

**REGULATION NO. 2007/22**

**AMENDING UNMIK REGULATION NO. 2004/51  
ON CORPORATE INCOME TAX**

The Special Representative of the Secretary-General,

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

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo,

Acting at the request of the Government and having consulted with the Economic and Fiscal Council,

For the purpose of amending UNMIK Regulation No. 2004/51 of 4 December 2004 On Corporate Income Tax to change the definition of permanent establishment,

Hereby promulgates the following:

Section 1  
Amendment

1.1 The definition of “permanent establishment” in Section 1(l) of UNMIK Regulation No. 2004/51 of 4 December 2004 On Corporate Income Tax shall be replaced by the following definition:

“(l) “Permanent establishment” has the meaning given to it by section 1A of the present law;”

1.2 The following additional definitions shall be added to Section 1 of UNMIK Regulation No. 2004/51 of 4 December 2004 On Corporate Income Tax:

“(s) “Real estate” means all land and buildings, and all units within buildings such as apartments or areas for commercial purposes; and

(t) “Immovable property” means all real estate and establishments and structures below or above the land surface and connected to the land.

1.3 Paragraph (d) of section 2 shall be deleted and substituted by a new paragraph (d) with the following wording:

“(d) a non-resident person with a permanent establishment in Kosovo, subject to the provision of section 3.2.”

Section 2  
Addition

The following shall be inserted after Section 1 of UNMIK Regulation No. 2004/51 of 4 December 2004 On Corporate Income Tax:

“Section 1A  
Permanent Establishment”

1A.1 Subject to the following provisions of this section, in the present Regulation “permanent establishment” means a fixed place of business through which the business of a non-resident person is wholly or partly carried on in Kosovo.

1A.2 “Permanent establishment” shall include:

- (a) Any place of management;
- (b) Any branch;
- (c) Any office;
- (d) Any factory;
- (e) Any workshop;
- (f) Any mine; and

(g) Any oil or gas source, quarry or other place of exploitation of natural resources.

1A.3 “Permanent establishment” shall also include;

(a) Any building site, construction, assembly or installation project, or supervisory activity in connection therewith, but only if such site, project or activity lasts longer than 183 days. Where the site, project, or activity lasts longer than 183 days, including any preparatory activity, the site, project, or activity shall be deemed to have been or created a permanent establishment from the day such work was commenced;

(b) The furnishing of any service, including any consultancy service but excluding any supervisory activity referred to in section 1A.3(a), carried out in Kosovo by a non-resident person through employees or other personnel, but only if such activities continue within Kosovo for a period or periods totaling 90 days or more within any twelve-month period. Where the activities do continue within Kosovo for a period or periods totaling 90 days or more within a twelve-month period, the activities shall be deemed to have created a permanent establishment from the day such activities commenced;

(c) Any site used for the search for natural resources within Kosovo, where such activities within Kosovo continue for a period or periods totaling 183 days or more within any twelve-month period. Where the activities do continue for a period or periods totaling 183 days or more within a twelve-month period, the activities shall be deemed to have created a permanent establishment from the day such activities commenced; and

(d) Any immovable property situated in Kosovo and owned by a non-resident person.

1A.4 Notwithstanding subsections 1A.1 and 1A.2 of the present section, where a person, other than an agent of an independent status to whom section 1A.7 applies, acts in Kosovo on behalf of a non-resident person, the non-resident person shall be deemed to have a permanent establishment in Kosovo in respect of the activities which that person undertakes for the non-resident person, if such a person:

(a) Has and habitually exercises in Kosovo an authority to conclude contracts in the name of the non-resident person, unless the activities of such person are limited to those mentioned in section 1A.6 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that subsection; or

(b) Has no such authority, but habitually maintains in Kosovo a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the taxpayer.

1A.5 A non-resident person who provides insurance shall, except in regard to re-insurance, be deemed to have a permanent establishment in Kosovo if it collects premiums in Kosovo or insures risks situated in Kosovo through a person other than an agent of an independent status to whom Section 1A. 7 applies.

1A.6 Notwithstanding subsections 1A.1, 1A.2 and 1A.3 of the present section, “permanent establishment” shall be deemed not to include:

(a) The use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the non-resident person;

(b) The maintenance of a stock of goods or merchandise belonging to the non-resident person solely for the purpose of storage or display;

(c) The maintenance of a stock of goods or merchandise belonging to the non-resident person solely for the purpose of processing by another taxpayer;

(d) The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information for the non-resident person;

(e) The maintenance of a fixed place of business solely for the purpose of carrying on, for the non-resident person, any other activity of a preparatory or auxiliary character; and

(f) The maintenance of a fixed place of business solely for any combination of activities mentioned in paragraphs (a) to (e) of the present subsection, provided that the overall activity of the fixed place of business resulting from this combination is only of a preparatory or auxiliary character.

1A.7 A non-resident person shall not be deemed to have a permanent establishment in Kosovo merely because it carries on business in Kosovo through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that taxpayer, and conditions are made or imposed between that taxpayer and the agent in their commercial and financial relations which differ from those which would have been made between independent taxpayers, he will not be considered an agent of an independent status within the meaning of this subsection.

1A.8 The fact that a non-resident person controls or is controlled by a company which is a resident of Kosovo, or which carries on business in Kosovo (whether through a permanent establishment or otherwise), shall not of itself deem either company a permanent establishment of the other.”

Section 3  
Entry into Force

The present Regulation shall enter into force on 6 August 2007.

Joachim Rücker  
Special Representative of the Secretary-General