of entitlement to deduct input VAT referred to in Chapter XIII of this Law;

1.36. **Export and exportation** - goods shipped out of Kosovo. Export shall also mean placing goods into a free zone or customs procedures or arrangement having the same effect;

1.37. **Import, imported and importation**- goods shipped into Kosovo. Import shall also mean placing goods into free movement from free zone in Kosovo or customs procedure or arrangements having the same effect;

1.38. **Single Administrative Document** - a document as determined by Customs legislation in force used within the structure of trading goods with third countries including Customs procedures related to such trade. Customs procedure, Customs arrangements, customs warehouses and other Customs terminology such as free zone, temporary storage, suspension regimes, inward and outward processing, re-importation, international transport and others shall have the meaning given by the Customs legislation in force;

1.39. **Turnover, Total supplies** - supplies made by a person and includes taxable and exempted supplies as defined by this Law;

1.40. **Usufruct** – the right of a person (usufructuary) to enjoy a thing possessed by someone else, with an obligation to keep and maintain it;

1.41. **Taxable person** – any person developing its economic activity as referred to an Article 4 of this Law.

### **Article 3**

#### **Subject to Taxation**

1. VAT shall be charged in line with the provisions of this Law, on:

- 1.1. the supply with goods and services made for consideration within the territory of Kosovo by a taxable person acting as such, as foreseen by Article 4 of this Law; and
- 1.2. importing goods into Kosovo.

## **CHAPTER II**

### **TAXABLE PERSONS**

#### **Article 4**

##### **Taxable persons**

1. A taxable person is any person who is or is required to be registered for VAT and who independently carries out any economic activity in a regular or non-regular manner, regardless of the purpose or outcome of that economic activity. Any activity of manufacturers, traders or persons supplying goods and services, including mining and agricultural activities of the professions, shall be regarded as an "Economic activity". The exploitation of tangible or intangible property for the purposes of obtaining incomes on a regular basis shall be particularly regarded as an economic activity.

2. In paragraph 1 of this Article, the meaning of the term "independently" excludes employed and other persons from VAT in as far as they are bound to an employer under an employment contract or by any legal ties creating an employer-employee relationship and relates to working conditions, remuneration and the employer's responsibility.

3. Pursuant to this article, any non-profit organisation for payments deriving from membership, if they have such or funds, grants, donations received for the purpose of their non-profit activity shall not be considered a taxable person, in accordance with relevant Law on non-profit organisations, unless the organisation receives payments as a result of an economic activity.

4. Bodies of International organisations, foreign countries and their agencies shall not be regarded as taxable persons in respect of the activities or transactions similar or identical to those mentioned in paragraph 1 of this Article, even if they receive payments regarding those activities. However, agencies of foreign countries shall be regarded as taxable persons in respect of those activities or transactions where their treatment in their own country would result in considering those activities as being carried out by a taxable person.

#### **Article 5**

##### **Public Authorities**

1. Authorities of central and local level and other bodies regulated by Law shall not be regarded as taxable persons in respect of the activities or transactions in which they engage as public authorities, even where they collect duties, fees, contributions or payments regarding those activities or transactions.

2. If authorities of central and local level and other bodies regulated by Law engage in the activities or transactions as defined in Annex 1 to this Law, they shall be regarded as taxable persons in respect of these activities or transactions provided that those activities are not carried out on such a small scale as to be negligible or if carried out by natural or legal persons, where such persons would not have been obliged to register for VAT purposes as referred to in Article 6 of this Law.

### **Article 6**

#### **General provisions in respect of the requirement to be registered and issue a registration certificate**

1. Every person who meets all conditions of the definition for taxable person referred to Article 4 of this Law is required to register for VAT if it, exceeds the turnover of thirty thousand (30,000) € within a calendar year. Solely the portion of the supply which results in exceeding the turnover shall be taken into account for VAT purposes.

2. When a person is registered for VAT purposes, TAK shall issue a registration certificate to such taxable person containing his name, fiscal number and unique VAT registration number for taxpayer and address or addresses where such a person carries out the business activity. The original, respectively a certified copy of the registration certificate shall be displayed at a place of business activity so that it can be easily seen and read by the public. The registration certificate form shall be as foreseen by TAK.

3. A physical person conducting the same or different economic activities and who has several places of economic activity within Kosovo, shall be identified by one individual and unique VAT registration number for the purposes of this Law. When a physical person is registered for VAT purposes under his personal identification number, TAK shall issue one registration certificate to such person as foreseen by paragraph 2 of this Article, containing his name, his fiscal number and unique VAT registration number including the address or addresses of the places where such a person carries out his business.

4. A partnership and grouping of persons shall be identified by one single VAT registration number for the purposes of this Law. Partners or members of the persons' grouping shall appoint a general partner, respectively a member-representative to fulfil the obligations and excise the rights defined by this Law. When the partners and members are not registered for VAT purposes yet, they may choose to be registered for these purposes prior to the registration of the partnership or grouping of persons.

5. The persons not established in Kosovo are subject to VAT registration, from the beginning of their economic activity in Kosovo. Such taxable persons not established in Kosovo shall appoint a tax representative as referred to in paragraph 5 of Article 52 of this Law. The taxable person shall be registered under his own name and the name of his tax representative within five (5) days after the appointment as tax representative and prior to the beginning of economic activity in Kosovo. However, they are not obliged to be registered, if they carry out only the supply to the recipient that is obliged to pay VAT according to Article 52 sub-paragraph 1.2 and 1.3 of this Law, however they shall still be considered as taxable persons.

6. TAK shall treat any person carrying out an economic activity of a taxable person who dies or becomes bankrupt or is not capable to develop an economic activity as if he were registered for VAT purposes from the date when the taxable person died or became bankrupt or incapacitated until the other person is registered.

7. Foreign persons developing an economic activity in Kosovo shall be, considered taxable persons since the commencement of exercising an economic activity in Kosovo.

8. The permanent unit of non-resident person shall be the taxable person since the commencement of the economic activity in Kosovo.

#### **Article 7**

##### **Compulsory Registration – an obligation to communicate in registration data**

1. Every person, unless otherwise provided in this Law, shall be obliged to register upon reaching the turnover referred to in paragraph 1 of Article 6 of this Law and shall notify the TAK within fifteen (15) calendar days from the moment the obligation for registration arises. The registration is effective on the date when the turnover is exceeded.

2. Every person who has not notified and has not been registered in due time shall be registered in a compulsory manner by TAK with retroactive effect from the date of exceeding the threshold as defined in paragraph 1 of Article 6 of this Law.

#### **Article 8**

##### **Voluntary Registration**

1. Every person meeting the conditions referred to in Article 4 of this Law, but not meeting the registration requirements referred to in Article 6 of this Law, shall have the right to choose to be registered and shall notify TAK accordingly.

2. TAK shall register such person effectively from the date of receiving the request if a person making the request meets the conditions of Article 4 of this Law.

3. Voluntary registered taxpayers are subject to the same rules in respect of changing and cessation of activity as other registered taxable persons in accordance with Article 6 of this Law.

#### **Article 9**

##### **Cancelling the registration**

1. Every registered taxable person may request from TAK to cancel his registration for VAT purposes if his total supplies over the last calendar year have fallen below the threshold referred to in Article 6 of this Law. The cancellation shall be effective two (2) months after the date request is submitted, if it is approved by TAK.

2. Taxable persons cannot be cancelled from VAT register at least for one (1) more calendar year after the registration year.

3. Every registered taxable person is obliged to require cancellation from the moment his activity ceases. He shall notify TAK within fifteen (15) days after his activity is ceased. Such cancellation is effective from the date the activity has been ceased.

4. TAK may cancel the registration of a taxable person registered for VAT purposes where such person fails to comply with the provisions of the present Law. TAK shall notify the person regarding the decision and provide the reasons for the decision.



5. The Minister of Finance shall issue a sub-legal act determining the procedures in respect of the implementation of the Articles 7, 8 and 9 of this Law. This sub-legal act shall also provide specific threshold calculation rules for categories of persons whose turnover to a large extent is composed of exempted supplies.

### **CHAPTER III TAXABLE TRANSACTIONS**

#### **Article 10 Supply with goods**

1. Supply with goods shall mean a transfer of the right of having tangible property as owner.

2. In addition to the transaction referred to in paragraph 1 of this Article, each of the following shall be regarded as a supply with goods:

2.1. A transfer of the ownership of property against payment of compensation:

2.1.1. under an order made by a Public Authority; or

2.1.2. on behalf a Public Authority; or

2.1.3. pursuant to the provisions of the legislation into force;

2.2. the actual handing over of goods pursuant to a leasing contract for a certain period or for selling goods on deferred terms, which foresees that ownership is at the latest transferred, in normal conditions of events, when final instalment is paid. The Minister of Finance shall issue a sub-legal act covering the procedures for applying this subparagraph;

2.3. the transfer of goods pursuant to a contract under which commission is payable on purchase or sale.

3. Mixed supplies:

3.1. supply with services including the supply with goods shall be part of supply with goods;

3.2. supply with services included in the import of goods shall be part of the import of goods.

4. Handing over of certain construction works as a supply with goods shall be regulated in a sub-legal act issued by the Minister of Finance.

5. For the purposes of this Law, the following categories shall be treated as material property:

5.1. electricity, gas, heating, cooling and similar;

5.2. in rem rights given to the holder, a right of using immovable property and shares or interests equivalent to shares in respect to immovable property which gives the holder a right of ownership or possession over immovable property or a part of it.

#### **Article 11**

##### **Applying business goods for non-business needs**

1. Using goods by a taxable person, part of his business assets for private use or for his staff, or their disposal free of charge or, more generally, their use for purposes other than those of the business, shall be treated as a supply of goods for consideration, where the VAT on those goods or the component parts thereof is fully or partly deductible.
2. The use goods for business as samples or gifts of small value shall not be treated as a supply of goods for consideration.
3. Minister Finance shall issue a sub-legal act for the implementation of this Article.

#### **Article 12**

##### **Application of goods for business needs under certain VAT deduction circumstances**

1. The use of goods produced, constructed, extracted, processed, purchased or imported in course of such business by a taxable person for the purposes of his business, where the VAT on such goods would not be fully deductible, had they been acquired from another taxable person shall be considered as a supply with goods for consideration.
2. The use of goods by a taxable person for the purposes of a non-taxable area of activity, where the VAT on such goods becomes fully or partly deductible upon their acquisition or upon their use in line with paragraph 1 of this Article shall considered as a supply with goods for consideration.
3. With the exception of the cases referred to in Article 13 of this Law, the retention of goods by a taxable person, or by his successors, when he ceases to carry out a taxable economic activity, where the VAT on such goods becomes fully or partly deductible upon their acquisition or upon their use in line with paragraph 1 of this Article shall also considered as a supply with goods for consideration.

#### **Article 13**

##### **Transfer of business**

1. No supply with goods shall take place in the event of a transfer by a taxable person whether for consideration or not or as a contribution to a company, with total or part of assets.
2. A person to whom the goods are transferred shall be treated as a successor to the transferor and no VAT shall be charged on such transfer provided that the successor to the transferor is a taxable person who is registered or required to register for VAT purposes. The transferor and the transferee shall notify TAK of their intention to implement this Article at least thirty (30) days before the transfer occurs.
3. Any outstanding liability and outstanding right of the transferor provided by, or by virtue of this law before the time of the transfer shall become a liability and right of the transferee.

4. The Minister of Finance shall issue a sub-legal act on regulating the procedures and rules for applying this Article.

#### **Article 14**

##### **Supply with services**

1. Supply with services is any transaction which does not constitute a supply with goods.

2. A supply with services may consist, inter alia, in one of the following transactions:

2.1. assigning intangible property, whether or not they are subject to a document establishing title of ownership;

2.2. the obligation to refrain from an act or tolerate an act or situation,

2.3. carrying out services in dependence to:

2.3.1. an order given by a Public Authority;

2.3.2. on behalf of a Public Authority; or

2.3.3. pursuant to provisions of the legislation into force.

3. The supply with services for sewage, waste and soil collection of charge by the municipal and public bodies.

4. The supply with goods included in supply with services shall be part of supply with services.

#### **Article 15**

##### **Use of business goods and services for non-business needs**

1. Using goods part of the business' assets for a private use or for his staff by a taxable person or more generally, for purposes other than those of his business, where the VAT on such goods is fully or partly deductible, shall be treated as a supply for consideration.

2. The supply of services without consideration carried out by a taxable person for his private use or for his staff or, more generally, for purposes other than those of his business, shall also be treated as a supply for consideration.

#### **Article 16**

##### **The use of self-supplied services for business needs**

1. Supply of a service by a taxable person for purposes of his business, where the VAT on such a service if supplied by another taxable person would not be fully deductible shall be considered as a supply of a service for consideration.

2. Construction repair work with respect of immovable property used or to be used for existing or future economic activity and rendered for free by a taxable person or his staff to himself, shall

be treated as a supply of services for consideration.

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

#### **Article 17**

#### **Services regarding the transfer of business**

The provisions of Article 13 of this Law shall also apply to the supply with services regarding transfer of business by replacing supply of goods with supply of services.

#### **Article 18**

#### **The supply with services in his own name but on behalf of another person**

Where a taxable person acting in his own name but on behalf of another person, takes part in a supply with services, he shall be deemed having received and supplied those services himself.

### **CHAPTER IV**

### **VENUE OF TAXABLE TRANSACTIONS**

#### **Article 19**

#### **Venue of supply with goods**

1. Where goods are not dispatched or transported, the venue of supply is deemed to be the venue where the goods are located at the time when the supply takes place.

2. The venue of supply of goods with transport is determined as following:

2.1. when goods are dispatched or transported by the supplier, or customer, or by a third person, the venue of supply shall be deemed to be the venue where the goods are located at the time when dispatch or transport of the goods to the customer begins;

2.2. when goods dispatched or transported by the supplier, by the customer or by a third person are installed or assembled, with or without a trial run, by or on behalf of the supplier, the venue of supply shall be deemed to be the venue where the goods are installed or assembled.

3. The venue of supply of goods on boards of ships, aircraft or trains is determined as following:

3.1. when goods are supplied on boards of ships, aircraft or trains, the venue of supply shall be deemed to be within Kosovo if the point of departure of the passenger transport is in Kosovo.

3.2. in the case of in-and-out trip, the return leg shall be regarded as a separate transport operation.

4. Venue of supply with natural gas and electricity through distribution systems is determined as following:

4.1. in case of the supply with gas through the natural gas distribution system, or of electricity, to a taxable dealer, the venue of supply shall be deemed to be the venue where that taxable dealer has established his business or has a fixed establishment for which the goods are supplied, or, in the absence of such a place of business or fixed establishment, the place where he has his permanent address or usually resides. For the purposes of this sub-paragraph, "taxable dealer" shall mean a taxable person whose principal activity in respect of purchases of gas or electricity is reselling those products and whose own consumption of those products is negligible.

4.2. in the case of the supply with gas through the natural gas distribution system, or of electricity, where such a supply is not covered by sub-paragraph 4.1 of paragraph 4 of this Article, the venue of supply shall be deemed to be the venue where the customer effectively uses and consumes the goods.

4.3. when all or part of the gas or electricity is not effectively consumed by the customer, those non-consumed goods shall be deemed to have been used and consumed at the venue where the customer has established his business or has a fixed establishment for which the goods are supplied. In absence of such a venue of business or fixed establishment, the customer shall be deemed to have used and consumed the goods at the venue where he has his permanent address or usually resides.

5. The Minister of Finance shall issue a sub-legal act to define the venue of supply with goods in cases where several persons enter into transactions over the same good and where the good during the transport or dispatch is directly moved from the first supplier to the last recipient.

## **Article 20**

### **Venue of supply with service**

1. The venue of supply with services to a taxable person shall be the venue where such recipient has established his business. However, if those services are provided to fixed establishment of the taxable person located in a venue other than the venue where he has established his business, the venue of supply of those services shall be the venue where that fixed establishment is located. In absence of such venue of establishment or fixed establishment, the venue of supply with services shall be the place where the taxable person receiving such services has his/her permanent address or usually resides.

2. Regardless of paragraph 1 of this Article:

2.1. service supply venue, related to the immovable property including services of experts and real estate agents, providing accommodation in hotels sector or in sectors of similar functions, such as resting camps or places created to be used as camping sites, granting the right to use immovable property and services for preparation and coordination of construction work, such as architects services and firms (enterprises) providing supervision of the place, shall be the venue where the immovable property is placed.

2.2. a point of transport departure shall be the supply venue of passengers transport;

2.3. supply venue shall be the place where in fact cases occur as following related to:

2.3.1. services related to allowing entrance into cultural, artistic, sports, science,

education events or similar, such as fairs and exhibition and related to supporting services when it comes to allowing entrance;

2.3.2. services related to cultural, artistic, sports, science, education activities or similar such as fairs and exhibition, including service supply of organizers of such activities and supporting services related to certain services;

2.4. service supply venue of the restaurant and catering services other than those developed physically in boards of ships, aeroplanes or trains during the operation part of passengers' transport in Kosovo, shall be the place where the services are conducted physically.

2.5. a venue for short-term renting of transportation means shall be the venue where in fact the transportation means are available to the client. For the purpose of this subparagraph "short-term " shall mean continuous possession or use of transportation means during the period not longer than thirty (30) days and no longer than ninety (90) days in case of boats;

2.6. starting point of transport operation where restaurant services and catering services are physically carried out in boards of ships, aeroplanes or trains, during the operation part of passenger transport conducted within territory of Kosovo.

3. The venue of supply with services to a non-taxable person shall be a place where the supplier has established his business. However, if those services are provided from a fixed establishment of the supplier located in a venue other than the venue where he has established his business, the venue of supply for those services shall be the venue where that fixed establishment is located. In absence of such place of establishment or fixed establishment, the venue of supply of services shall be the place where the supplier has his permanent address or usually resides;

4. Regardless of paragraph 3 of this Article:

4.1. the venue of supply with services when it comes to immovable property, including the services of experts and real estate agents, providing accommodation in the hotels sector or in sectors of a similar function, such as resting camps or places created to be used as camping sites, granting the rights to use immovable property and services for preparation and coordination of construction work, such as services of architects and businesses providing on-site supervision, shall be the place where the immovable property is located;

4.2. a point of transport departure shall be the supply venue of passengers transport;

4.3. a point of transport departure shall be the supply venue of goods transport;

4.4. supply venue shall be the place where in fact cases occur as following related to:

4.4.1. services related to allowing entrance into cultural, artistic, sports, science, education, entertaining events or similar, such as fairs and exhibition and related to supporting services when it comes to allowing entrance;

4.4.2. services related to cultural, artistic, sports, science, education entertaining activities or similar such as fairs and exhibition and supporting services related to certain services;

4.5. the venue of supply shall be the place where the services are physically carried out:

4.5.1. regarding the supply with restaurant and catering services other than those physically carried out on board ships, aircraft or trains during the section of a passenger transport operation in Kosovo;

4.5.2. regarding supporting transport activities such as loading, unloading, handling and similar activities;

4.5.3. regarding valuations and work on movable property.

4.6. a venue for short-term renting of transportation means shall be the venue where in fact the transportation means are available to the client. For the purpose of this subparagraph "short-term " shall mean continuous possession or use of transportation means during the period not longer than thirty (30) days and no longer than ninety (90) days in case of boats;

4.7. the venue of supply with restaurant and catering services which are physically carried out on board ships, aircraft or trains during the section of a passenger operation within Kosovo, shall be at the point departure of the passenger transport operation;

4.8. The venue of supply with electronically supplied services which are referred to in Annex II when supplied to non-taxable persons in Kosovo, or who have their permanent address or usually reside in Kosovo, by a taxable person who has established his business in a country outside of Kosovo or has a fixed establishment from where the service is supplied, or who, in absence of such a venue of business or fixed establishment, has his permanent address or usually resides outside Kosovo, shall be the place where the non-taxable person is established, or where he has his permanent address or usually resides. Where the supplier of a service and the customer communicate via electronic mail, it shall not itself mean that the service supplied is an electronically supplied service;

4.9. the venue of supply for the following services to a non-taxable person, who is resident or has his permanent address or usually resides outside of Kosovo, shall be the place where the recipient is located, has his permanent address or usually resides;

4.9.1. transfers and assignments of copyrights, patents, licences, trademarks and similar rights;

4.9.2. advertising services;

4.9.3. the services of consultants, engineers, consultancy firms, lawyers, accountants and other similar services, as well as data processing and securing information;

4.9.4. obligation to refrain from pursuing or exercising, fully or partly, a business activity or a right referred to in this Article;

4.9.5. banking, financial and insurance transactions including reinsurance, with the exception of renting safe boxes;

4.9.6. the supply of staff;

4.9.7. renting movable tangible property, with the exception of all means of transport;

4.9.8. securing access and transport or transmission through natural gas and electricity distribution systems and the provision of other services directly linked to these;

4.9.9. telecommunications services;

4.9.10. radio and television broadcasting services;

4.9.11. electronically supplied services, in particular those referred to in Annex II. When the supplier of a service and the customer communicate via electronic mail, it shall not itself mean that the service supplied is an electronically supplied service;

4.10. the venue of supply regarding telecommunications and radio and broadcasting services is Kosovo if these services are supplied to non-taxable persons established in Kosovo or who have their permanent address or usually reside in Kosovo, by a taxable person who has established his business outside Kosovo or has his fixed establishment outside Kosovo from where the services are supplied, or who, in absence of such a business venue or fixed establishment, has his permanent address or usually resides outside Kosovo;

4.11. the venue of supply with services rendered to a non-taxable person by an intermediary acting in the name and on behalf of another person shall be the venue where the underlying transaction is supplied in accordance with this Law.

5. In order to avoid double taxation, non-taxation or distortion of competition, the Minister of Finance may through a sub-legal act change the rules regarding the services or for some of the services whose venue of supply is governed by this Article.

## **Article 21**

### **Venue of importing goods**

1. The venue of importing goods shall be in Kosovo if the goods originated from other territories are put into free circulation within the territory of Kosovo.

2. Regardless of paragraph 1 of this Article:

2.1. through derogation from paragraph 1 of this Article, where, on entry into Kosovo, goods which are not in free circulation are placed under one of the Customs arrangements such as: customs warehouses or other similar Customs arrangements or under temporary importation arrangements with total exemption from import duties, or under transit arrangements, the venue of importation of such goods shall be a venue in Kosovo where the goods cease to be covered by those arrangements or situations;

2.2. similarly, where, on entry into Kosovo, goods which are in free circulation are placed



under one of the arrangements or situations referred to in sub-paragraph 2.1 of paragraph 2 of this Article, the venue of importation shall be that venue in Kosovo where the goods cease to be covered by those arrangements or situations;

2.3. The Minister of Finance shall issue a sub-legal act for the implementation of this Article.

## **CHAPTER V CHARGEABLE EVENT AND CHARGEABILITY OF VAT**

### **Article 22**

#### **Chargeable event and chargeability of VAT for supply of goods and services**

1. The chargeable event shall occur and VAT shall become chargeable when the goods or the services are supplied.

2. Regardless of paragraph 1 of this Article, specific rules in the case of successive statements of accounts or successive payments are the following:

2.1. when we have successive statements of accounts or successive payments, the supply with goods, other than consisting in renting of goods for a certain period or sale of goods on deferred terms, as referred to sub-paragraph 2.2 of paragraph 2 of Article 10 of this Law, or the supply of services shall be regarded as being completed on expiry of the periods to which such statements of accounts or payments relate;

2.2. the continuous supply of goods and services over a period of time shall be regarded as being completed at intervals of one (1) month;

2.3. long-term contracts including long-term construction contracts and long-term installation contracts shall be regarded as completed:

2.3.1. in the month of issuance of Interim Payment Certificate, but not longer than one (1) month after the issuance of Interim Payment Certificate in cases when the technical receipt of works is done later;

2.3.2. in cases when during the year there have been issued one or more Interim Payment Certificates, at the end of the year there is required that there should be issued an Interim Payment Certificate which will be based on real measurement of the works done; or

2.3.3. if during the year there is issued no Interim Payment Certificate, then at the end of the year there shall be arisen the obligation to charge VAT based on the real measurement of the works done.

3. For purposes of this Article, payments received or issuing of invoices shall be regulated as following:

3.1. when a payment is to be made or is made on account before the goods or services

are supplied, VAT shall become chargeable when payment is received and on the amount received;

3.2. when an invoice is issued before the goods or services are supplied, VAT shall become chargeable when the invoice was issued.

4. Regardless of, in cases of supplies with goods and services referred to in the Articles 11, 12, 15 and 16 of this Law, VAT shall become chargeable in the tax period when the chargeable event has occurred;

### **Article 23**

#### **Chargeable event and chargeability of VAT for importing goods**

1. The chargeable event shall occur and VAT shall become chargeable when the goods are imported.

2. Regardless of paragraph 1 of this Article:

2.1. goods entering into Kosovo which are not in free circulation are placed under one of the arrangements or situations referred to in Article 35 of this Law, the Customs transit procedure or under temporary importation arrangements with total exemption from import duty, or under external transit arrangements, the chargeable event shall occur and VAT shall become chargeable only when the goods cease to be covered by those arrangements or situations;

2.2. when imported goods are subject to customs duties, the chargeable event shall occur and VAT shall become chargeable;

2.3. the provisions in force regulating Customs duties are applied regarding the chargeable event and when VAT becomes chargeable for imported goods which are not subject to Customs duties in Kosovo;

2.4. for goods placed under temporary importation procedure with partial relief from customs duties the chargeable event shall occur and VAT shall become chargeable when the goods cease to be covered by this procedure;

## **CHAPTER VI TAXABLE AMOUNT**

### **Article 24**

#### **Taxable amount for supply with goods and services**

1. The taxable amount for supply with goods and services is determined as follows:

1.1. in respect of the supply with goods or services, other than as referred to in the paragraphs 2 and 3 of this Article, the taxable amount shall include everything which constitutes consideration obtained or to be obtained by the supplier, in return for the supply, from the customer or a third party, including subsidies directly linked to the price of the supply;

- 1.2. if the supply is for a consideration in money, its value shall be taken as equal amount with equal to the consideration;
  - 1.3. if the supply is for a consideration not consisting or not fully consisting of money, its value shall be taken according to the open market value of supply.
2. For the purpose of this Law “open market value” shall mean a full amount payable by the customer at the same market level at which the supply of goods or services takes place, under conditions of fair competition, to a supplier at arm’s length within Kosovo where the supply takes place.
3. When no comparison of supply with goods or services can be secured, “open market value” shall mean the following:
- 3.1. regarding the goods, an amount which is not less than the purchase price of the goods or of similar goods or, in absence of a purchase price, the cost price, determined at the time of the supply;
  - 3.2. regarding the services, an amount which is not less than the full cost of the taxable person providing the service.
4. The taxable amount includes the following factors:
- 4.1. taxes, duties, levies and charges, excluding the VAT,
  - 4.2. incidental expenses, such as commission, packages, transport and insurance costs, charged by the supplier to the customer.
  - 4.3. for the purposes of sub-paragraph 4.2 of this Article, incidental expenses may be covered by a separate agreement.
5. Returnable package costs are excluded from the taxable amount. However, this amount shall be adjusted if the package is not returned.
6. The taxable amount shall not include the following factors:
- 6.1. price discounts by discounting early payment;
  - 6.2. price discounts and rebates granted to the customer and obtained at the time of the supply; and
  - 6.3. amounts received by a taxable person from the customer, as repayment of expenditure incurred in the name and on behalf of the customer, and recorded in his suspense account.
7. Regardless of previous paragraphs;
- 7.1. when a taxable person applies or posses goods composing his business assets, or where goods are retained by a taxable person, or by his successors, when his taxable

economic activity ceases, as referred to in Articles 11 and 12 of this Law, the taxable amount shall be the purchase price of the goods or similar goods or, in absence of a purchase price, the cost price, determined at the time when the application, disposal or retention takes place;

7.2. regarding the supply of services, as referred to in Article 15 of this Law where goods consist his business assets but used for private purposes or services are carried out free of charge and paragraph 2 of Article 16 of this Law regarding certain self-supplied services, the taxable amount shall be the full cost to the taxable person providing the services;

7.3. regarding the supply by a taxable person of a service for the purposes of his business, as referred to in paragraph 1 of Article 16 of this Law, the taxable amount shall be the open market value of the service supplied.

8. To prevent tax evasion or avoidance, the taxable amount is to be the open market value in any of the following cases when it comes to supply with goods and services involving family or other close personal, management, ownership, membership, financial or legal ties:

8.1. when the consideration is lower than the open market value and the recipient of the supply does not have a full right for deduction under Article 36 of this Law;

8.2. when the consideration is lower than the open market value and the supplier does not have a full right of deduction under article 36 of this Law and the supply is an exempt supply as referred to in paragraph 1 of Article 27 and paragraphs 1 and 3 of Article 28 of this Law;

8.3. when the consideration is higher than the open market value and the supplier does not have a full right for deduction under Article 36 of this Law.

8.4. supplies through public auction, the taxable amount shall be considered final value achieved.

8.5. supply with goods and services not associated with the invoice under Article 45 or 46 of this Law, the taxable amount shall be deemed a supply to final consumers under open market value.

9. The Minister of Finance shall issue a sub-legal act for implementing this Article.

#### **Article 25**

#### **Taxable amount for importing goods- Converting the value of foreign currency into Euro**

1. The taxable amount when it comes to importing goods is determined as following:

1.1. regarding the importing of goods, the taxable amount shall be the value for customs purposes, determined in accordance with the Customs legislation in force in Kosovo;

1.2. when goods temporarily exported from Kosovo, re-imported in Kosovo after having

undergone repair, processing, adaptation, manufacturing or re-manufacturing outside Kosovo, the taxable amount shall be the value of the repair, processing, adaptation, manufacturing or re-manufacturing.

1.3. if the goods are supplied, while being placed under an arrangement, procedure or treatment as referred to in Article 23 sub-paragraph 2.1 of this Law, the taxable amount shall be the value of last supply, plus the value of exempted services carried out in relation to goods after last supplies;

1.4. taxable amount shall include the following factors, so far not been included:

1.4.1. taxes, duties, levies and other payments outside Kosovo, and those that are obligation, due to importing, excluding VAT to be collected;

1.4.2. irregular expenses, such as commission, packages, shipping and insurance costs that have occurred up to the first place of destination within the territory of Kosovo as well as those resulting from transport to another place of destination within Kosovo, if the other country is informed when loading has occurred;

1.4.3. for the purposes of sub-paragraph 1.4.2 of this Article, "first place of destination" shall mean the place mentioned on the consignment note or on any other document under which the goods are imported into Kosovo. If nothing is mentioned, the first place of destination shall be deemed to be the place of the first cargo transfer into Kosovo;

1.4.4. regarding the goods cease to be covered by an arrangement, procedure or treatment as referred to in Article 23 sub-paragraph 2.1 of this Law, the taxable amount shall include the value of exempted services performed in relation to goods. Sub-paragraph 1.3 applies to goods supplied while they have been placed under an arrangement, procedure or treatment as referred to in Article 23 sub-paragraph 2.1 of this Law.

1.5. The taxable amount shall not include the following factors:

1.5.1. price discount by discounts for early payment;

1.5.2. price discounts and rebates granted to the customer and obtained by him at the time of import.

2. Conversion of foreign currency into Euro:

2.1. when the value and factors used to determine the taxable amount on importation are expressed in a foreign currency, the conversion of this amount into euro shall be made by applying the exchange rate determined in accordance with the Customs regulations governing the calculation of the value for customs purposes;

2.2. when the value and factors used to determine the taxable amount of a transaction other than the import of goods are expressed in a foreign currency, the conversion of this amount into the domestic currency Euro shall be the latest selling rate as defined by the Central Bank of Kosovo recorded at the time VAT becomes chargeable.

## **CHAPTER VII RATES**

### **Article 26 The Rate**

1. The VAT is charged at standard rate of eighteen percent (18%).
2. Regardless of paragraph 1 of this Article, the reduced VAT rate is calculated and paid of eight percent (8%) for supply with goods and services as well as their import, as follows:
  - 2.1. supply with water, except bottled water;
  - 2.2. supply with electricity, including transmission and distribution services, with central heating, waste collection and other waste treatment;
  - 2.3. grains such as barley, corn, maize varieties, oats, rye, rice and wheat;
  - 2.4. products made from grain for human consumption, such as flour, pasta, bread and similar products;
  - 2.5. cooking oils made from grains or oilseeds for use in cooking for human consumption;
  - 2.6. dairy and dairy products intended for human consumption;
  - 2.7. salt appropriate for human consumption;
  - 2.8. eggs for consumption;
  - 2.9. textbooks and serial publications;
  - 2.10. supply including lending of books from libraries including brochures, leaflets and similar printed materials, children's picture books, drawing and colouring books, music printed texts or manuscripts, maps and hydro graphic charts and similar;
  - 2.11. information technology equipment;
  - 2.12. supply with medicines, pharmaceutical products, instruments, medical and surgical devices;
  - 2.13. medical equipment, ambulances, aids and other medical devices to facilitate or treat inability for exclusive use by the disabled, including the repair of such goods and supply with children's vehicle seats;
3. The Minister of Finance may issue a sub-legal for expanding list of products with reduced rate under Annex III of this Law or reducing the list of products with reduced rate.

**CHAPTER VIII**  
**EXEMPTIONS WITHOUT RIGHT OF DEDUCTION OF INPUT VAT**

**Article 27**

**Exemptions for certain activities in the public interest**

1. The following transactions are exempted:

1.1. hospital services, medical care and closely related activities undertaken by bodies governed by applicable Kosovo laws, by hospitals, centres for medical treatment or diagnosis and other duly recognised establishments of a similar nature;

1.2. the provision of medical care in exercising medical and paramedical professions as defined by applicable Kosovo laws;

1.3. the supply with human organs, blood and breast milk.

1.4. the supply with services by dental technicians in their professional capacity and the supply with dental prostheses by dentists and dental technicians;

1.5. the supply with services by independent groups of persons, who are carrying out an activity which is exempted from VAT or in relation to which they are not taxable persons, for the purpose of rendering the services by their members which are directly required for exercising that activity, where those groups merely claim exact reimbursement of their share of the joint expenditures from their members, provided that such exemption is not likely to cause distortion of competition;

1.6. the supply with services and goods closely linked to welfare and social security work, including those supplied to retirement homes, by competent Kosovo bodies or by other bodies recognised by the competent Authority of Kosovo as being dedicated to social welfare;

1.7. the supply with services and goods closely linked to the protection of children and young people by bodies governed by Kosovo laws or by other organisations recognised by the competent Authority of Kosovo that is being dedicated to social welfare;

1.8. providing education to children or young people, school or university education, vocational training or retraining, including the supply with services and goods closely related thereto, by bodies governed by Kosovo law having it as their aim or by other organisations recognised by the competent Authority of Kosovo as having similar objects;

1.9. tuition given privately by teachers and covering school or university education within the context of schools or universities as referred to in sub-paragraph 1.8 of paragraph 1 of this Article;

1.10. the supply of staff by religious or philosophical institutions for the purpose of the activities referred to in sub-paragraphs 1.1, 1.6, 1.7, and 1.8 of paragraph 1 of this Article and with a view to spiritual welfare;

1.11. the supply of services and goods closely linked thereto, to their members in their

common interest in return for a subscription fixed in accordance with their rules by non-profit-making organisations with aims of a political, trade-union, religious, patriotic, philosophical, philanthropic or civic nature, as long as this exemption is not likely to cause distortion of competition;

1.12. the supply with certain services closely linked to sport or physical education by non-profit-making organisations to persons taking part in sport or physical education where the purpose of those services is directly necessary for that education;

1.13. the supply with certain cultural services, and supply with goods closely linked thereto, by bodies governed by Kosovo law or by other cultural bodies recognised in Kosovo where the aim of such services is to promote the cultural events and potentials of Kosovo inside and outside its territory;

1.14. the supply with services and goods, by organisations whose activities are exempt pursuant to sub-paragraphs 1.1, 1.6, 1.7, 1.8, 1.9, 1.12, and 1.13 of paragraph 1 of this Article, related to fund-raising events organised exclusively for their own benefit, as long as this exemption is not likely to cause distortion of competition. However, exemption is not granted for supply with goods in the cases where:

1.14.1. the supply is not essential to transactions exempted;

1.14.2. the basic purpose of the supply is to obtain additional income for the body in question through transactions which are in direct competition with those of commercial enterprises subject to VAT;

1.15. the supply with transport services for sick or injured persons in vehicles specially designed for the purpose, by the authorised body;

1.16. the activities carried out by public radio and television bodies;

1.17. the activities carried out by institutions of religious communities whose direct and exclusive purpose is to exercise religious beliefs including welfare and charitable objectives and seminaries or other establishments for training religious ministers or teachers of religious education;

1.18. newspapers and periodic publications;

1.19. supply of services from electronic medias of radio and television;

1.20. supply of public transport services to travellers and their baggage, with the prices fixed by competent state authority.

2. Exemptions other than those provided in the sub-paragraphs 1.1, 1.6, 1.7, 1.8, 1.9, 1.12 and 1.13 of paragraph 1 of this Article, may be granted to other bodies than those governed by applicable Kosovo laws. Such exemptions may be granted by sub-legal act and shall not be granted where the supply is not essential to the transactions exempted and where the basic purpose is to obtain additional income for the concerning body through transactions which are in direct competition with those of commercial enterprises subject to VAT.



3. The Minister of Finance shall issue a sub-legal act with the rules and criteria for implementation of paragraphs 1 and 2 of this Article and may limit the scope of these exemptions. The Minister may as well determine measures needed to prevent distortion of competition to the damage of taxable persons subject to VAT. He shall also define the competent authorities and bodies of Kosovo mentioned in this article and the manner in which non-public bodies or organisations will be recognised by the public authorities for making exempted supplies or to which exempted supplies can be made.

## **Article 28**

### **Exemptions for other activities**

1. The following other activities are exempted:

- 1.1. transactions of Life and Health Insurance and reinsurance including related services performed by insurance brokers and insurance agents,
- 1.2. granting and negotiating loan and managing loan by the person granting it;
- 1.3. negotiation or any dealings in c loan guarantees or any other security for money and the management of credit guarantees by the person granting the loan;
- 1.4. transactions, including negotiation, concerning deposit, current accounts, payments, transfers, debts, cheques and other negotiable instruments, but excluding debt collection;
- 1.5. transactions, including negotiation, concerning currency, banknotes and coins used as legal tender, with the exception of collectors' items, such as, gold, silver or other metal coins or banknotes which are not normally used as legal tender or coins of numismatic interest;
- 1.6. transactions, including negotiation but not management or safekeeping, in shares, interests in companies or associations, debentures and other securities, but excluding documents establishing title to goods, and the rights or securities referred to in Article 10, paragraph 2, sub-paragraph 2.1 of this Law;
- 1.7. the management of special investment funds as defined by the competent Authorities of Kosovo;
- 1.8. the supply at nominal value of fiscal stamps, postal stamps and other similar stamps;
- 1.9. betting, lotteries and other forms of gambling, subject to the conditions and limitations laid down by the competent Authorities of Kosovo;
- 1.10. the supply of land or land on which a building or house stands;
- 1.11. the supply of houses, apartments or other accommodations used for residential purpose, including garages and basements;
- 1.12. leasing of immovable property.

2. The following shall be excluded from the exemption provided for in sub-paragraph 1.12 of paragraph 1 of this Article:

2.1. the provision of accommodation, as defined in the legislation of Kosovo, in the hotel sector or in sectors of a similar function, including the provision of accommodation in resting camps or on locations created for use as camping sites;

2.2. renting premises and sites for the parking of vehicles;

2.3. renting permanently installed equipment and machinery;

2.4. renting of safe boxes; and

2.5. leasing of immovable property for commercial purposes, excluding the land;

3. Supply with goods to be used only for activities exempted under Article 27 and Article 28 of this Law, if these goods are not entitled to deduction;

4. International road transport of passengers and transport of accompanying goods, such as suitcases or supply of services related to passenger transport;

4.1. International road transport of passengers shall mean transport of passengers by bus and other vehicles when transportation is carried out:

4.1.1. from one place in territory of Kosovo into a place outside the territory of Kosovo, or

4.1.2. from one place outside territory of Kosovo into a place within the territory of Kosovo.

## **CHAPTER IX EXEMPTIONS ON IMPORTATION AND OTHER SPECIAL EXEMPTIONS IN RESPECT OF IMPORTATION**

### **Article 29 Exemption on importation**

1. The following shall be exempted from VAT:

1.1. release of goods into free circulation, if the supply of such goods effected in the territory of Kosovo by a taxable person were under all circumstances exempted from VAT;

1.2. the re-imported by the person who exported them, of goods under unchanged conditions, provided that such goods are exempted from customs duties in accordance with Customs legislation;

1.3. imported goods exempted from customs duties and intended for:

1.3.1. official use of diplomatic and consular offices and special missions accredited to Kosovo. For consular offices headed by honorary consular officials an exemption in accordance with this sub-point shall only apply to goods sent by the sending state, other than means of transport, provided that the Ministry responsible for Foreign Affairs issues approval for these goods;

1.3.2. official use by international organisations, if these are laid down by international treaties or agreements which apply to Kosovo;

1.3.3. personal use by the foreign staff of diplomatic and consular special missions accredited to Kosovo, including their family members;

1.3.4. personal use of the foreign staff of international organisations, including their family members, if this is laid down by international treaties which apply to Kosovo;

1.3.5. Armed Forces of the North Atlantic Treaty Organisation and KFOR, for the use of such forces or the foreign civilian staff accompanying them or for the supply of their canteens or cafeteria; and

1.3.6. personal use by the foreign staff of contractors of international organisations or foreign governments and their organisations, including their family members, if this is laid down in bilateral agreements which apply to Kosovo;

1.4. exemptions under sub-paragraphs 1.3.3 and 1.3.4 of this Article shall not be exercised by nationals of Kosovo or foreign nationals having permanent address in Kosovo. Exemption under this sub-paragraph shall be implemented on the basis of certificates issued by the Ministry of Foreign Affairs. Goods exempted from VAT in accordance with this sub-paragraph shall not be alienated. They may be alienated only under the condition that VAT is paid or after termination of a three-year period from the day goods are imported.

1.5. in accordance with an international treaty, exemption could be applied only under condition of reciprocity; the Ministry responsible for foreign affairs shall confirm such reciprocity;

1.6. the detailed conditions and the method for exercising a VAT exemption and setting of the quantitative limitations for particular types of goods, for which entitled beneficiaries under this Article, may claim exemption from VAT shall be prescribed by sub-legal act issued by the Minister of Finance;

1.7. gold and other precious metals, banknotes and coins imported by the Central Bank of Kosovo;

1.8. import of gas through natural gas distribution systems or import of electricity;

1.9. imported goods placed in a suspension arrangement, economic customs procedure or customs approved treatment, as referred to in sub-paragraph 2.1 of Article 23 of this Law and exported outside Kosovo when the goods cease to be covered by the arrangement, procedure or treatment;

1.10. production lines and machinery for use in production process,

- 1.11. raw materials used for the production process;
  - 1.12. information technology equipment;
  - 1.13. newspapers and periodic publications.
  - 1.14. equipment and materials for the needs of electronic and written media.
2. Import of goods listed in Annex IV of this Law.
3. The Minister shall issue a sub-legal act that determines the criteria for the products that are treated as raw materials specified in sub-paragraph 1.11 of paragraph 1 of this Article, as well as information technology equipment specified in sub-paragraph 1.12 of paragraph 1 of this Article.

### **Article 30**

#### **Other special exemptions in respect of importation**

1. In respect of imported goods and their release into free circulation, the following shall be exempted from VAT in accordance with the conditions and time limits set out in the applicable Customs legislation:
- 1.1. consignments of insignificant value sent directly from abroad. This exemption shall not apply to tobacco and tobacco products, alcohol and alcoholic beverages, perfumes and eau de toilette water. The total value of goods in an individual consignment deemed to be insignificant shall not exceed an amount determined by sub-legal act issued by the Minister of Finance;
  - 1.2. used personal property belonging to a natural person who has resided abroad for an uninterrupted period of at least twelve (12) months and who moves to Kosovo. This exemption shall not apply to alcoholic beverages, tobacco and tobacco products, motor vehicles and equipment for carrying out an economic activity;
  - 1.3. items belonging to a person who has resided abroad for an uninterrupted period of at least twelve (12) months and who moves to Kosovo. This exemption shall not apply to alcoholic beverages, tobacco and tobacco products, motor vehicles and equipment for carrying out an economic activity;
  - 1.4. items acquired on the basis of inheritance by a natural person who permanently resides in Kosovo. This exemption shall not apply to alcoholic beverages, tobacco and tobacco products, means of transport, equipment, stocks of raw materials, semi-products and finished products, livestock and agricultural products exceeding normal family needs;
  - 1.5. items needed for study brought by pupils and students coming to Kosovo for the purpose of studying and for their own needs;
  - 1.6. goods in the personal luggage of a traveller which are imported for non-commercial purposes and which are exempted from payment of customs duties in accordance with applicable Customs Legislation;

1.7. non-commercial goods in small consignments sent by a natural person residing abroad free of charge to a natural person on the customs territory of Kosovo for tobacco and tobacco products, alcohol and alcoholic beverages, perfumes and eau de toilette water up to the value and quantity determined by sub-legal act issued by the Minister of Finance;

1.8. honorary decorations and prizes if their nature or individual value indicates that they are not being imported for commercial purposes, occasional gifts received within the framework of international relations, provided that they do not reflect a commercial purpose, on the condition of reciprocity, items intended for foreign heads of state or their representatives for their requirements during an official visit to Kosovo. This exemption shall not apply to alcoholic beverages, tobacco and tobacco products;

1.9. therapeutic substances of human origin and reagents for determining blood groups and tissue types used for non-commercial medical or scientific purposes, pharmaceutical products for health care or veterinary use at international sporting events, laboratory animals, animal, biological and chemical substances sent free of charge intended for scientific research, and samples of reference substances intended for quality control of medical products approved by the World Health Organisation;

1.10. goods acquired free of charge by state bodies, charitable and philanthropic organisations intended for free distribution to persons in need of assistance, or goods sent free of charge and without any commercial intent for the purpose of being used exclusively for meeting their work needs or for carrying out their tasks. This exemption shall not apply to alcoholic beverages, tobacco and tobacco products, coffee and tea, and motor vehicles except for rescue vehicles. This exemption shall apply only to organisations keeping appropriate accounts and allow competent bodies to supervise their operations and which, where necessary, provide assurance for paying VAT;

1.11. goods imported by state bodies and organisations, charitable and philanthropic organisations intended for free distribution to victims of natural and other disasters and wars, or goods which remain a property of these organisations but made available to the abovementioned victims. This exemption shall not apply to materials and equipment for renovation of areas affected by natural and other disasters. This exemption shall apply only to organisations keeping appropriate accounts and allow competent bodies to supervise their operations and which, where necessary, provide assurance for paying VAT;

1.12. items that are specifically made for education, training or employment of the blind and deaf or other physically or mentally handicapped persons if they were acquired free of charge and imported by institutions or organisations whose activity is education or assistance to these persons and provided that no commercial intent is expressed by the donors;

1.13. equipment which is used by the owner for carrying out his economic activity when he transfers that activity to Kosovo. This exemption shall not apply to means of transport, fuel, stocks of goods, products and semi-products, and livestock owned by traders;

1.14. plant and livestock products obtained by farmers who are Kosovo nationals on their property within the border region of a neighbouring country and young animals and other products obtained from livestock which they have on this property for the purposes of farm labour, pasture or wintering, seeds, fertiliser and similar products for cultivating soil used by farmers who are foreign nationals on their property in Kosovo;

1.15. samples of goods of insignificant value intended for obtaining orders for goods of the same type and which, with regard to their appearance and quantity, are not usable for any other purposes;

1.16. printed and advertising material of no commercial value having a destination for promotion, sent by a person who established his business outside Kosovo;

1.17. goods intended for use at a trade fair, exhibition or similar event. This exemption shall not apply to alcoholic beverages, tobacco and tobacco products and fuels;

1.18. goods which in order to determine their composition, quality or other technical characteristics are intended for examination, analysis and testing and which are completely used or destroyed. This exemption shall not apply to goods used in examination, analysis or testing in order to promote sales;

1.19. items and accompanying documents which in regard to the acquisition or protection of trademarks, patents and models are sent to organisations for protection of intellectual property rights;

1.20. tourist informational documentation intended for distribution free of charge and whose main purpose is to present foreign tourist products and services;

1.21. documents sent to state bodies, the publications of foreign state bodies and international bodies and organisations, forms for exercising the powers of state bodies, items of evidence in court procedures, printed circulars sent as part of the normal exchange of information between public services or banking institutions, official printed materials received by the Central Bank of Kosovo, documents, archives and forms for use at international meetings, conferences or congresses, plans, technical drawings, models and similar documents for purposes of participation in an international competition organised in Kosovo, printed forms used in accordance with international conventions as official documents in international trade with vehicles and goods, photographs and slides sent to press agencies or newspaper companies, collectors' items and works of art not intended for sale which are imported free of charge by museums, galleries and other institutions and which are intended for viewing purposes free of charge, wall maps, films (other than cinematographic films) and other audio-visual products of an educational nature produced by the United Nations or its specialised agencies;

1.22. material required for loading and securing goods during transport, litter and fodder for animals during transport, loaded onto a means of transport used for the transportation of animals from a foreign country into Kosovo or through Kosovo;

1.23. fuels and lubricants of motor vehicles in the manufacturally installed tanks;

1.24. material for construction, maintaining or decorating monuments, graves or the graves of war victims from other countries, coffins containing the mortal remains and urns containing the ashes of deceased person and the funeral items that normally accompany coffins and urns.

## 2. Special exemptions:

2.1. imports funded from the proceeds of donations made to the budget or through the

budget of Kosovo or under the supervision of competent bodies or directly financed through contracts for the benefit of Ministries, local authorities and other bodies governed by law, from international inter-governmental organisations and their agencies, governments, government agencies, governmental or non-governmental organisations in support of humanitarian and reconstruction programs and other projects including European integration projects in Kosovo;

2.2. imports made by the United Nations or any of its agencies, the World Bank and international inter-governmental organisations.

3. Special exemptions granted to the Religious Communities of Kosovo in line with the respective Law on Freedom of Religion in Kosovo or other applicable laws.

## **CHAPTER X EXEMPTIONS ON EXPORTATION**

### **Article 31 Exemptions on exportation**

1. The following transactions are exempted:

1.1. the supply of goods dispatched or transported to a destination outside Kosovo by or on behalf of the vendor;

1.2. the supply of goods dispatched or transported to a destination outside Kosovo by or on behalf of a customer not established within the territory of Kosovo, with the exception of goods transported by the customer himself for equipping, fuelling and securing private boats and private aircraft or any other means of transport for private use;

1.3. the supply with goods to bodies recognised by the competent Kosovo Authority which export them out of Kosovo as part of their humanitarian, charitable or teaching activities outside Kosovo;

1.4. the supply with services consisting in work carried out on movable property acquired or imported for the purpose of undergoing such work within Kosovo, and dispatched or transported out of Kosovo by the supplier, by the customer if not established within Kosovo or on behalf of either of them;

1.5. the supply of services, including transport and supporting services, but excluding the services exempted in accordance with Articles 27 and 28 of this Law where these services are directly linked to exportation or importation of goods. When it comes to importation, exemptions shall apply only for services to be included in the taxable amount under sub-paragraph 1.4 of paragraph 1 of Article 25 of this Law.

2. Goods to be carried in the personal luggage of travellers:

2.1. when the supply of goods referred to in sub-paragraph 1.2 of paragraph 1 of Article 31 of this Law relates to goods to be carried in the personal luggage of travellers, the exemption shall apply only if the following conditions are met:

2.1.1. the traveller is not established within Kosovo;

2.1.2. the goods are transported out of Kosovo before the end of the third month following the one when the supply took place,

2.1.3. the total value of the supply, including VAT, is more than one hundred and seventy five (175) €. A traveller who is not established within Kosovo shall mean a traveller whose permanent address or residence is not located within Kosovo. In that case permanent address or residence shall mean a place entered as such in a passport, identity card or other document recognised as an identity document by the country within whose territory the supply takes place. Evidence of exportation shall be furnished by means of the invoice or other document in lieu thereof, endorsed by the customs office in exit from Kosovo.

2.2. the reimbursement of VAT paid under sub-paragraph 2.1 of paragraph 2 of this Article shall be defined by sub-legal act to be issued by the Minister Finance who shall also define the date from when the reimbursement shall apply.

## **CHAPTER XI EXEMPTIONS RELATED TO INTERNATIONAL TRANSPORT**

### **Article 32 Exemptions related to international transport**

1. The following transactions shall be exempted:

1.1. the supply of goods for fuelling and supply of vessels used for navigation on the high seas and transporting passengers by charge or used for the purpose of commercial, industrial or fishing activities, or for rescue or assistance at sea, or for inshore fishing, with the exception of vessels;

1.2. the supply, modification, repair, maintenance, chartering and renting vessels referred to in sub-paragraph 1.1 of this paragraph, and supply, renting, repairing and maintenance of equipment, including fishing equipment, incorporated or used therein;

1.3. the supply of services other than those referred to in sub-paragraph 1.2 of this paragraph, to meet direct needs of the vessels referred to in sub-paragraph 1.1 of this paragraph or of their cargoes;

1.4. the supply of goods for fuelling of aircraft used by airlines operating for consideration mainly on international routes;

1.5. the supply, modification, repair, maintenance, chartering and renting the aircraft referred to in sub-paragraph 1.4 of this paragraph, and the supply, renting, repair and maintenance of equipment incorporated or used therein.

2. The supply of services, other than those referred to in sub-paragraph 1.5 of paragraph 1 of this Article, to meet the direct needs of the aircraft referred to in sub-paragraph 1.4 of paragraph 1 of this Article or of their cargoes.



**CHAPTER XII**  
**EXEMPTIONS RELATING TO CERTAIN TRANSACTIONS TREATED AS EXPORTS,**  
**EXEMPTIONS FOR THE SUPPLY OF SERVICES BY INTERMEDIARIES, AND**  
**EXEMPTIONS RELATING TO CUSTOMS AND SIMILAR ARRANGEMENTS**

**Article 33**

**Exemptions relating to certain transactions treated as exports**

1. The following transactions treated as exports are exempted:
  - 1.1. the supply of goods or services under diplomatic and consular arrangements, supply of goods and services to foreign staff of special diplomatic and consular missions accredited in Kosovo, including their family members;
  - 1.2. the supply of goods or services to international and inter-governmental bodies recognised as such by the public authorities of Kosovo, and to the members of such bodies, within the limits and under the conditions laid down by the international conventions establishing the bodies or by the competent Authority;
  - 1.3. the supply of goods or services to NATO and KFOR, intended either for the armed forces of NATO and KFOR for the use of those forces, or the civilian staff accompanying them, or for their cafeteria or canteens when such forces take part in the common defence and peace keeping effort;
  - 1.4. the supply of gold to the Central Bank of Kosovo.
2. The irrigation of farming land and the supplies of the goods listed in the Annex IV of this Law.
3. Special exemptions:
  - 3.1. the supply of goods or services funded from the proceeds of grants made to the budget or through the budget of Kosovo or under the supervision of competent bodies or directly financed by contracts for the benefit of Ministries, local authorities and other bodies governed by law, by governments, governmental or non-governmental organizations in support of humanitarian and reconstruction programs including European integration projects in Kosovo;
  - 3.2. supplies of goods and services made to the United Nations or any of its agencies, the World Bank and international inter-governmental organizations.
  - 3.3. the supply of goods and public services to Kosovo Religious Communities in accordance with the respective legislation on religious freedom and other applicable legislation.
  - 3.4. the definition of goods and services under sub-paragraph 3.3 of this paragraph shall be determined by a sub-legal act issued by the Minister of Finance.
  - 3.5. supply of goods and services co-financed by the proceeds of donations from foreign governments and the Kosovo Budget for public benefit projects, if the exempt is provided by agreement between the parties and the co-payment from the Kosovo Budget is not more than twenty percent (20%).

4. International airway and railway transport of passengers and their luggage such as such as suitcases or supplies related to transport of passengers.

4.1. International airway and railway transport of passengers shall mean the transport of passengers by train, airplane and the transport occurs:

4.1.1. from a place within Kosovo territory to another one outside the Kosovo territory, or

4.1.2. from a place outside the Kosovo territory to another within Kosovo territory.

5. The Minister of Finance shall issue a sub-legal act on the rules and criteria for implementing this Article and may limit the extent of such exemptions.

#### **Article 34**

##### **Exemptions for the supply of services by intermediaries**

The supply of services by intermediaries acting on behalf of and in the interest of another person, where they take part in the transactions referred to in Chapters X, XI and XII of this Law or the transactions carried out outside of Kosovo shall be exempted.

#### **Article 35**

##### **Customs warehouses and similar arrangements**

1. The following transactions treated as exports shall be exempted:

1.1. supply of goods established under an arrangement, procedure or treatment as set forth in Article 23, sub-paragraph 2.1 of this Law.

1.2. supply of services directly related to goods established under an arrangement, procedure or treatment as set forth in Article 23, sub-paragraph 2.1 of this Law.

2. Supply of goods in "duty free shops" at an airport open to international air traffic provided that travellers carry such goods as personal luggage in permitted quantities to another country by aircraft. For the purposes of this paragraph, the traveller is considered to be a person owing a ticket mentioning the destination of the airport or marine port of another country.

3. Supply of goods intended for sale to travellers on board of an aircraft, where the place of arrival is outside Kosovo.

### **CHAPTER XIII**

### **DEDUCTIONS**

#### **Article 36**

##### **The right to deduct VAT**

1. The right to deduct input VAT shall be born when VAT becomes chargeable. A taxable person cannot deduct input VAT before the tax period in which he received invoices for goods or

services supplied to him or in which he received customs declarations for imported goods.

2. Unless otherwise stipulated by this Law, a taxable person may deduct from his VAT liability, the VAT due or VAT paid in respect of purchases of goods or services, hereinafter indicated as input VAT, provided he used or will use such goods or services for the purposes of his taxable transactions:

2.1. the input VAT due or paid within the territory of Kosovo in respect of goods or services supplied or to be supplied to him by another taxable person;

2.2. the input VAT due or paid within the territory of Kosovo in respect of importation of goods;

2.3. the input VAT due in accordance with paragraph 1 of Article 12 and Article 16 of this Law.

3. In addition to the deduction referred to in paragraph 2 of this Article, every taxable person shall also have the right to deduct the input VAT referred to therein in so far as the goods and services are used for the following purposes:

3.1. transactions relating to the activity from paragraph 1 of Article 4 of this Law carried out outside Kosovo in which that tax is due or paid, in respect of which VAT would be deductible if they had been carried out in Kosovo;

3.2. transactions exempted pursuant to Chapters X, XI and XII of this Law.

3.3. any of the transactions exempt in accordance with sub-paragraphs 1.1 till 1.6 of paragraph 1 of Article 28 of this Law, if the customer is established outside Kosovo or if such transactions are directly linked to goods intended for export to a country outside Kosovo.

4. As regards goods and services used or to be used by a taxable person for transactions foreseen in paragraph 2 and 3 of Article 36 of this Law which VAT may be deducted, and for transactions, for which VAT shall not be deducted, only such a proportion of the VAT may be deducted as is attributable to the first transactions. Such proportion of input VAT shall be determined in accordance with Article 39 of this Law for all transactions carried out by the taxable person.

5. A taxable person shall not deduct input VAT on:

5.1. yachts and boats intended for sport and recreation, private aircraft, cars and motorcycles only used for non-business purposes, fuels and lubricants and spare parts and services closely linked thereto, other than vessels or vehicles used for leasing and renting and for resale, and vehicles used in driving schools for the provision of the drivers training programme in accordance with the regulations in force and combined vehicles for carrying out an activity of a public line and special line transport. If a vehicle is not used exclusively for carrying out an activity of a public and special line transport, a taxable person may claim a VAT deduction only for the part related to carrying out of this activity;

5.2. the total purchase costs and current expenditures as regards cars used for both private, at the same time for business purposes. In such case, the right to deduct input VAT is only allowed to a maximum of fifty percent (50%).

5.3. representation costs which shall include only costs for hosting and entertainment during business or social contacts, including food costs, drinks and accommodation costs.

5.4. when the immovable property is part of a taxable person's business assets and is being used for the taxable person's business purposes and for private purposes or for his staff, or generally, for purposes other than of his business, the VAT on costs incurred on this property shall be deducted only to the extent this property is used for business purposes of the taxable person..

5.5. regardless of Article 15 of this Law, changes to the proportion of using the immovable property as referred to sub-paragraph 5.4 of this paragraph shall be considered in line with principles set forth in Article 41 of this Law.

5.6. the Minister of Finance shall issue a sub-legal act to determine the implementation and the costs subject to restrictions.

### **Article 37**

#### **Exercise of the right of deduction**

1. The right of deduction shall be born when the deductible tax becomes chargeable.
2. In order to exercise his right to deduct input VAT, a taxable person must at least:
  - 2.1. in respect of all deductions referred to in Chapter XIII of this Law hold an invoice or a document serving as an invoice in accordance with Chapter XV of this Law. In respect of deductions pursuant to sub-paragraph 2.2 of paragraph 2 of Article 36 of this Law, hold an import document "Single Administrative Document - SAD" on which he is stated as the consignee or importer and which states the amount or enables calculation of the amount of tax due;
3. The Minister of Finance shall issue a sub-legal act to determine additional rules and documents for proving the input VAT, particularly in respect of:
  - 3.1. the deductions under sub-paragraph 2.3 of paragraph 2 of Article 36 of this Law;
  - 3.2. the deductions pursuant to sub- paragraphs 2.1 and 2.2 of paragraph 2 of Article 36 of this Law;
  - 3.3. the deductions related to the transactions described in the Chapters X, XI and XII of this Law;
  - 3.4. the cases referred to in Article 52 of this Law where a person is liable to pay VAT as a customer or purchaser;
  - 3.5. a taxable person who pays VAT compensation is entitled to deduct the VAT compensation as deductible provided that he has paid the VAT compensation and the value of goods and services received to the farmers (farmers) and that agricultural goods and services are intended for taxable supplies, for which the right for the deduction of input VAT is established.

3.6. the deductions in respect of the application of the special schemes of Chapter XIX of this Law.

### **Article 38**

#### **The manner to exercise the right to deduct input VAT**

1. Taxable persons shall effect the deduction by subtracting from the total amount of VAT due for a given tax period the total amount of VAT in respect of which, during the same period, the right to deduct was born in accordance with paragraph 1 and 2 of Article 37 of this Law.
2. If a taxable person does not deduct input VAT in this tax period, he may deduct this amount of input VAT at any time after this tax period, but not later than in the last tax period of the calendar year following the year in which he was entitled to deduct input VAT.
3. If a taxable person receives an invoice showing VAT from a person who is not entitled to claim VAT under this Law, he shall not deduct the VAT shown as input VAT, irrespective of whether he pays that VAT.
4. If a taxable person receives an invoice showing an amount of VAT which exceeds the amount of VAT that should be charged according to this Law, the taxable person shall not deduct this excess amount as input VAT, even though the VAT has been paid.

### **Article 39**

#### **Calculation of the part of input VAT allowed as deductible**

1. In the case of goods and services used by a taxable person both for realizing transactions in respect of which VAT is deductible for the used goods and services, and for realizing transactions in respect of which VAT is not deductible for the used goods and services, only such proportion of the VAT is deductible as is attributable to those transactions in respect of which VAT is deductible. The taxable person may be authorised by TAK to make the deduction on basis of the real use made if he provides in his accounting records, data on the input VAT for which he is entitled and is not entitled to deduct input VAT for all used goods and services.
2. The deductible proportion shall be made up of a fraction comprising the following amounts:
  - 2.1. as a numerator: the total amount, exclusive of VAT, of annual turnover attributable to transactions on which the taxable person has the right to deduct input VAT;
  - 2.2. as a denominator: the amount included in the numerator and the amount of total annual turnover on which the taxable person does not have the right to deduct VAT, including subsidies other than those directly linked to the price of supplies of goods and services as referred to in paragraph 1 of Article 24 of this Law.
3. The calculation of the deductible proportion shall not include:
  - 3.1. the amount of turnover attributable to supplies of capital goods used by the taxable person for the purposes of his business;
  - 3.2. the amount of supply of financial services as referred to in paragraph 1 of Article 28 of this Law, if they are performed incidentally.

4. The deductible proportion of VAT shall be determined on an annual basis as a percentage, and shall be rounded up to the next whole number.

5. Provisional deductible proportion and actual deductible proportion:

5.1. the deductible proportion for the current year shall be determined provisionally on the basis of the data on transactions of the preceding year as provisional deductible proportion. In the absence of data on transactions in the preceding year, or where they were insignificant in amount, the provisional deductible proportion shall be determined by the taxable person on the basis of his own forecasts, regarding which the taxable person should notify TAK;

5.2. the deductible proportion shall be finally fixed when the actual volume of transactions in the year for which the deductible proportion is being determined as actual deductible proportion is known;

5.3. if it is established that the deduction of input VAT on the basis of the provisional deductible proportion was higher or lower than it should have been with respect to the actual data on volume of transactions, the input VAT deduction shall be adjusted accordingly in the tax return of the tax period of January of the following year, being the year in which the actual deductible proportion is established.

6. Notwithstanding paragraph 2 of this Article, a taxable person may determine the deductible proportion for each individual area of his activity separately, provided that he maintains separate accounts for each individual area of his activity and provided that he notifies TAK on the method of defining the deductible proportion. If TAK receives the notification at least fifteen (15) days before the start of the new tax period, the taxable person may start to calculate the deductible proportion pursuant to this paragraph in the first tax period following the tax period in which he informed the TAK about his decision, otherwise with the beginning of the next tax period. The taxable person should calculate the deductible proportion, selected according to this paragraph for at least twelve (12) months. If a taxable person wishes to change the method of calculating the deductible proportion again, he must notify again this change to TAK fifteen (15) days before the start of the tax period in which the new method is going to be used.

7. TAK may:

7.1. following the notification made in accordance in paragraph 6 of this Article, prohibit the taxable person from using the chosen method for determining a deductible proportion if the chosen method does not allow TAK to control adequately the deduction of input VAT;

7.2. authorise or require from the taxable person to make deductions based on the real use made for all or part of goods and services.

#### **Article 40**

#### **VAT Refund Claims**

1. A taxable person may carry forward the excess VAT credit to the following tax period or may submit a VAT refund claim if the taxable person has carried forward the input VAT excess for three (3) consecutive months. The VAT return of a taxable person reflects an amount of deductions that exceeds the amount of VAT due amount. The excess VAT credit carried forward

may be applied against the VAT liability in the succeeding tax periods.

2. Without prejudice to the relevant Law on Tax Administration and Procedures and for the purpose of ensuring the correct and straightforward application of this Article, the following procedures shall apply in respect of VAT refund claims:

2.1. a taxable person may claim a VAT refund if for three (3) consecutive months is in credit and at the end of the third months the amount of VAT credit exceeds the value of three thousand (3,000) € and if all VAT and other tax returns for all past tax periods have been submitted;

2.2. the taxable person that has exports may claim a VAT refund after each tax period, provided that the following conditions are met:

2.2.1. the amount of VAT credit exceeds three thousand (3000) € at the end of the tax period;

2.2.2. the taxable person complies with all applicable customs and VAT provisions, and

2.2.3. all VAT returns and other tax returns for all past periods are submitted.

3. Proof in respect of VAT refund claims are as follows:

3.1. at the moment of making a refund claim, the taxable person must be in the possession of all evidences and documents referred to in paragraph 4 of this Article and defined in the sub-legal act to be issued by the Minister of Finance;

3.2. TAK shall retain the refund where the evidences and documents are not in the possession of the taxable person or if there are indications that the reported data in the VAT return in which the amount of the VAT refund is reported and previous VAT returns, are not correct. Such indications must be documented in an official minutes established by a TAK officer or Customs officer. Such tax report provides evidence unless the taxable person proves otherwise. TAK shall notify the taxable person that the refund will be retained and provide an explanation of the reasons for retaining the refund with a motivated decision;

3.3. the refund shall be retained until the competent TAK office receives the necessary missing evidences, documents and tax returns. If the documentation is not provided within the required timeframes established by TAK, the control of the VAT refund claim will be closed and a final report will be issued and provided to the taxpayer explaining the reasons for not approving the refund claim;

3.4. no interests for late refund as referred to in sub-paragraph 3.2 and 3.3 of this paragraph are incurred during the period that the VAT refund is retained;

4. The Minister of Finance shall issue a sub-legal act to determine:

4.1. the procedures and conditions in respect of VAT refunds related to periodic VAT returns; and

4.2. alternative procedures for refunding VAT to persons not required to submit VAT returns, to persons who are stopping their economic activity and to taxable persons and customers not established in Kosovo.

#### **Article 41** **Adjustments of deductions**

1. The initial deduction shall be adjusted where:

1.1. it is subsequently determined that the deduction of the input VAT has been calculated at a higher or lower amount than the amount to which the taxable person has been entitled;

1.2. after the VAT return is submitted, changes occur in the factors used to deduct the input VAT, where for example purchases are cancelled or price reductions are obtained after the supply takes place.

2. For capital goods adjustment shall be made during five (5) calendar years. For immovable property, the period of twenty (20) years shall be applicable.

3. The adjustment period referred to in paragraph 2 of this Article shall be considered as five (5) years starting with and including the year in which the equipments began to be used. For the immovable property, twenty (20) calendar years starting with and including the year when the building began to be used.

4. The annual adjustment shall be made in respect of one-fifth (1/5), respectively one-twentieth (1/20) of the VAT charged on capital goods. This adjustment shall be made on the variations in the entitlement to deductions in subsequent years in relation to the input VAT that has been deducted in relation to capital goods. An adjustment to the deduction of input VAT shall not be made if the difference in the current deductible proportion (tax crediting multiplier) is less than three percent (3%) of the input VAT amount.

5. When supplied during the adjustment period, capital goods shall be treated as applied in an economic activity of the taxable person until the adjustment period is over. When the supply of capital goods is taxed, the economic activity should be supposed to be fully taxable. When the supply of goods is tax exempted the economic activity should be supposed to be fully exempted. The adjustment stipulated in paragraph 4 of this Article shall be made only once regarding all the period covered by the adjustment period to be used.

6. The Minister of Finance shall issue sub-legal act to record the VAT adjustments and to determine the input and output VAT in respect of these adjustments.

#### **Article 42** **Deduction of input VAT on commencement of economic activity as VAT registered taxable person**

1. On the day that the registration for VAT purposes becomes valid, a taxable person shall acquire the right to a deduction of input VAT for goods which he has in stock on the moment the limit is reached as according to Articles 6, 7 and 8 of this Law. The deduction of input VAT may be verified by TAK on the basis of the accounting information of the taxable person and data of stocks of goods.



2. A taxable person subject to implementation of this article, may deduct input VAT in proportion to the supply performed in so far as that right of deduction exists, but shall not have the right to a VAT refund on this basis.

3. The Minister of Finance shall issue sub-legal act for the implementation of this Article.

## **CHAPTER XIV**

### **BAD DEBTS**

#### **Article 43**

#### **Bad debt for VAT purposes**

1. Where the whole or part of the payment for a taxable supply is not received by a supplier and is considered as uncollectable by initiating court procedures, the respective VAT deduction shall be allowed. The VAT is applied in accordance with this law regarding the uncollected bad debt amount.

2. The VAT deduction shall be allowed to occur in each tax period after the debt becomes bad and shall start at least six (6) months after closing the tax period for which VAT has been applied in respect of the supply.

3. The taxable person shall issue an invoice for the uncollected amount presenting the words "Bad Debt" and the number of the invoice related to the debt. The invoice shall be useful to the vendor for reducing the VAT due and to the buyer for reducing the input VAT.

4. Where the bad debt VAT has been reduced according to this Article and the whole or part of this debt is subsequently paid, the collected amount shall be treated as a new supply. The invoice issued for such supply shall have the bad debt invoice number and words "bad debt paid" on it.

5. No initiation of court proceedings shall be required for the amount of five hundred (500) € treated as bad debt.

6. The uncollected amount shall not be considered as bad debt when:

6.1. transactions of the same debtor have been repeating after the bad debt;

6.2. the bad debt is between the contracted parties.

6.3. there is insufficient evidence that substantial efforts have been made to collect the debt, including each applicable action to optimise the debt collection.

7. The Minister of Finance may authorise by sub-legal act a special scheme for the enterprises of public interest.

## **CHAPTER XV INVOICING AND ISSUANCE OF OTHER TAX DOCUMENTS**

### **Article 44**

#### **Issuance of invoices and other documents serving as invoice by a taxable person**

1. A taxable person shall ensure that an invoice is issued, either by himself or by his customer or, in his name and on his behalf, by a third party, in the following cases:

1.1. supplies of goods or services which he has made to another taxable person and non-taxable person;

1.2. any payment made on account to him before a supply of goods referred to in subparagraph 1 of this Article, was carried out;

1.3. any payment on account made to him by another taxable person or non-taxable before the provision of services was effected or completed.

2. A summary invoice may be issued if a taxable person carries out several separate supplies of goods or services during a tax period.

3. If an invoice is issued to another taxable person, it must contain the data prescribed in Article 45 of this Law, or if it is issued to other persons, it must at least contain the data defined in Article 46 of this Law.

4. An invoice shall be issued before the fifteenth (15<sup>th</sup>) day of the month following the month in which the chargeable event occurs. Invoices should be issued in accordance with the applicable tax legislation requirements.

5. Invoices drawn up by customers in respect of supplies made to him:

5.1. invoices may be drawn up by the customer, client or service for supplies with goods and services received by a taxable person if a previous agreement is in place between both parties and provided that a procedure of receiving the invoice from the goods or service provider issued on his behalf is in place;

5.2. TAK may impose conditions for such procedures and may also impose specific conditions on taxable persons with no establishment in Kosovo supplying goods or services in Kosovo.

### **Article 45**

#### **Content of invoices issued by taxable persons to taxable persons**

1. A taxable person who issues an invoice to a taxable person shall indicate the following data on the invoice:

1.1. the date of issue;

1.2. a sequential number enabling the identification of the invoice;

- 1.3. the VAT registration number as well as the fiscal number of the taxable person under which he supplies the goods or services;
- 1.4. the VAT registration number as well as fiscal number of the customer or the purchaser, if the customer or the purchaser is liable to pay VAT on goods or services supplied to him;
- 1.5. the full name and address of the taxable person and his customer;
- 1.6. the quantity and nature of goods supplied, or the extent and nature of the services performed;
- 1.7. the date on which the supply of goods or of services was made or completed, or the date of receipt of the payment on account, in so far as that date can be determined and differs from the date of the issue of the invoice;
- 1.8. the taxable amount on which VAT is charged for each individual rate or for which the individual exemption applies, the unit price exclusive of VAT for the goods or services, and any price reductions and discounts not included in the unit price;
- 1.9. the VAT rate applied;
- 1.10. the amount of VAT, except where a special arrangement is applied, in accordance with this Law;
- 1.11. in the case a taxable person supplies goods or services for which a VAT exemption is prescribed, the invoice must indicate the provision of this Law that stipulates such exemption;
- 1.12. if a taxable person supplies goods or services where the customer is liable for payment of VAT, reference to the applicable provision of this Law or any other reference indicating that the supply of goods or service is subject to the reverse charge procedure as referred to sub-paragraph 1.2, 1.3 and 1.4 of paragraph 1 of Article 52 of this Law;
- 1.13. a taxable person who charges VAT on the margin scheme for travel agents as referred to in Article 58 of this Law, must state on the invoice the provision of this Law pursuant to which VAT on the price difference is charged;
- 1.14. where one of the special arrangements applicable to second-hand goods, works of art, collectors' items and antiques as referred to in Article 59 of this Law, is applied, reference must be made to the relevant articles of these arrangements;
- 1.15. where the person who issues the invoice is liable to pay VAT as a tax representative in terms of paragraph 5 of Article 52 of this Law, the fiscal number and the VAT registration number and his full name and address are obligatory details to be mentioned

#### **Article 46**

##### **Content of an invoice issued by taxable persons to other persons**

1. A taxable person, who issues an invoice to persons others than those mentioned under Article 45 of this Law, shall at least indicate the following data on the invoice:

- 1.1. the date of issuance;
  - 1.2. the time of the supply;
  - 1.3. a sequential number enabling the identification of the invoice;
  - 1.4. the VAT registration number and the fiscal number under which the taxable person supplies the goods or services;
  - 1.5. the full name and address of the taxable person;
  - 1.6. the full name and address of "the other person" and tax identification numbers of this person as defined by TAK;
  - 1.7. the total amount to pay including VAT;
  - 1.8. the sales value of the goods or services excluding VAT;
  - 1.9. the amount of VAT.
2. If a taxable person supplies goods and services at different tax rates, he must show the sales value including VAT separately for each tax rate and also show the value of VAT separately.
3. If a taxable person supplies goods or services for which VAT exemption is prescribed, the invoice must indicate the provisions of this Law which stipulate the exemption.
4. In any case, a recipient of goods or services who is a non-taxable person, carrying out economic activity in the sense of Article 4 of this Law, shall request that the taxable person issues an invoice to him. The time limit relating to the issuance of such invoice is the same as the time limit defined in paragraph 4 of Article 44 of this Law.

**Article 47**  
**Debit and Credit Notes**

1. Where the taxable amount and the VAT on a tax invoice have to be corrected in accordance with Article 41 of this Law, the supplier shall issue a debit note or a credit note and shall treat that note as if it were a tax invoice.
2. Debit and Credit notes must at least contain the following information:
  - 2.1. date of issuance;
  - 2.2. sequence number;
  - 2.3. reference to the original invoice;
  - 2.4. identification of the supplier and the purchaser, namely the name, address and their fiscal numbers, and if applicable, their VAT registration numbers;

2.5. the reason of correction, and

2.6. the corrected taxable amount and the corrected VAT.

#### **Article 48** **Bad Debt invoice**

1. The content of a bad debt invoice as referred to in Article 43 of this Law, must contain the following information:

1.1. date of issuance;

1.2. sequence number;

1.3. reference to the original invoice;

1.4. identification of the supplier and the purchaser or bad debtor, their fiscal numbers and their VAT registration numbers if existing;

1.5. taxable amounts and VAT of the original invoice and the corrected amounts of taxable amounts and VAT.

#### **Article 49** **Requirement to Provide Simplified Invoices and fiscal receipts**

1. Any person who is carrying out economic activity as referred to in Article 4 of this Law issues to the recipient of the supply, the following:

1.1. a simplified invoice as meant by Article 46 of this Law where the supply has a value of five hundred (500) € or more, or where the person receiving the supply is required to request such invoice in accordance with paragraph 4 of Article 46 of this Law;

1.2 "Fiscal receipts" which:

1.2.1. are automatically produced through the use of authorised fiscal electronic devices giving details of the goods or services supplied at premises, units or locations accessible for the general public such as in retail trade or wholesale trade or more general where no invoice has to be issued in a systematic manner to clients who are paying in cash or with other equivalent payment instrument;

1.2.2. the content of the fiscal receipt shall be determined by the respective Law on Tax Administration and Procedures;

1.3. automatically produced tax information including turnover and VAT paid by customers, which can be made "on line" available to TAK for administering VAT and other taxes which are due by taxpayers or certain categories of taxpayers.

2. A taxable person who supplies goods and services to persons for Non-business purposes,

issues to the recipient of the supply the same simplified invoices and fiscal receipt as referred to in paragraph 1 of this Article.

#### **Article 50**

##### **Issuance and Sending invoices by electronic means and documents serving as invoices**

1. Invoices and other documents issued pursuant to this Chapter, may be sent on paper or, subject to acceptance by the recipient, may be sent or may be made available by electronic means. The authenticity of the origin and the integrity of their content must be guaranteed by means of an advanced electronic signature or by means of electronic data interchange.
2. The specific obligations or formalities relating to the issuance, the sending or making available of invoices or similar documents by electronic means and the electronic signature which are in accordance with the European Union arrangements and recommendations shall be defined in the sub-legal act to be issued by the Minister of Finance.
3. Any document or message that amends and refers specifically and clearly to the initial invoice is treated as an invoice.

#### **Article 51**

##### **Special provisions**

1. The taxable amount and the amount of VAT on invoices must be expressed in euro.
2. TAK may require invoices or documents serving as invoices in respect of supplies of goods or services in Kosovo or to other countries, to be translated into an official language of Kosovo.
3. The Minister of Finance shall issue a sub-legal act to determine detailed explanations and obligations as to respect the implementation of Chapter XV of this Law. Minister may as well impose in accordance with European Union arrangements and in addition to the common used trade documents in Kosovo, other documents such as delivery notes, freight bills, transport documents, detailed accounts and records such as registers for contract and process work and other means of proof with respect of transactions and the movement of the goods in order to ensure the correct assessment and collection of VAT.

### **CHAPTER XVI**

#### **PERSONS LIABLE FOR PAYMENT OF VAT**

#### **Article 52**

##### **Persons liable for payment of VAT**

1. Persons liable to pay VAT are:
  - 1.1. any taxable person carrying out taxable supply of goods and services, except where VAT has to be paid by another person in the cases referred to in sub-paragraphs 1.2 and 1.3 of this paragraph;

1.2. any person who is registered for VAT purposes in Kosovo to whom goods and services are supplied by a taxable person not established in Kosovo, if the supply country is considered to be Kosovo. This does not apply for services related to the entrance to events such as cultural, artistic, sport, science, educational or similar such as fairs and exhibitions as well as related to support services regarding entrance.

1.3. any person who is registered for VAT purposes in Kosovo in which the VAT is due and to whom goods are supplied through distribution systems referred to in paragraph 4 of Article 19 of this Law, if the supplies are carried out by a taxable person not established within Kosovo;

1.4. the Minister of Finance may issue a sub-legal act to provide the person liable for payment of VAT is the taxable person to whom any of the following supplies are made:

1.4.1. the supply of construction work, including repair, cleaning, maintenance, alteration and demolition services in relation to immovable property;

1.4.2. the supply if staff engaged in activities covered by sub-paragraph 1.4.1 of this paragraph;

1.4.3. the supply of used material, used material which cannot be re-used in the same state, scrap, industrial and non industrial waste, recyclable waste, part processed waste and certain goods and services;

1.4.4. the supply of goods provided as security by one taxable person to another in execution of that security;

1.4.5. the supply of goods following the cession of a reservation of ownership to an assignee and the exercising of this right by the assignee;

1.4.6. the supply of immovable property sold by a judgement debtor in a compulsory sale procedure. The Minister of Finance may, in the above mentioned sub-legal act, specify as well other supplies of goods and services and categories of suppliers or recipients to whom these measures may apply.

2. VAT shall be payable by any person who enters the VAT on an invoice.

3. On importation, VAT shall be payable by any person or persons designated or recognised as liable in accordance with the Kosovo Customs legislation. The Minister of Finance may, by sub-legal act, determine the conditions that in the case of the importation of goods by taxable persons or certain categories thereof or by persons liable for payment of VAT or certain categories thereof, the payment of VAT due by reason of the importation may be deferred for a period of maximum twelve (12) months or need not to be paid at the time of importation, on condition that it is entered as such in the VAT return to be submitted in accordance with Article 54 of this Law.

4. VAT shall be payable by any person who causes goods to cease to be covered by customs warehouses, other warehouses and similar arrangements.

5. A taxable person who is not established in Kosovo shall appoint a tax representative as the person liable for payment of the VAT and exercising all his rights, except for the cases defined

by sub-paragraph 1.2 and sub-paragraph 1.3 of paragraph 1 of this Article when the recipient is obliged to pay VAT.

6. For goods sold on auctions or via the mediator, the Minister of Finance may, through a sub-legal act, ensure that a person other than the one obliged to pay the VAT shall be obliged to pay VAT either collectively or individually.

## **CHAPTER XVII TAX PERIODS AND VAT RETURNS**

### **Article 53 Tax periods**

1. Subject to the paragraphs 2 and 3 of this Article, the tax period of all taxable persons shall be each calendar month.

2. Where a person is:

2.1. registered for VAT on a date which is not the first day of a calendar month, the first taxable period for that person shall begin on the date of his registration and shall last until the last day of that month, and

2.2. deregistered for VAT on a date which is not the last day of a calendar month, the last taxable period for that person shall end on the date of his deregistration, having begun on the first day of that month.

3. Liquidation and bankruptcy is regulated as follows:

3.1. for a taxable person against whom a liquidation or bankruptcy procedure is initiated, the tax period shall begin on the day of the opening of the liquidation or bankruptcy proceeding. This taxable period shall end on the date of the decision on the conclusion of the liquidation or bankruptcy procedure;

3.2. VAT returns must be submitted on a monthly basis if the business activities are pursued by the liquidator or curator being nominated or appointed to administer the liquidation or bankruptcy procedure according to Kosovo legislation.

3.3. the Minister of Finance shall regulate by sub-legal act practical implementation of this Article. He may determine a tax period which is different from the monthly one and may require advanced payments for such period for any category of taxable persons.

### **Article 54 VAT refund, remittance and payments**

1. A taxable person shall submit a tax declaration and remit the related payment not later than the 20<sup>th</sup> of the calendar month following the end of each tax period. The tax refund shall contain:

1.1. the amount of all taxable and exempt supplies, exportations and supplies treated as



exportations as well as the output tax due on taxable supplies made by him during that period;

1.2. the amount of all purchases and importation as well as input tax for that tax period that the person is entitled to deduct;

1.3. the amount of purchases with VAT which is charged on the recipient as referred to in sub-paragraph 1.4 of Article 52 of this Law for the tax period;

1.4. any increase or decrease in respect of the amount mentioned under the subparagraphs 1.1, 1.2 and 1.3 of paragraph 1 of this Article, as a result of any adjustment of the taxable amount on basis of debit and credit notes, the adjustments of deduction of input VAT including capital goods or any adjustment as a result of bad debt invoices;

1.5. the net amount of VAT to be paid to TAK or the net amount in excess for the tax period.

2. The refund form and information to be declared, the place where the refund shall be submitted and the place and manner of payment of the value added tax due shall be specified by the Minister of Finance in a sub-legal act.

## **CHAPTER XVIII BOOKKEEPING AND STORAGE OF VAT BOOKS, RECORDS AND RELATED DOCUMENTATION**

### **Article 55**

#### **Requirement to record information, retaining records and providing Access**

1. A taxable person shall retain:

1.1. all the information contained in invoices, coupons, debit or credit note or in other documents serving for the same purposes, issued by him. Such information shall be recorded in the books and records to be kept by the taxpayer;

1.2. copies of any tax invoice and bad debt invoice, debit or credit note and any other document serving the same purpose, issued by him;

1.3. the originals of any tax invoice and bad debt invoice, debit or credit note and any other document serving the same purpose, issued to him;

1.4. all cash payment records and evidence, bank accounts and credit card records which relate to any economic activity carried on by him;

1.5. copies of any contract for: Any importation, any supply of goods and services whether or not VAT was charged and any supply of goods and services which are treated for the purposes of the present law as having taken place outside of Kosovo;

1.6. any Single Administrative Document or any other Customs document relevant to the

- importation, exportation or any other Customs arrangement.
2. All documents mentioned under paragraph 1 of this Article shall be kept in chronological order with cross reference to each other when having the same taxable event.
  3. Retain copies of the Information Technology programs which are used or being used for the administration of the accounting and tax records, books and all other related documents and provide paper copies of these programs which allow reading. Producing and storing invoices and all other tax documents. Books and records referred to in this Law in a suitable electronic format or similar system such as microfilms, microfiches and scanned formats, shall only be authorized by the Director General of TAK after receiving a written request thereto from the taxable person. Such request must be accompanied by a detailed description of the system and must contain the necessary evidence that all security in respect of producing and storage requirements for invoice, book and record keeping are met.
  4. Provide access within reasonable delay to all information as referred to in the paragraphs 1, 2 and 3 of this Article and in particular to the Information Technology systems used for the accounting and tax purposes and to provide all technical assistance for the reading and the understanding of the IT system and programs referred to in paragraph 3 of this Article.
  5. The Minister of Finance shall issue a sub-legal act for the implementation of this Article.

#### **Article 56**

##### **Storage of invoices, bad debt invoices, credit and debit notes, simplified invoices, coupons and documents serving as invoices, books and records**

1. Every person having obligations and rights imposed by this Law, shall ensure that copies of the invoices, bad debt invoices, credit and debit notes, simplified invoices, coupons and documents serving as invoices issued by himself, or by his customer or, in his name and on his behalf, and all the invoices which he has received as well as all books and records, registers and all other imposed proof documents are stored for at least a period of six (6) years which starts on the first of January after the year in which the taxable event took place. The retaining of documentation on immovable property for twenty (20) years is an exception to this rule. The same rules are valid in respect of electronic storage of such documents, books, records and registers.
2. Every person having obligations and rights imposed by this Law shall keep the documents referred to in paragraph 1 of this Article in ranking order of a sequential number. That sequential number shall figure as well on the original document issued to his customer.
3. Place of storage shall be determined as following:
  - 3.1. every person, having obligations and rights imposed by this Law, may decide the place of storage of all the documents referred to in paragraph 1 of this Article. The taxable person shall inform TAK of that place;
  - 3.2. TAK shall have access to that place and all documents must as well be made available to TAK at the place where he has his business or has his fixed establishment, or, in the absence of such a place, the place where he has his permanent address or usually resides in Kosovo, without undue delay whenever TAK so request.

**Article 57****Period of storage of books and all VAT records**

1. By way of derogation from what is defined in the Law on Tax Administration and Procedures a taxable person shall:

1.1. keep his books required by this Law for a period of at least six (6) years which starts after the year in which such books are closed;

1.2. keep all other records and documents as required by the Articles 55 and 56 of this Law, for a period for at least six (6) years, respectively twenty (20) years for the immovable property, which begins after the year in which the VAT liability arose, the VAT deduction or the VAT adjustment occurred;

1.3 respect the same rules in respect of electronic storage of such books, records and registers.

2. The Minister of Finance shall issue a sub-legal act for the implementation of this Article.

**CHAPTER XIX  
SPECIAL SCHEMES****Article 58****Special schemes for travel agents**

1. The Minister of Finance, by a sub-legal act, provide for a special scheme for travel agents.

2. Such special scheme may be applied to transactions carried out by travel agents who deal with customers in their own name and use supplies of goods or services provided by other taxable persons, in the provision of travel facilities;

3. The application of the special scheme shall not apply to travel agents where they act solely as intermediaries and to whom sub-paragraph 6.3 of Article 24 of this Law applies for the purposes of calculating the taxable amount;

4. For the purposes of this Article:

4.1. tour operator means a person who acts in his own name and who organizes package tours with own means for travellers;

4.2. travel agent means a person who acts as an intermediary and arranges transportation, accommodations, and tours for travellers;

4.3. tour operators shall be regarded as travel agents.

5. Single service is regulated as follows:

- 5.1. the transactions made, in accordance with the conditions of paragraph 1 of this Article, by the travel agent in respect of a journey, shall be regarded as a single service supplied by the travel agent to the traveller;
- 5.2. the single service is taxable in Kosovo if the travel agent has established his business or has a fixed establishment in Kosovo from which he carries out the supply of services;
- 5.3. the taxable amount and the price exclusive of VAT in respect of the single service provided by the travel agent shall be the travel agent's margin, being the difference between the total amount, exclusive of VAT, to be paid by the traveller and the actual cost to the travel agent of supplies of goods or services provided by other taxable persons, where those transactions are for the direct benefit of the traveller;
- 5.4. if transactions entrusted by the travel agent to other taxable persons are performed by such persons outside Kosovo, the supply carried out by the travel agent shall be regarded as an intermediary activity exempted pursuant Article 34 of this Law;
- 5.5. if the transactions are performed both inside and outside Kosovo, only that part of the travel agent's service relating to the transactions outside of Kosovo may be exempted;
- 5.6. VAT charged to the travel agent by their taxable persons in respect of transactions which are referred to in paragraph 3 of this Article and which are for the direct benefit of the traveller shall not be deductible or refundable;

#### **Article 59**

##### **Special arrangements applicable to second-hand goods, works of art, collectors' items and antiques: Profit margin scheme and special arrangements for sales by public auction**

1. The Minister of Finance may, by sub-legal act, provide for special arrangements for taxing the profit margin of taxable dealers in respect of the supply of second-hand goods, works of art, collectors' items and antiques, as well as for simplifying the procedure for collecting the tax.
2. For the purposes of this arrangement, a taxable dealer means any taxable person who, in the course of his economic activity and with a view to resale, purchases, or applies for the purposes of his business, or imports, second-hand goods, works of art, collector's items or antiques, whether that taxable person is acting for himself or on behalf of another person pursuant to a contract under which commission is payable on purchase or sale. "Second hand goods", "works of art", "collector's items", "antiques" and other specific terms used in the special scheme such as "selling price" and "purchase price" will be defined in the sub-legal act as referred to in paragraph 1 of this Article.
3. The margin scheme applies to the supply by a taxable dealer of second-hand goods, work of art, collector's items or antiques where those goods have been supplied to him within Kosovo by one of the following persons:
- 3.1. a non-taxable person;
- 3.2. another taxable person, in so far as the supply of goods by that other taxable person is exempt pursuant to the Articles 27 and 28 of this Law;
- 3.3. another taxable dealer, in so far as VAT has been applied to the supply of goods by

that other taxable dealer in accordance with this margin scheme.

4. The profit margin of the taxable dealer shall be equal to the difference between the selling price charged by the taxable dealer for the goods and the purchase price of these goods. The taxable amount in respect of the supply of second-hand goods, works of art, collector's items and antiques shall be the profit margin made by the taxable dealer, less the amount of VAT relating to the profit margin.

5. The taxable dealers shall be granted the right to opt for application of the margin scheme for the following transactions:

5.1. the supply of works of art, collectors' items and antiques, which the taxable dealer has imported himself,

5.2. the supply of works of art supplied to the taxable dealer by their creators or their successors in title;

5.3. if a taxable dealer exercises the option under paragraph 5 of this Article, the taxable amount shall be determined in accordance with paragraph 4 of this Article.

6. In the case of import of work of art, collectors' items or antiques by the taxable dealer himself, the purchase price to be taken into account in calculating the profit margin shall be equal to the taxable amount on importation plus the VAT paid on importation.

7. The chargeability for VAT, the entitlement of input VAT deduction in respect of supplies second-hand goods, works of art, collectors' items or antiques subject to the margin scheme and the records and accounts to be kept, shall be specified in the sub-legal act referred to in paragraph 1 of this Article.

8. Simplified procedures for collecting the VAT:

8.1. the Minister of Finance may issue a sub-legal act on regulating the simplified procedures for collecting the VAT for certain transactions or for certain categories of taxable dealers, in particular in respect of the taxable amount of supplies of goods subject to the margin scheme;

8.2. the taxable dealer may also opt for the application of the normal VAT arrangements to any supply covered by the margin scheme with entitlement to deduct from the VAT for which he is liable, the VAT due or paid on the import or the VAT due or paid in respect of the work of art supplied to him by its creator, or the creator's successors entitle, or by a taxable person other than a taxable dealer;

8.3. the right of deduction of input VAT shall arise at the time when the VAT due on the supply in respect of which the taxable dealer opts for application of the normal VAT arrangements, becomes chargeable.

9. The Minister of Finance may apply special provisions different from paragraph 4 of this Article in respect of the determination of the taxable amount of supplies of second-hand goods, works of art, collectors' items or antiques effected by an organiser of sales by public auction, acting in his own name, pursuant to a contract under which commission is payable on the sale of those goods by public auction, on behalf of persons as will be determined with a sub-legal act by the Minister of Finance.

10. Special obligations shall be imposed on the organiser of the sale by public auction in respect of the issue of an invoice or a document in lieu to the purchaser as well as in respect of the content of such documents.

### **Article 60** **Flat rate scheme for farmers**

1. The Minister of Finance may, by a sub-legal act provide for the application to farmers whose activities are carried out in an agricultural, forestry or fisheries undertaking, a flat-rate scheme in order to offset VAT charged on purchases of goods and services made by the flat-rate farmers.

2. The application for a flat-rate farmer who is entitled to flat-rate compensation, the flat-rate compensation percentages to be applied to the prices exclusive of VAT, of the following goods and services:

2.1. agricultural products supplied by flat-rate farmers to taxable persons not covered in Kosovo by the flat-rate scheme;

2.2. agricultural services supplied by flat-rate farmers to taxable persons not covered in Kosovo by the flat-rate scheme;

2.3. the flat-rate compensation percentages may vary for forestry, for the different sub-sectors of agriculture and for fisheries.

3. Certain categories of farmers may be excluded from the flat-rate scheme as well as farmers for whom application of the normal arrangements is not likely to give rise to administrative difficulties.

4. Every flat-rate farmer may opt, subject to the rules and conditions laid down by the Minister of Finance for the normal VAT arrangements.

5. The sub-legal act to be issued by the Minister of Finance shall as well define:

5.1. farmer, agricultural, forestry or fisheries undertakings, flat-rate farmer, agricultural products, agricultural services, input VAT charged, flat-rate compensation;

5.2. the flat-rate compensation percentages; and

5.3. the deduction of input VAT charged on capital goods.

6. For the purposes of this Law:

6.1. flat rate scheme for farmers shall mean a taxation scheme that aims to offset the VAT charged on purchases of goods and services made by the flat-rate farmers by adding an additional amount to the price of supply these farmers have for their customers/taxable persons. This is calculated as a percentage of the price and shall be called the Flat Rate Percentage, which will differ depending on the category of agriculture category. The Flat Rate Percentages shall be defined based on statistical, relevant and macro-economic data which enable the calculation of VAT refund for purchases made by flat rate farmers.

6.2. flat rate farmer shall mean the farmer who is subject to Flat Rate Scheme as referred to in Article 60 of this Law.

### **Article 61**

#### **Special scheme for electronically supplied services**

1. The Minister of Finance may permit by sub-legal act any non-established taxable person in Kosovo supplying electronic services to a non-taxable person who is established in Kosovo or who has his permanent address or usually resides in Kosovo, to use the special scheme for all electronic supplied services as meant by sub-paragraph 4.8 of Article 20 of this Law and enumerated in Annex II of this Law.

2. The non-established taxable person shall state to TAK when he commences or ceases his activity as a taxable person, or changes that activity in such a way that he no longer meets the conditions necessary for use of this special scheme. He shall communicate that information electronically and shall request a read receipt for this message.

3. The information that the non-established taxable person must provide to TAK when he starts taxable activity, shall contain the following details:

3.1. name;

3.2. postal address;

3.3. electronic addresses, including websites;

3.4. national tax number, if any;

3.5. a statement that the person is not identified for VAT purposes in Kosovo. The non-established taxable person shall notify TAK of any changes in the information provided.

4. The Minister of Finance shall, in the sub-legal act referred to paragraph 1 of Article 61 of this Law, provide in particular instructions in respect of:

4.1. the registration and the cancellation;

4.2. the VAT- return to be submitted by electronic means and the payments to be executed when submitting such VAT return on a quarterly basis;

4.3. the manner how refunds can be made;

4.4. the records to be kept for transactions covered by this special scheme, how long the records must be kept and how the records must be made available electronically on request of TAK.

**Article 62**  
**Special scheme for investment gold**

1. The Minister of Finance may, by sub-legal act provide for the application of a special scheme for investment gold:

2. Definitions: For the purposes of this scheme, "investment gold" shall mean:

2.1. gold in the form of a bar or a wafer of weights accepted by the bullion markets of a purity equal to or greater than nine hundred and ninety-five thousand (995,000), whether or not represented by securities, except for small bars or wafers of a weight less than one (1) gram;

2.2. gold coins which:

2.2.1. are pure equal to or higher than nine hundred thousand (900,000);

2.2.2. were minted after the year 1800;

2.2.3. are or have been legal tender in the country of origin, and

2.2.4. are normally sold at a price which does not exceed the open market value of the gold contained in the coins by more than eighty percent (80%). For the purposes of this scheme, such coins shall not be considered to be sold for numismatic interest.

3. Exemptions for investment gold transactions. The following shall be exempt from VAT:

3.1. supplies and importation of investment gold, including investment gold represented by certificates for allocated or unallocated gold or traded on gold accounts and including, in particular, gold loans and swaps, involving a right of ownership or claims in respect of investment gold, as well as transaction concerning investment gold involving futures and forward contracts leading to a transfer of right of ownership or claim in respect of investment gold;

3.2. services of agents who act in the name and for the account of another when they intervene in supplies of investment gold for their principal.

3.3. taxation option:

3.3.1. notwithstanding the provisions of paragraph 3 of this Article, taxable persons producing investment gold or processing any gold into investment gold shall have the right to opt to tax investment gold if they supply it to another taxable person;

3.3.2. taxable persons who in their trade normally supply gold to another taxable person for industrial purposes shall also have the right to opt to tax investment gold from sub-paragraph 2.1 of this Article. The scope of the option may be restricted;

3.3.3. if the supplier from sub-paragraph 3.3.1 and 3.3.2 of this Article decides to



opt for taxation, the agent carrying out services as referred to in sub-paragraph 3.3.2 of this Article shall also have the right to opt for taxation.

#### 4. Special rights and obligations for traders in investment gold:

4.1. where his subsequent supply of investment gold is exempt pursuant to this article, the taxable person is entitled to deduct the following:

4.1.1. the VAT due or paid in respect of investment gold supplied to him by a person who opted for taxation in accordance with paragraph 3 of this Article;

4.1.2. the VAT due or paid in respect of a supply made to him or an importation of gold other than investment gold, carried out by him, which is subsequently transformed by him or on behalf of him, into investment gold;

4.1.3. the VAT due or paid for the services supplied to him consisting of change of form, weight or purity of gold including investment gold;

4.2. a taxable person who produces investment gold or transforms gold into investment gold may deduct VAT due or paid by him for the supply or importation of goods or services linked to the production or transformation of such gold as if the subsequent supply of the gold exempt under the scheme were taxed.

5. Special obligations for taxable persons trading in investment gold. Taxable persons shall keep records of investment gold transactions and keep documentation for ten (10) years after the end of the year to which such documents refer, regardless of what is defined in the relevant Law on Tax Administration and Procedures.

### **Article 63**

#### **The right to complain**

The procedures for challenging the decision made by the tax authorities in administering the Value Added Tax shall be applied in accordance with the procedures set forth in the relevant Law on Tax Administration and Procedures.

## **CHAPTER XX FINAL PROVISIONS**

### **Article 64**

#### **Tax Authorities**

1. TAK shall have the exclusive responsibility to administer VAT.

2. The Customs of Kosovo shall, on behalf of TAK, assess, levy and collect VAT on imports, exports and other Customs arrangements, and undertake as well any other function relating to the administration of VAT, as may be required

**Article 65**  
**Implementation**

1. The Minister of Finance shall issue the sub-legal act required by and referred to in this Law within a period of one (1) year beginning from the date of entry into force of this Law.
  
2. The Director may also issue public rulings in accordance with the relevant Law on Tax Administration and Procedures for administering this Law and for providing commentaries and additional explanations.

**Article 66**  
**Abrogation Provisions**

1. With the entry into force of this Law there shall be abrogated the Law No.03/L-146 on Value Added Tax, approved by the Assembly on 29 December 2009 and published in the Official Gazette of the Republic of Kosovo No.65, on 5 February 2010, Law No.03 / L-197 on amending and supplementing the Law No. 03/L-146 on Value Added Tax approved by the Assembly on 15 April 2010 and published in the Official Gazette of the Republic of Kosovo No.69, on 20 May 2010 and Law No. 04/ L-108 on amending and supplementing the Law No. 03/L-146 on Value Added Tax, amended and supplemented by the Law No.03 / L-197, approved by the Assembly on 3 May 2012 and published in the Official Gazette of the Republic of Kosovo No.14, on 1 June 2012.
  
2. Regardless of paragraph 1, the provisions of legislation abrogated from paragraph 1 of this Article shall continue to be applied by the TAK in the review of tax issues that pertain to periods prior to the entering into force of this Law.

**Article 67**  
**Entry into force**

This Law shall enter into force on 1 September 2015.

**Law No.05/L-037**  
**22 July 2015**

**Pursuant to the article 80, paragraph 5 of the Constitution of the Republic of Kosovo, Law shall be published in the Official Gazette of the Republic of Kosovo**

**LAW NO. 05/L -037****ON VALUE ADDED TAX****ANNEX I****LIST OF THE ACTIVITIES REFERRED TO IN PARAGRAPH 2 OF ARTICLE 5:**

1. Telecommunications services;
2. Supply of water, gas, electricity and thermal energy;
3. Transport of goods;
4. Port and airport services;
5. Passenger transport;
6. Supply of new goods manufactured for sale;
7. Transactions in respect of agricultural products, carried out by agricultural intervention agencies pursuant to Regulations on the common organisation of the market in those products;
8. Organisation of trade fairs and exhibitions;
9. Warehousing;
10. Activities of commercial publicity bodies;
11. Activities of travel agents;
12. Running of staff shops, cooperatives and industrial canteens and similar institutions;
13. Activities carried out by radio and television bodies in so far as these are not exempt pursuant to sub-paragraph 1.16 of Article 27.
14. Service for sewerage, off scouring and soil disposal by the municipal and public bodies

**ANNEX II****INDICATIVE LIST OF THE ELECTRONICALLY SUPPLIED SERVICES FORESEEN IN ARTICLE 20, PARAGRAPH 4, SUB-PARAGRAPH 4.8 AND SUB-PARAGRAPH 4.9.11**

1. Website supply, web-hosting, distance maintenance of programmes and equipment;
2. Supply of software and updating thereof;

3. Supply of images, text and information and making available of databases;
4. Supply of music, films and games, including games of chance and gambling games, and of political, cultural, artistic, sporting, scientific and entertainment broadcasts and events;
5. Supply of distance teaching.

### **ANNEX III**

#### **LIST OF SUPPLIES OF GOODS AND SERVICES TO WHICH THE REDUCED RATES REFERRED TO IN PARAGRAPH 3 OF ARTICLE 26 MAY BE APPLIED:**

##### **Limited list of items that may be subject to a reduced rate of VAT**

1. Foodstuffs for human and animal consumption; livestock, seeds, plants and ingredients normally intended for use in the preparation of foodstuffs; products normally used to supplement foodstuffs or as a substitute for foodstuffs;
2. Supply with packed water;
3. Soybeans and products intended for human consumption containing at least twenty-five percent (25%) soybeans or soybean extracts;
4. Sugar, refined and unrefined, including confectioners' sugar intended for human consumption
5. Vegetables, raw and processed, frozen or canned, intended for human consumption, including potatoes and potato products, tomatoes and tomato products, and similar vegetables and their products which include at least fifty percent (50%) of the vegetable in the product.
6. Fish – frozen, fresh and canned - intended for human consumption
7. Meat, including beef, chicken, lamb, and pork and their products intended for human consumption, so long as the respective product contains a minimum of fifty percent (50%) of the meat in the product;
8. Beverages, excluding alcoholic and carbonated beverages, intended for human consumption.
9. Fruits and fruit products intended for human consumption so long as the fruit product contains a minimum of fifty percent (50%) of a fruit or fruits.
10. Transport of passengers and their accompanying luggage;
11. Admission to shows, theatres, circuses, fairs, amusement parks, concerts, museums, zoos, cinemas, exhibitions and similar cultural events and facilities;
12. Supply of services by writers, composers and performing artists, or of the royalties due to them;

13. Provision, construction, renovation and alteration of housing, as part of a social policy;
14. Supply of goods and services of a kind normally intended for use in agricultural production but excluding capital goods such as machinery or buildings;
15. Accommodation provided in hotels and similar establishments, including the provision of holiday accommodation and the letting of places on camping or caravan sites;
16. Admission to sporting events;
17. Use of sporting facilities;
18. Supply of goods and services by organizations recognized as being devoted to social wellbeing which are not exempted pursuant to this law;
19. Supply of services by undertakers and cremation services, and the supply of goods related thereto;
20. Provision of medical and dental care and thermal treatment in so far as those services are not exempt pursuant to this Law;

## ANNEX IV

## AGRICULTURAL PRODUCTS

<b>Description</b>	<b>Code</b>
Live bovine animals, pure-bred breeding animals Live swine, pure-bred breeding animals Live sheep, pure-bred breeding animals Live goats, pure-bred breeding animals	0102 10 0103 1000 0104 1010 0104 2010
Live poultry, that is to say, fowls of the species Gallus domestics, ducks, geese, turkeys and guinea fowls, weighing not more than 185 g.	0105 11 to 0105 19
Live trees and other plants; bulbs, roots and the like, as described within the headings listed in the following column Potatoes, seed Onions, sets	0601 and 0602 0701 1000 0703 1011
Spelt for sowing Common wheat and maslin, seed Rye, seed Barley, seed Oats, seed Maize (corn), seed	1001 9010 1001 9091 ex 1002 0000 1003 0010 ex 1004 0000 1005 10
Soya beans, for sowing Sunflower seeds, for sowing Seeds, fruit and spores, of a kind used for sowing	1201 0010 1206 0010 1209
Residues and waste from the food industries, as described within the headings listed in the following column Preparations of a kind used in animal feeding (other than dog or cat food, put up for retail sale)	2301 to 2308 2309 90
Fertilisers, as described within the headings of the chapter listed in the following column.	Chapter 31
Fungicide, Herbicide, anti-sprouting products and plant growth regulators Rodenticide Dryers for agricultural products.	3808 20 3808 30 3808 9010 8419 3100
Mechanical appliances (hand operated or not) for projecting, dispersing or spraying liquids or powders, agricultural or horticultural	8424 8110 to 8424 8199
Pneumatic elevators and conveyors specially designed for use in agriculture	8428 2030
Loaders specially designed for use in agriculture	8428 9071 and 8428 9079
Agricultural, horticultural or forestry machinery for soil preparation or cultivation; lawn or sports-ground rollers	8432

Harvesting or threshing machinery, including straw or fodder balers; grass or hay mowers (other than mowers for lawns, parks or sports grounds); machines for cleaning, sorting or grading eggs, fruit or other agricultural produce, other than machinery of heading 8437.	8433 20 to 8433 90
Milking machines and dairy machinery	8434
Other agricultural, horticultural, forestry, poultry keeping or bee-keeping machinery, including germination plant fitted with mechanical or thermal equipment; poultry incubators and brooders.	8436
Pedestrian-controlled tractors.	8701 1000
Agricultural tractors (excluding pedestrian-controlled tractors) and forestry tractors, wheeled.	8701 9011 to 8701 9050

