



Pursuant to the provisions of Article 9 of the Law No. 03/L-222 on the Tax Administration and Procedures, the Director of Tax Administration of Kosovo, issues:

PUBLIC EXPLANATORY DECISION NO. 06 / 2014 TAXATION OF THE PENSIONS IN CASE OF WITHDRAWAL FROM KPST

PURPOSE

The purpose of this Public Explanatory Decision is to clarify tax liabilities, respectively the way of declaration and payments of Personal Income Tax for the taxpayers that benefit incomes on behalf of pensions in total amount and including that in phases.

DEFINITIONS

For purpose of this Public Explanatory Decision, the following definitions have this meaning:

KPST – Kosovo Pension Saving Trust – a legal entity created by Law on Pension for the purpose of providing Savings Pensions to residents of Kosovo as further described in Chapter III of Law on Pension Funds of Kosovo.

Supplementary Fund – is third pillar of pension system in Kosovo and it is also licensed institution from Kosovo Central Bank.

Pension – a regular monthly payment made to a participant (or beneficiary) for life, beginning at pension age, disability or death of the participant according to the Law No. 04/L-101 on Pension Fund and Law No. 04/L-168 on amending and supplementing Law No. 04/L-101.

Participant – a natural person on whose behalf contributions are made by the Employer or the participant to the Kosovo Pensions Savings Trust, any Supplementary Employer Pension Fund or any Pensions provider licensed under the Law No.04/L-101 on Pension Fund and Law No. 04/L-168 on amending and supplementing Law No. 04/L-101.

Beneficiary – a natural person designated by a Participant or if the participant has made no designation or if the designated beneficiary pre-deceases the participant, then the participant's heirs who are natural persons, who is (are) or may become entitled to Pension assets on the basis of the participant's rights.

TAK – Tax Administration of Kosovo, a unit within Ministry of Finance responsible for collecting taxes and pension contribution in Kosovo. As authorized for collecting them it sets rules for functioning of this process.

Employee – a natural person who performs work for wages under the direction and control of an employer, regardless of whether the work is performed under a contract, or any other form of agreement whether in writing or not. An employee includes all public officials and members of legislative, executive and judicial bodies.

Self-employed person – any natural person who works for personal gain, in cash or in kind, who is not covered by the definition of an employee according to Law No.03/L-161 on Personal Income Tax.

Employer – any natural person or entity that pays wages and includes: a public authority, a permanent establishment of a non-resident person, international organization including KFOR, with the exception of United Nations, its specialized agencies and the International Atomic Energy Agency.

EDI – is electronic form of declaration (on-line), payment of taxes and pension contributions.

LEGAL BASE

Regulation on payment of individual savings pensions:

According to CBK Regulation approved on October 30, 2014 on Payment of Individual Savings Pensions, the Fund and Pension provider may create rules in order to make payments of pensions benefits different from purchase of annuity contract in cases when:

- a. *The amount in participant's individual account is 2,250€ or less, the Fund and Pension Provider might pay the total amount.*
- b. *The amount of pension contribution in participant's individual account is higher than 2,250 € up to 15,000€; the participant has the right to withdraw at once 20% of pension amount from individual account whereas the remain part should be paid through withdrawal program in phases expressed in percentage of account's balance suggested by Fund and pension provider, that should be approved from KCB.*

- c. *The amount in participant's account is over 15,000€, the participant has the right to withdraw at once 20% of pension amount from individual account whereas the remain part should be paid through withdrawal program in phases expressed in percentage of account's balance suggested by Fund and pension provider, that should be approved from KCB.*

For participants that have reached disability status prior to pension age, KPST should carry forward partly the balance of contributions for payments in phases for as long as it is designated disability from relevant committee.

Payments in phases for disability pension are calculated based on program of withdrawal in phases of the minimal amount suggested by Fund and pension provider, which should be approved from KCB.

Monthly minimal payment should not be less than base pension paid in Republic of Kosovo. Suggestion is made from industry of pension and it is approved from KCB.

The payment of contribution is made on behalf of participant's beneficiaries, which has died prior pension age determined by applicable law or before reaching at the plan of payments in phases or effective contract of annuity for paying his/her pension, the amount from participant's individual account may be transferred in beneficiary's individual account if the beneficiary chose so. Also the amount in individual account may be paid in form of giving whole amount or in form of withdrawal in phases based on points a, b and c of this paragraph if the beneficiary chose so.

If the participant who is receiving payments in phases dies before receiving the amount in his individual account, then remained payments will be paid to the beneficiary/s.

Law No. 04/L-101 on Pension Funds of Kosovo and Law No. 04/L-168 on Amending and Supplementing Law No. 04/L-101:

Article 1, Definitions, citation:

"Tax Administration of Kosovo - a unit within Ministry of Finance responsible for collecting taxes and pension contribution in Kosovo".

Article 6, collection of contributions to finance individual savings pensions, citation:

"Each Employer shall be obligated to contribute on behalf of its Employees to the Savings Pension. Employees shall be obligated to contribute on their own behalf for the Savings Pension. The Employer and Employees obligation to contribute begins on the first day of employment with the Employer for Employees who have created working relations and ends when the Employee reaches Pension Age".

Article 12, Individual Savings Pension Payment, citation:

"When a Participant reaches Pension Age he or she will purchase a Savings Pension in one of the forms of Annuities specified in paragraph 12.6. of this Article with the whole or part of the

amount in his or her Individual Account. The CBK shall issue regulations from time to time specifying the minimum monthly Savings Pension that must result from the purchase of the annuity”.

“.....If a Participant dies prior to Pension Age and has not purchased an Annuity in accordance with this Article, the balance on the Participant’s account shall be paid to a Beneficiary or Beneficiaries. Payment can be made in the form of a lump sum or transfer to the Individual Account of the Beneficiary. Persons claiming to be Beneficiaries shall have up to six months after the death of the Participant to submit claims to the Trust....”

“.....If a Participant dies prior to Pension Age and has not purchased an Annuity in accordance with this Article, the balance on the Participant’s account shall be paid to a Beneficiary or Beneficiaries. Payment can be made in the form of a lump sum or transfer to the Individual Account of the Beneficiary. Persons claiming to be Beneficiaries shall have up to six months after the death of the Participant to submit claims to the Trust. The Trust may determine that a Beneficiary who is a legal spouse is entitled to the entire Individual Account and may pay this amount immediately upon such determination. The Trust shall ascertain the reconciled amount standing to the Participant’s Individual Account at the time of payment and shall send any amount determined to be due after the payment is made based on a subsequent reconciliation within ninety (90) days of any subsequent reporting date when it is determined that a reconciled balance is due”.

Article 14, Supplementary Employer Pension Funds, citation:

“Employers may provide Supplementary Employer Pensions through the establishment of Supplementary Employer Pension Funds (“Pension Funds”). Pension Funds are not-for-profit legal entities established in the form of trusts for management of Pension Assets. A Pension Fund shall be established through a Charter signed by the highest governing body of the Employer(s) establishing the Pension Fund pursuant to this Law. The minimum content of the Charter to establish a Pension Fund shall be specified in regulations to be issued by the CBK. The CBK shall approve the content of each Charter. The Pension Assets of the Pension Fund are derived from contributions made by or on behalf of the Pension Fund Participants and investments made with those contributions”.

Article 21, Forms of Supplementary Individual Pensions, citation:

“A natural person may establish a Supplementary Individual Pension for himself by contracting with a licensed bank, open-end vehicle or other financial institution for a trust management of a defined contribution pension or by contracting with a licensed insurance company for a defined benefit pension. All Pensions providers, such as financial institutions, open-end vehicles, banks and insurance companies offering Supplementary Individual Pensions are Fiduciaries of the Participants purchasing pensions”.



Law No. 03/-161 on Personal Income Tax

Article 7, paragraph 1.9 foresees that pensions paid by a previous employer or according to the Law on Pensions in Kosovo will be included in gross incomes, citation:

"Pensions paid by a previous employer or according to the Law on Pensions in Kosovo".

According to Article 6, paragraph 1 – tax rates, citation:

"For taxable income in tax period that begins on 1 January 2009 and following tax periods, personal income tax shall be charged at the following rates:

- 1.1. For taxable income 960 euro or less, zero percent (0%);*
- 1.2. For taxable income over nine hundred and sixty (960) € up to three thousand (3.000) euro, including also the amount of three thousand (3.000) €, four percent (4%) of the amount over nine hundred and sixty (960) €;*
- 1.3. For taxable income over three thousand (3.000) € up to five thousand and four hundred (5.400) €, including also the amount of five thousand and four 8 hundred (5.400) €, eighty-one Euros and sixty cents (€81.6) plus eight percent (8%) of the amount over three thousand (3.000) €; and*
- 1.4. For taxable income over five thousand and four hundred (5.400) €, two hundred and seventy-three Euros and sixty cents (€273.6) plus ten percent (10%) of the amount over five thousand and four hundred (5.400) €*

According to Article 38, paragraph 4 – Withholding tax on wages, citation:

"Pensions paid by, or on behalf of, Kosovo Pension Saving Trust, or by an authorized supplementary pension fund regulated by the law on pension contributions shall be subject to withholding by the payer of such pensions at the rates provided in Article 6 of this law".

According to Article 38, paragraph 5 – Withholding tax on wages, citation:

"Each employer, or person required to withhold according to paragraph 4 of this Article, shall submit a statement of tax withholding and remit the amount of tax withheld to an account designated by the Tax Administration in a bank, or financial institution, licensed by the Central Bank of Kosovo within fifteen (15) days after the last day of each calendar month, in accordance with a sub-legal act issued by the Minister". Examples for illustration



EXAMPLES FOR ILUSTRATION

Tax calculation way based on cases of pension distributions for three categories related with new CBK regulation dated 30 October 2014, may be illustrated as following:

1. The beneficiary has savings in amount of 2,100€ and Fund / pension provider pays total amount.

Taxable incomes	Tax base	Tax norm	Personal Income Tax [€]
0 up to 960	960	0%	0.00
960 up to 2,100	1,140	4%	45.60
<i>Tax liability for the period</i>			45.60

2. The beneficiary has savings in amount of 14,000€ and Fund / pension provider pays the amount of 20%, so the beneficiary receives 2,800€.

Taxable incomes	Tax base	Tax norm	Personal Income Tax [€]
0 up to 960	960	0%	0.00
960 up to 2,800	1,840	4%	73.60
<i>Tax liability for the period</i>			73.60

3. The beneficiary has savings in amount of 35,000€ and Fund / pension provider pays the amount of 20%, so the beneficiary receives 7,000€.

Taxable incomes	Tax base	Tax norm	Personal Income Tax [€]
0 up to 960	960	0%	0.00
960 up to 3,000	2,040	4%	81.60
3,000 up to 5,400	2,400	8%	192.00
5,400 up to 7,000	1,600	10%	160.00
<i>Tax liability for the period</i>			433.60



4. The person who has savings in amount of 17,000€, has died before reaches the pension age and the Fund / pension provider pays to the beneficiary the whole amount of 17,000€.

Taxable incomes	Tax base	Tax norm	Personal Income Tax [€]
0 up to 960	960	0%	0.00
960 up to 3,000	2,040	4%	81.60
3,000 up to 5,400	2,400	8%	192.00
5,400 up to 17,000	11,600	10%	1,160.00
<i>Tax liability for the period</i>			1,433.60

COCLUSION

The amount of saved pensions that will be withdrawn from the beneficiary as a whole amount shall be taxed based on annual rates, as are foreseen with the Law No. 03/L-161 on PIT. Also, the whole amounts that will benefit the successor after the death of beneficiary which has no yet achieved pension age, shall be taxed based on annual rates foreseen with the same Law.

Whereas the amount of saved pensions that will be withdrawn from beneficiary, in phases expressed on percentage, by account balance, suggested from Fund or pension provider, shall be taxed based on monthly rates as foreseen on the Law No. 03/L-161 on PIT.

ENTRY INTO FORCE

This Public Explanatory Decision shall enter into force on 01.01.2015 and shall annul Public Explanatory Decision "Treatment for tax issues of pensions with whole amount" dated 15.07.2009.

Date: 22 / 12 /2014

Prishtinë

General Director, TAK

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