



Republika e Kosovës
Republika Kosovo-Republic of Kosovo
Kuvendi - Skupština - Assembly

Law No. 03/L-071

**ON AMENDMENTS AND SUPPLEMENTS TO THE LAW No. 2004/48 ON TAX
ADMINISTRATION AND PROCEDURES**

Assembly of Republic of Kosovo,

In support of article 65 (1) of the Constitution of the Republic of Kosovo,

Adopts:

**LAW ON AMENDMENTS AND SUPPLEMENTS TO THE LAW No. 2004/48 ON TAX
ADMINISTRATION AND PROCEDURES**

Article 1

Amendments and supplements to the Law No. 2004/48 on Tax Administration and Procedures promulgated under the UNMIK Regulation No. 2005/17 of 9 April 2005.

In this document, references to the term “law” mean Law no.2004/48.

Article 2

In article 1 of the present Law the following definitions are added:

“**CBAK**” means Central Banking Authority of Kosovo established under the UNMIK Regulation No. 2006/47.

“**SIGTAS**” Standard Integrated Government Tax Administration System, which is the tax administration’s data processing system.

“**ICR**” means International Civil Representative.

“**Closing Balance Sheet**” means a financial statement for suspension of a commercial activity.

“**Tax Document**” means a document issued by the TAK to exercise the activities as defined by the law.

“**Beneficial Owner**” means the individual or legal entity, who enjoys the benefits of owning an asset (movable or immovable property) regardless of whose name the title to the property is in; the individual or legal entity, which has dominion and control over an asset.

“**Transfer of Assets**” means any transaction in which ownership of movable or immovable property is changed, or conveyed, from one person to another person.

“**Generally Accepted Accounting Principles**” means the recognized consensus or substantial authoritative support within a country at a particular time as to which economic resources and obligations should be recorded as assets and liabilities, which changes in assets and liabilities should be recorded, how the assets and liabilities and changes in them should be measured, what information should be disclosed and how it should be disclosed, and which financial statements should be prepared;

“**Undocumented Goods**” means goods in the possession of a person for which there are no corresponding documents which can be shown to demonstrate how the person obtained the goods (from whom the person purchased the goods, or from whom the person received the goods in exchange for other goods or services, or from whom the person imported the goods).

“**TAK**” means Tax Administration of Republic of Kosovo.

“**Fiscal Representative**” means a citizen of Republic of Kosovo, designated to act on behalf of a non-resident taxable person of Republic of Kosovo, who does not have a business or other fixed place of business in Republic of Kosovo.

Article 3

Where the term “Director” is in the Law, it shall be replaced with the term “Director General”.

Article 4

4.1 In article 3.1, 3.2 and 8.2 of the Law, SRSB is replaced by ICR

4.2 In paragraph 3 of article 3 shall be added point g) and h) with this content:

g) enforce any other power or duty delegated by the Ministry of Economy and Finance, which are in accordance with the legislation in force.

h) the authority to enter into agreements with Central and Local POE's, subject to conditions to be established by a sub-legal act, whereby the tax administration will defer enforcing collection of taxes due from POE's, in order for any privatization process to move forward in an orderly manner, or in order to provide for the continued operation of these enterprises given their strategic importance to the well-being of the Republic of Kosovo.

Article 5

In Article 4 of the Law, the term "Deputy Director" shall be replaced with the term Deputies of Director General

Article 6 Tax Investigation Unit

Article 6 of the law becomes article 6.1 and new paragraphs 6.2, 6.3, 6.4, and 6.5 are added to read as follows:

6.2 With the purpose of detecting and preventing tax evasion, the Director General shall have the authority to establish a Tax Investigation Unit which, in case of any suspicion of tax evasion, or suspicion of criminal failure to meet any tax obligations as determined by law in Kosovo, shall have the authority:

- a) to investigate taxpayers transactions suspected for implication in tax evasion activities,
- b) to obtain bank records including those of any account or transaction that is applicable to a tax investigation,
- c) to interview and interrogate taxpayers or other persons that are deemed to be involved in activities of tax evasion or other criminal violation of tax laws.
- d) to carry out tax assessment and to collect evidences from a third party under article 14 of the Law.
- e) to have direct access to Kosovo Customs Service during the assessment- clearance of goods of taxpayers.
- f) to make direct referrals to competent officials for bringing criminal charges.
- g) such other duties as may be assigned or delegated by the Director General.

6.3 Any official of the Tax Investigation Unit who is undertaking an investigation or proceeding in relation to a criminal offense under this article shall conduct the investigation in accordance with the applicable provisions of the Criminal Code of Kosovo, or its successor. Officials of the Tax Investigation Unit are authorized to investigate those offenses enumerated in Chapter 22 (Criminal Offenses against the Economy) of the Criminal Code of Kosovo, nr. L-002 or its successor.

6.4 In case of prevention either by a taxpayer or by any other person in carrying out the powers as determined in paragraph 2 of this article, the Unit may request authorization for assistance from the competent Public Prosecutor.

6.5 Procedures and functions of the unit shall be regulated by a sub-legal act.

Article 7

Fiscal Number and obtaining the Fiscal Certificate

Article 11 of the law is replaced by the following text:

11.1 TAK may issue a fiscal number for any persons subject to any kind of tax administered in Republic of Kosovo.

11.2 The procedures and criteria to be followed, including forms to be used and information to be provided, by both the taxpayer and TAK for issuance of a fiscal number will be regulated by a sub-legal act to be issued by the Minister of MFE. The sub-legal act shall include conditions under which the tax administration can refuse to issue a fiscal number where there is a poor history of compliance or there is reasonable suspicion of tax evasion.

11.3 In the absence of a sub-legal act, the fiscal number shall be the Business Registration Number issued by the Business Registration Agency within the Ministry of Trade and Industry; for business enterprises, the personal identification number issued by the competent body, and the number issued by the competent body for non-governmental organizations.

11.4 Any resident person who will do business or conduct projects or programs in Republic of Kosovo, through a non-resident person shall be required to provide an information statement to TAK prior to the non-resident person starting any activity in Republic of Kosovo. The form of the information statement and the criteria for submitting the information statement shall be prescribed by the sub-legal act to be issued per 11.2 of this article.

11.5 Any non-resident person who is subject to taxation in accordance with the tax legislation of Republic of Kosovo shall appoint a fiscal representative prior to starting any economic activity in Republic of Kosovo. The fiscal representative shall register with the TAK within 5 days of being named. The form of registration and registration procedures shall be prescribed in the sub-legal act to be issued per 11.2 of this article.

Article 8 Deregistration of Taxpayers

After article 11 of the Law is added a new article 11A reading as follows:

11A.1 The taxpayers have the right to deregister only if they have paid all the unpaid tax obligations and after submitting the closing balance sheet.

11A.2 TAK, within sixty (60) days after receiving a notice, is obliged to verify the tax situation and when necessary to carry out an audit of taxpayer's activity.

11A.3 Within sixty (60) days after receiving a written notice of deregistration from the taxpayer, if TAK considers that the taxpayer has not met requirements for deregistration as set out in paragraph 1 of this article, it will prepare a written notice that shall be delivered to the taxpayer.

11A.4 TAK is obliged to withdraw a dispute only when the taxpayer has paid all the outstanding liabilities for which he has been notified in writing by TAK.

11A.5 If within sixty (60) days after receiving a notice from the taxpayer requesting deregistration, TAK has not notified the taxpayer per Article 8.3 of this law, the taxpayer will be considered to be deregistered.

11A.6. TAK has the right to deregister from its active register any taxpayer when proven that he/she has not carried out activity during the last fiscal year. In this case, the taxpayers will be placed in a special register of inactive taxpayers, at which time TAK will inform the Business Registration Agency.

11A.7 Deregistration under articles 11A.1 to 11A.5 and the deregistration from active register as defined in article 11A.6 does not eliminate tax liabilities. In such cases TAK shall ensure the collection of tax in accordance with all relevant means of collection that may be applied to a taxpayer under the Law.

Article 9

At the beginning of paragraph 1 of article 12 of the Law to be added: "Taxpayers are obliged to keep books and registers compatible with the tax legislation"

After paragraph 3 of article 12 is added a new paragraph 12.4, 12.5, 12.6 and 12.7 with the following text:

12.4 Each taxpayer, notwithstanding the annual turnover, in addition to keeping books and registers as set out by the Law, is also required to complete and maintain an inventory of goods in stock as of the end of the calendar year. Records provided under this paragraph must be ready on or before January 10 of the following year.

12.5 Goods in possession of a taxpayer must be documented as to origin.

12.6 TAK may require that all supplies made by all or certain types of taxable persons be recorded by electronic means and may establish the specifications of the types of electronic machines which shall be used for such recording. In the case of supplies made by certain taxable persons involving transactions which are not recorded by electronic means, TAK may require such taxable persons to issue receipts in a manner prescribed by TAK.

12.7 Any transaction in excess of five hundred (500) euro, made between taxable persons, after 1 January 2009 is required to be made through bank account.
For implementation of this article shall be issued a sub-legal act.

Article 10

After paragraph 6 of article 13, two new paragraphs 13.7 and 13.8 are added, reading as follows:

13.7 With the exception of the deadline specified in paragraph 14.1 of the Law, but not later than the date that the final assessment report is submitted, the taxpayer is allowed to provide new evidence if he/she could not present those documents due to causes which are beyond his/her control.

13.8 Any document provided beyond the deadline in 13.7 shall not be considered by Appeals department in any subsequent appeal submitted by the taxpayer.

Article 11

After paragraph 3 of article 14 of the Law the new paragraph 14.4 is added with the following text:

14.4 The above article 14.3 is not applicable for banks and other financial institutions that are required to inform TAK with regard to bank accounts, bank transactions, bank incomes and deposits upon request of TAK.

Article 12

After paragraph 6 of article 17 four new paragraphs, 17.7, 17.8, 17.9 and 17.10, are added with the following reading:

17.7 Where the TAK data contain sufficient information on an unfilled liability for a tax period, TAK may make immediate assessment based on this data. The procedures to be followed with regard of application of this article shall be regulated by a sub-legal act.

17. 8 Allowable Expenditure

For determination of taxable income, the taxpayer is allowed a reduction from gross income, costs paid in or outside the country, if these costs in full or in part are in connection with

economic activity performed during that tax period and if those costs are supported by evidence to prove the costs incurred and the payments made.

17.9 SHORTAGE OF GOODS (Un-depreciable goods) Damage, destruction, burning and other losses

For determination of tax, in case of damage, destruction or burning of goods to be accepted as economic activity costs, the taxpayer is required to document the lack of goods with persuasive documents issued by competent bodies.

If the taxpayer does not document lack of goods following an appropriate request by TAK, then such goods shall be considered as goods sold.

17.10 In the context of assessment of tax liability, the terms and requirements for acceptance of costs from paragraphs 17.8 and 17.9 shall be regulated by a sub-legal act.

**Article 13
Cancellation of Tax Documents**

After the article 20 of the present law a new Article 20A is added reading as follows:

20A.1 The Director General can cancel any tax document issued by TAK if it is determined any violation of tax legislation.

20A.2 The Director General may publish a notice in newspapers of general circulation and on the tax administration web site when a taxpayer certificate has been withdrawn so that other businesses can become aware of the withdrawal and its impact on their ability to engage in legal transactions with that business. The ability to publish such notices will also include the authority to publish a notice of non-issuance of a fiscal number as provided in Article 7 of this law, if the tax administration has not been able to verify the existence or address of an entity that has submitted registration documents to the Business Registration Agency.

20A.3 For the implementation of paragraph 1 of this article, the Minister of Economy and Finance shall issue a sub-legal act to define the conditions and way of cancellation of tax documents and issuance of public notices.

Article 14

In Articles 21.6, 25.1 and 25.2, the word Banking and Payments of Kosovo shall be replaced by the word Central Banking Authority of Kosovo (CBAK).

Article 15

After paragraph 4 of the Article 22 new paragraphs 22.5 and 22.6 are added reading as follows:

22.5 Notwithstanding paragraph 1 of Article 22 when the taxpayers submit a request to TAK for payment of tax by installment agreements, interest shall not accrue from the month of agreement conclusion if the agreement is respected.

22.6 Failure to comply with the agreement will result in reinstatement of interest due. If a taxpayer requests a subsequent agreement for the same liability, the provisions of 22.5 shall not apply.

Procedures and the length of agreement under 22.5, shall be regulated by a sub-legal act.

Article 16

In paragraph 1 of article 23 of the Law the order of payment is changed as following:

- a) collection costs,
- b) the amount of any tax due,
- c) sanctions and fines and
- d) interest

Article 17

Article 24 of the Law shall be revised as follows:

24.1 Any amount of any tax paid in excess of the amount due shall be applied to the taxpayer's current liability for any other tax or pension contribution due. TAK shall deliver to the taxpayer a notice in writing when such excess payment has been applied to another liability, advising the taxpayer of the amount of credit applied, tax and tax period.

24.2 Where the taxpayer has no other outstanding tax debts owing to TAK, or where there remains an amount of tax overpaid after applying the excess referred to in paragraph 1 of the present article, the taxpayer is entitled to claim a refund from TAK for the amount remaining overpaid.

24.3 The claim for credit and refund of any overpayment of any type of tax may be filed within six (6) years from the date such tax was paid. The location and procedure for claiming a tax refund and determination of adjustment of such refund shall be regulated by sub-legal act.

24.4 TAK shall action an allowable claim for refund within sixty (60) days from the day TAK received the claim from the taxpayer, by ensuring that details of the amount to be refunded are timely forwarded to the Ministry of Finance and Economy or, in case of pension contributions, to the Republic of Kosovo Pension Saving Trust.

24.5 In case when a taxpayer is entitled to a refund under paragraph 2 of the present article and that refund has not been applied within the time provided in paragraph 4 of this article, TAK shall pay to the taxpayer, in addition to the amount determined by TAK to be refunded, interest at a rate prescribed by the Ministry of Finance and Economy. When TAK determines that a refund should not be issued, or it should be withheld for administrative reasons in accordance with applicable law, interest will not be due on the amount not issued or withheld.

24.6 Interest under 24.5 shall begin to accrue on the 61st day following the receipt of the claim for refund.

Article 18

Paragraph 1 of Article 27 is revised as follows:

27.1 If a person who is liable to pay any tax to TAK under legislation applicable in Kosovo neglects or refuses to pay that tax within 10 days after delivery of an assessment notice, a lien shall arise on all property, or rights to property, belonging to that person (whether movable, immovable, tangible, or intangible) in an amount equal to the unpaid tax, plus interest, sanctions, and the costs of collection.

After paragraph 6 of Article 27, are added 6 new paragraphs, 27.7, 27.8, 27.9, 27.10, 27.11, and 27.12, are added.

27.7 The lien described in Paragraph 1 of Article 27 of the law, also attaches to all property belonging to a third party, who is deemed to be the beneficial owner of a business which has incurred a tax liability, even though the business has been registered in another name and the tax liability has been incurred in that other name. In such circumstances, the lien will include language to show that it not only attaches to the property of the taxpayer in whose name the business is registered, but it also attaches to the property of (name) as beneficial owner of the business in which the tax debt has been incurred.

27.8 The lien described in paragraph 1 of article 27of the Law also attaches to any property of the taxpayer which is held by a third person who is determined to be holding the property as a nominee of the taxpayer. In such circumstances, the lien will include language to show that it attaches not only to property of the taxpayer, but it also attaches to specific property held by another person as a nominee of the taxpayer.

27.9 Any lien under 27.7 and 27.8 so recorded will be enforceable in the same manner as any other lien provided in Article 27.1.

A sub-legal act shall be issued to establish the procedure that shall be applied and the basic criteria to determine the persons mentioned in paragraph 27.7 and 27.8.

27.10 Discharge of Property

TAK may issue a certificate of discharge of any part of the property subject to the tax lien if:

- a) There is paid over to the Tax Administration in partial satisfaction of the liability secured by the lien an amount determined by the tax administration, which shall not be less than the value, as determined by TAK.
- b) Such part of the property is sold and, pursuant to an agreement with the Tax Administration, the proceeds of such sale are to be held, as a fund subject to the liens and claims of the Tax Administration, in the same manner and with the same priority as such liens and claims had with respect to the discharged property.
- c) Any reasonable and necessary expenses incurred in connection with the sale of the property under b) and the administration of the sale proceeds shall be paid by the applicant or from the proceeds of the sale before satisfaction of any lien or claim of the TAK.

27.11 Socially-Owned Enterprise Debt

With respect to tax debts of Socially-Owned Enterprises:

- a) It is specifically provided that, with respect to tax debts owed by Socially-Owned Enterprises which are under the administrative activity of the Privatization Agency of Kosovo (PAK), the tax administration shall record liens with respect to those tax debts as prescribed in paragraph 27.3 of this article.
- b) TAK will take no other enforcement action with respect to the tax debts of the SOE, nor will it take action to enforce the liens recorded, notwithstanding other provisions of this law. TAK shall have the right to assert its secured claim for the underlying tax debt against the proceeds received by the PAK following the sale of the SOE assets by PAK.
- c) Where an SOE owes a tax debt, the prohibition against TAK enforcing its lien claim on assets of that SOE shall expire as of midnight on 31 December 2010. After that date, TAK shall have the authority to seize any assets of the SOE which have not been sold by the PAK.

27.12 Expiration of Lien

The lien described in 27.1 shall lapse 6 years from the date of assessment and the tax due shall no longer be collectable after that date, except in the following circumstances:

- a) the taxpayer submits an appeal of the tax assessment, in which case the six-year period is extended for the period of time from the date the case is received in TAK Appeals until TAK Appeals has issued its final decision or the period allowed for Appeals consideration has lapsed, plus an additional six months,
- b) the tax debt or assessment has been placed under the jurisdiction of a competent court or the Independent Review Board for any reason, in which case the six-year period is

extended for the period of time from the date the case is received in the court (or Independent Review Board) until the court, or Board, decision is rendered, plus an additional six months,

- c) the taxpayer is a Socially-Owned Enterprise (SOE) subject to privatization by the Privatization Agency of Kosovo (PAK), in which case the six-year period is extended indefinitely and the lien does not expire until 6 months after the final accounting for the distribution of proceeds resulting from privatization has been approved by the competent body;
- d) the taxpayer is a Central Publicly-Owned Enterprise, or Local Publicly-Owned Enterprise, in which case the six-year period is extended indefinitely and the lien does not expire until the liabilities of the POE are fully satisfied;
- e) The taxpayer is outside Republic of Kosovo for a period of time in excess of three months, in which case the six-year period is extended for the period of time the taxpayer is outside Republic of Kosovo and for an additional six months after his return to Republic of Kosovo.
- f) The taxpayer and TAK mutually agree to extend the period of time for collection by written agreement, the length of which will vary according to taxpayer circumstances, but in general should not exceed an additional 24 months.
- g) The assessment date for computation of the six-year collection period shall be the date of the assessment notice issued per Article 20 of this law.

Article 19

In paragraph 5 of the Article 28 of the applicable Law the deadline for selling of seized property is changed from sixty (60) to thirty (30) days. This deadline is valid from the date of seized property until the sale of seized property.

Article 20

Article 30 of the Law becomes 30.1 and a new paragraph 30.2 is added with the following text: 30.2 Procedures for selling at public auction shall be regulated under the special sub-legal act.”

Article 21

Paragraph 3 of Article 31 is revised as follows:

31.3 Actions to collect tax debts must be taken within the statutory period provided by the law, during which the lien is valid as provided in Article 27 of the Law. If collection action has been

initiated against a specific asset, the TAK is authorized to complete that collection action even though it may extend beyond the six 6-year statute or extended statute.

Article 22 Transfers of Assets

After article 35 of the Law a new article 35A as added with the following text:

35A.1 TAK shall have the authority to transfer an assessment of tax to another entity following a transfer of assets (movable or immovable) in the following circumstances:

- a) The taxpayer has transferred assets to another entity either in anticipation of incurring a tax debt or after having incurred a tax debt,
- b) The transfer of assets was for less than fair market value of the assets,
- c) The transfer of assets has left the taxpayer without the capability of paying tax debts and,
- d) TAK has notified the taxpayer and the other entity of the determination that the transfer of assets will result in an assessment against the third party and provided the third party their appeal rights.

35A.2 The amount of tax to be assessed against the other entity shall be the lesser of the tax due from the taxpayer, or the value of the property transferred.

35A.3 A transfer made within three (3) months of incurring a tax debt shall be considered as having been made in anticipation of incurring a tax debt.

35A.4 If the transfer has been made after a tax administration lien as provided in Article 27 has been recorded in the appropriate registry without satisfying the tax debt to which that lien applies, the tax lien will be considered to attach to the transferred property and the transferred property will be subject to the levy procedures provided in Article 28 of the Law.

35A.5 The procedures to be followed in establishing an assessment against another entity recipient of transferred assets will be determined by a sub-legal act.

Article 23

After paragraph 2 in Article 36 a new paragraph is added with the following text:

36.3 Where a tax liability has become uncollectible as a result of the expiration of the collection statute as provided in Article 27, TAK may clear those liabilities from its records when the

provisions of Article 27 and Article 31.3 have been met. TAK shall include in its annual report to the Minister and Competent Body the amount of debts cancelled because of this provision.

Article 24

Title of article 40 “Exchange Transactions” is changed to “Exchange Transactions and Third Party Information Reporting

After paragraph 2 of article 40 of the Law are added new paragraphs 40.3, 40.4, 40.5 and 40.6 with the following text:

40.3 Payments of five hundred (500) Euros or more

All persons engaged in a trade or business, who are taxed on income real bases and making purchases of goods or services from another taxable person totaling five hundred (500) Euros or more in any taxable year, shall render a true and accurate return reporting such purchases to the TAK. Purchases made by the Government and the municipalities of Republic of Kosovo are also subject to these reporting requirements. Obligatory annual declarations under this article must be submitted at the Tax Administration not later than March 31 of following year.

40.4 Seller to furnish name and address

When necessary to make effective the provisions of this section, the name, address and Taxpayer Identification Number of the seller of goods or services shall be furnished upon demand of the purchaser.

40.5 Penalty for failure to submit information return

Each entity, except for governmental and municipal, required to submit information returns under this article, which fails to submit the information return, shall be subject to a penalty up to five hundred (500) euro

40.6 The Minister shall issue a sub-legal act setting forth the format in which the above reports are to be submitted to the TAK, including the ability to mandate conditions under which forms must be submitted in an acceptable electronic format.

Article 25

25.1 Paragraph 1 of the Article 41 of the Law shall be transferred as paragraph 7 of the Article 17 of the Law with the same content.

25.2 Paragraph 2 of the Article 41 is deleted.

Article 26
Administrative Penalty with respect to Fiscal Certification

After Article 42 of the Law new paragraphs are added with following text:

43.1 Any person who performs an activity without being provided with a Fiscal Certificate or without being registered with TAK, under criteria defined in article 7 of present law shall be liable to a penalty up to five hundred (500) Euro.

43.2 When it is determined that a taxpayer carries out an activity without a fiscal number, then TAK shall issue a fiscal number and apply the penalty as defined in paragraph 1 of this article.

43.3 In addition, TAK shall provide the business registry of the details of the un-registered business.

Article 27
Administrative Penalties with respect to Failure to File and Pay

Article 43 and 44 of the Law are deleted and replaced with one new article with the following text:

44.1 When a person required to file a tax return under the applicable legislation in Republic of Kosovo fails to do so by the due date, such person is subject to an administrative penalty of five percent (5%) of due tax for each month or part of the month that is late, with a maximum administrative penalty of twenty five percent (25%) of tax due.

44.2 When a person required to pay tax under the applicable legislation in Republic of Kosovo fails to pay the full or part of such tax by the due date, such person is subject to an administrative penalty of one percent (1%) of tax due for each month or part of the month that payment is late, up to maximum twelve months (12).

44.3 **Penalties are not concurrent at the same time** – The administrative penalty provided in article 44.2 shall not be applied for any month or part of the month during which the administrative penalty provided in article 44.1 is applied.

Article 28
Administrative Penalties Related to Understatements of Tax and Overstatements of Tax Refunds

Paragraph 1 of Article 45 of the Law is amended with the following text:

45.1 When a person who is required to complete a tax declaration under legislation applicable in Republic of Kosovo understates the correct amount of tax due, or overstates the correct amount of a tax refund to which they are entitled, such person shall be liable to an administrative penalty of:

- a) Fifteen percent (15%) of the difference between the correct amount of tax required to be declared and the amount of tax actually declared where such understatement or overstatement is 10% or less.
- b) Twenty-five percent (25%) of the difference between the correct amount of tax required to be declared and the amount of tax actually declared where such understatement or overstatement under 45.1(a) is more than 10% of the correct tax amount, or
- c) One hundred percent (100%) of the difference between the correct amount of tax required to be declared and the amount of tax actually declared where such understatement or overstatement was deliberate and willful and as such it is concluded by a competent court.

Article 29

The Article 46 of the law is amended and replaced with the following text:

46.1 Failure to file information statement - Any person who is required to file an information statement with TAK and who fails to do so by the due date or who files an inaccurate or incomplete statement shall be liable to a sanction of one hundred twenty five (125) Euros.

46.2 Failure to create or retain records - Any person who is required to create or retain records under the legislation applicable in Republic of Kosovo and who fails to do so shall be liable to an administrative penalty as follows:

- a) Entities with annual turnover in up to thirty thousand (30,000) euros – an administrative penalty of one hundred twenty five (125)Euros,
- b) Entities with annual turnover from thirty thousand (30,000) Euros up to two hundred thousand (200,000) Euros – an administrative penalty of two hundred fifty (250) Euros,
- c) Entities with annual turnover from two hundred thousand (200,000) Euros up to 500,000 Euros – an administrative penalty of five hundred (500) Euros,
- d) Entities with annual turnover of five hundred thousand (500,000) Euros and above – an administrative penalty of one thousand (1,000) Euros.

46.3 The base for calculating the administrative penalty provided in paragraph 2 is the turnover of the previous fiscal year. For new businesses, the base is the real turnover of the current year.

46.4 Procedural rules for establishing the time within which transactions should be entered into the books of account for purposes of the penalty provided in paragraph 2 will be regulated with a sub-legal act.

46.5 Failure to provide access to books and records - Any person who is required to provide access to books or records or otherwise comply with Articles 13 and 14 of the law, and who fails to do so, shall be liable to an administrative penalty of one hundred (100) Euros for each day of default following the date specified by TAK. In such cases, TAK may also request a warrant from a judge authorizing the entry or access sought under Articles 13 or 14 of the Law

Article 30 **Penalties for failure to withhold tax**

The Article 47 of the Law is amended and replaced with the following text:

47.1. Where a legal entity, or any organization other than a personal business enterprise, has failed to withhold, collect, or pay over a withholding tax or collected tax, any person responsible for withholding, collecting or paying over such tax, and who willfully fails to withhold, collect, or pay over that tax, shall be liable to an administrative penalty equal to the amount of the tax not withheld, collected or not paid over. For the purposes of this paragraph, willfulness shall be determined if the person(s) deemed responsible paid, authorized to be paid, directed to be paid, or allowed to be paid other creditors when that person knew, or should have known that the withholding tax or collected tax had not been collected, withheld, or paid over.

47.2. a) where a legal entity, or any organization other than a personal business enterprise, has failed to withhold, collect, or pay over a pension contribution, any person responsible for withholding and paying to the Kosovo Pension Savings Trust such pension contributions, and who willfully fails to withhold any such contributions or who willfully fails to pay any withheld contributions shall be liable to an administrative penalty equal to the amount of the contribution not withheld or not paid over to the Trust.

b) for the purposes of paragraph 47.2 (a), willfulness shall be determined if the person(s) deemed responsible paid, authorized to be paid, directed to be paid, or allowed to be paid other creditors when that person knew, or should have known that the withholding tax or collected tax had not been collected, withheld, or paid over.

47.3. The amount of the penalty provided in 47.1 and 47.2 is limited to the amount of tax not collected, withheld, or paid over. If, after assessing this penalty against responsible persons, the legal entity, or organization other than a personal business enterprise, pays the tax that was due to be collected, withheld, or paid over, the amount assessed against the responsible persons shall be abated and any liens filed shall be released.

47.4. The penalty provided in 47.1 and 47.2 may be assessed against one or more persons deemed to be responsible for the failure of the legal entity or other organization to withhold, collect or pay over a withholding or collected tax. However, the total amount of tax not withheld, collected or paid over can be collected only one time. Once the full tax amount has been paid by any entity, organization, responsible person, or combination thereof, any remaining penalty amounts due from responsible persons shall be abated and any liens filed shall be released.

47.5 Any person who fails or refuses to surrender any property subject to levy without reasonable cause under Article 29.3 of the Law shall be liable for an administrative penalty equal to 50 percent (50%) of the amount recoverable under Article 29.2 of the Law.

47.6 Any person who fails to set aside money as required under Article 33.1 shall be liable to an administrative penalty equal to that amount of money in question.

47.7 In cases when the employer is not required to withhold the tax or pension contributions, then the employee must file a declaration and pay in the end of the year.

Article 31
Administrative Penalty for errors by Taxpayer Representatives, Tax Advisors, or other persons acting on behalf of a taxpayer

The Article 48 of the law is amended with the following text:

Any person who signs a tax declaration on behalf of another person, who makes an error on such declaration, shall pay an administrative penalty of one hundred twenty five (125) Euros.

Article 32
Administrative Penalties with regard to VAT

Article 49 of the Law is amended and is replaced with the following text:

49.1 A taxpayer who makes supplies without being registered for VAT shall be liable for the VAT due on those supplies plus an administrative penalty of:

- a) Fifteen percent (15%) of the VAT due on those supplies if failure to register is due to negligence of person making taxable sales of less than ten thousand (10,000) €
- b) Twenty-five percent (25%) of the VAT due on those supplies if failure to register is due to negligence of person making taxable sales of ten thousand (10,000) € or more.
- c) One hundred percent (100%) of the VAT due on those supplies where the failure to register was due to a deliberate and willful attempt by the taxable person to not pay VAT on those supplies, determined by a competent court in a criminal tax evasion case.

49.2. A taxable person who fails to issue a VAT invoice, or other document serving as an invoice, or who issues an incorrect invoice that results in an apparent decrease in the amount of VAT due or an apparent increase in the amount of credit claimable shall be liable for that decrease in amount due or that increase in the amount of credit claimable in respect of the invoice or transaction, plus an administrative penalty of:

- a) fifteen (15%) of the apparent decrease or increase in the amount of VAT due where the failure to issue a VAT invoice or the issue of an incorrect invoice was due to the negligence of the taxable person or
- b) twenty-five percent (25%) of the apparent decrease or increase in the amount of VAT due where the failure to issue a VAT invoice or the issuance of an incorrect invoice was due to the gross carelessness (failure to issue an invoice for a taxable supply in excess of one thousand (1,000) € or issuing an incorrect invoice that is more than € five hundred (500) above or below the amount that should have been included in the invoice) of the taxable person or
- c) one hundred percent (100%) of the apparent decrease or increase in the amount of VAT due where the failure to issue a VAT invoice or the issue of an incorrect invoice was due to a deliberate and willful attempt by the taxable person to either not issue a VAT invoice or to issue a false invoice as determined by a competent court in a criminal tax evasion case.

49.3 A taxable person who commits any of the following violations with respect to VAT shall be liable to an administrative penalty of two hundred fifty (250) Euro for each violation:

- a) failure to apply for VAT registration upon reaching the applicable threshold under the VAT law, or failure to apply for removal from the VAT register when required to do so under applicable law,
- b) failure to display a copy of the VAT registration certificate in the manner required -by applicable law.

49.4 A taxpayer registered for VAT who allows another person to use its unique VAT registration certificate shall be liable to an administrative penalty of up to five thousand (5000) Euro. The person using a VAT Certificate belonging to someone else will be liable for the same administrative penalty. In addition to the administrative penalties, such cases shall be presented to the Public Prosecutor for criminal prosecution.

Article 33

Administrative Penalties for goods without origin

After the Article 49 of the Law a new text 49A is added as follows:

49A Undocumented Goods – Where a person possesses goods without origin, such goods may be seized and taken into protective custody by TAK. In such case, the procedures for seizure and sale of these goods shall be governed by the provisions of Articles 28, 29, and 30 of the Law.

Article 34

To the existing Article 51, new paragraphs, 51.3, 51.4 and 51.5 are added with the following text:

51.3 If a person liable to any tax proves reasonable cause, good faith, undue hardship or other grounds that will enhance the effectiveness of TAK, TAK may reduce or waive any assessed penalty on a case-by-case basis.

51.4 A commission appointed by the Director General shall consider requests for penalty reduction and issue a determination based on the review of all facts and circumstances.

51.5 For the implementation of this article the Minister shall issue a sub-legal act

Article 35

35.1 In Article 52.2 the deadline for filing an appeal against assessment-notice or any other official decision of TAK shall be changed from sixty (60) days to thirty (30) days from the date that the person has received an official notice.

35.2 Paragraph 3 of the Article 52 is changed by the following text:

52.3 The deadline for appealing against any official decision issued by TAK specified in paragraph 1 of this article can be extended if the taxpayer demonstrates reasonable circumstances that might have prevented him or her from respecting the legal deadline and such circumstances are out of taxpayers control or are such that if a deadline is not extended it might result in unfairness toward the person. The delay of the deadline shall be compatible with Law on Administrative Procedures No. 02/L-28.

35.3 In Article 52.7 of the Law the deadline for exercising an appeal by the Independent Review Board against the decision of Appeals Department is changed from sixty (60) days to thirty (30) days from the date of receiving the decision by the Appeals Department.

35.4 After paragraph 7 of the Article 52.7 is added the new paragraph 52.8 with the following text and paragraph 52.8 becomes paragraph 52.9.

52.8 If Appeals is unable to make a decision on the case based on the information provided by either the taxpayer or the TAK, Appeals may request additional information from either the taxpayer or the TAK or both. The time limits within which appeals must make their decision on the case will be suspended from the date the additional information is requested until the date the additional information is received.

Two new paragraphs 52.10 and 52.11 are added after paragraph 52.9, as following:

52.10. Only if foreseen otherwise by this law, the provisions related to appeal procedures in the Law on Tax Administration and Procedures have priority and exclude the application of provisions of the Law on Administrative Procedure.

52.11 Decision of the Independent Review Board regarding the appeal is a final decision. Against this decision can be open only an administrative conflict to the competent court.

Article 36

In Article 53.2 the number of Board members to be increased by two (2) new members, from fifteen (15) to seventeen (17). The nomination is to be done as for the other seven (7) members in the time period of one year.

Article 37

37.1 In Article 54.4 is deleted the word 'only when the article 54.5 is applied' the rest of the text remains the same.

37.2 Paragraph 5 of the Article 54 is repealed.

Article 38

On paragraph 2 of article 57 is changed with the following text:

57.2 Notwithstanding Articles 57.1 tax collection through levy is prohibited until the expiration date within which period a taxpayer is able to file an appeal to Independent Review Board under Article 54.1 or until the Board has not made any decision under Article 54.6, whichever is the last deadline.

Article 39

Keeping the TAK integrity and Anti-Corruption

After article 59 of the Law is added a new article 60 and article 60 of the existing law will be 62. The text of the article 60 is as following:

60.1 The Professional Standard Office (PSO) within TAK shall have the authority to investigate all allegations of TAK employee misconduct, all allegations of internal and external attempts to corrupt tax officials (including bribery attempts), all alleged violations of the TAK Code of Conduct and any other activities of employees or citizens which threaten the security or integrity of the TAK or its employees.

60.2 For the implementation of paragraph 1 of this article The Professional Standard Office (PSO) will have the authority to:

- a) interview witnesses both inside and outside the Tax administration,
- b) interview any third person who may have information that will assist in an investigation,
- c) compel testimony, information which will assist in an authorized investigation, including the production of bank records,
- d) prepare reports of investigation with recommendations for prosecution in appropriate cases and submit those reports through the TAK legal office to the prosecutors office,
- e) determine whether the matter under investigation should be dealt with administratively or through criminal proceedings,
- f) assist in the arrest of individuals deemed to be guilty of any act covered by this article, after such action is authorized by the public prosecutor,
- g) request information from police, courts, registries, municipalities, and other bodies to verify employment application data, financial status and assets, and other purposes related to anti-corruption and internal security investigations of TAK.
- h) conduct joint investigations with police and other law enforcement agencies in matters related to internal security, allegations of employee misconduct, and other activities of employees or citizens which may threaten the integrity or security of the tax administration,
- i) assist police and other law enforcement agencies in investigations which they have initiated related to alleged criminal code violations of TAK employees.
- j) liaise and exchange information with police and law enforcement agencies for the purpose of ensuring the integrity and security of the tax administration.

60.3 In case of prevention either by an employee or by any other person in carrying out the authorities as determined by Paragraph 2 of this article, the Unit may request authorization for assistance from the competent Public Prosecutor.

60.4 Any official of the Professional Standards Office who is undertaking an investigation or proceeding in relation to a criminal offense under this article shall conduct the investigation in accordance with the applicable provisions of UNMIK Regulation 2003/26, Provisional Criminal Code of Kosovo, or its successor. Officials of the Professional Standards Office are authorized to investigate those offenses enumerated in Chapter 29 (Criminal Offenses against Public Duty) of UNMIK Regulation 2003/25, or its successor.

60.5 Procedures and functions of the unit shall be regulated by a sub-legal act.

Article 40 **Temporary International Measures**

After article 60 is added a new article 61 and article 61 of the existing law will be 63. The text of the article 61 is as following:

61.1 Where the existing taxation laws of Kosovo relative to international taxation do not address taxation of international transactions, they may be supplemented by application of the principles of the OECD (Model Tax Convention of Income and Capital).

61.2 Where the existing tax laws relative to the international juridical double taxation of income and capital of persons in Republic of Kosovo do not address such taxation, the principles of the OECD Model Tax Convention on Income and on Capital shall apply in order to avoid double taxation of such income and capital.

61.3 Where the existing tax laws relative to the VAT taxation of transactions in respect of goods and services do not address such taxation, they may be supplemented by the principles of the EC Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax.

61.4 In accordance with Article 9 of the present law, the Director General may issue public rulings, either in general or on a case-by-case basis, to supplement the provisions of existing income tax or VAT laws in accordance with Articles 61.1 through 61.3 above. Upon entering a mutual tax convention with a contracting state, rulings under this Article with respect to transactions between Republic of Kosovo and that contracting state will no longer be authorized.

61.5 As necessary for implementation of VAT relative to goods and services, the Minister of Economy and Finance may issue public rulings that supersede the existing provisions of the VAT Law, so long as the rulings are in accord with the EC Council Directive 2006/11/EC of 28 November 2006 and such rulings are agreed by Government. Upon adoption of a new or revised VAT Law by the Assembly, rulings under this Article will no longer be authorized.

Article 41 **Sub-legal acts**

Article 60 of the existing law is replaced by the following text and numbering will be 62:

62.1 The Minister of Economy and Finance shall have the authority to promulgate, in writing, implementing regulations (sub-legal acts) of general applicability as may be necessary and appropriate to further the proper, reasonable and uniform interpretation and application of the present law. Such implementing regulations shall be administered and applied by the TAK. No such implementing regulation shall have or be given any legal effect until properly published

in the Official Gazette of Kosovo and otherwise made publicly available by the TAK in accordance with the Law on Access to Official Documents. Any person affected by such an implementing regulation who believes such regulation to be inconsistent with or not authorized by the present law may contest the validity of such regulation directly to the Independent Review Board as provided for in Article 54.1(d) of the existing law and subsequently to a court of competent jurisdiction as provided for in Article 56 of the existing law.

62.2 Sub-legal acts from articles 4, 6, 7, 9, 12, 13, 15, 17, 18, 20, 22, 24, 29, 34, and 39 for the implementation of present Law shall be issued within 6 months from the date of entry into force of present Law.

The article 62 of the existing law will be article 64.

Article 42 Entry into Force

This law enters into force fifteen (15) days after publication in the Official Gazette of the Republic of Kosovo, with the exception of Article 24 of present Law enters into force by the 1 January after the year the Minister issues the sub-legal act referring to the implementation of this article.

**Law No. 03/L-071
4 December 2008**

President of the Assembly of the Republic of Kosovo

Jakup KRASNIQI