



PROVISIONAL INSTITUTIONS OF SELF-GOVERNMENT  
INSTITUCIONET E PËRKOHSHE TË VETËQEVERISJES  
PRIVREMENE INSTITUCIJE SAMOUPRAVLJANJA



MINISTRY OF ECONOMY AND FINANCE/TAX ADMINISTRATION OF KOSOVO  
MINISTRIA PËR EKONOMI DHE FINANCA/ADMINISTRATA TATIMORE E KOSOVËS  
MINISTARSTVO ZA PRIVREDU I FINANSIJE/PORESKA ADMINISTRACIJA KOSOVA

## Director of Tax Administration of Kosova,

Under the Section 5, paragraph 5.4 item (c) of UNMIK Regulation No. 2001/19 on the Executive Branch of the Provisional Institutions of Self-Government,

Under the section 9 of the Law 2004/48 on Tax Administration and Procedures,

**In order to inform all the public authorities, including here: Central, regional, municipal or local Executive Authorities, Public Bodies, Ministries, Departments, Executive Agencies, Executive, Legislative, Court Power, Companies (Personal businesses, Partnerships, Corporate Companies, Legal Persons etc.) and any body or other organization established based on the public rights, promulgates as following:**

### EXPLANATORY PUBLIC MEMORANDUM ON NON-RESIDENTS

#### LET'S TOGETHER IMPLEMENT THE LAW!

Under the Law No.2004/48 on the Tax Administration and Procedures, Tax Administration of Kosova is an Executive Agency with full operational autonomy within the Ministry of Economy and Finance and the main purpose of its function is administration of laws and other legal acts related to the taxes in Kosova.

Tax Legislation applicable in Kosova (UNMIK Regulation No. 2002/29 on Presumptive Tax, UNMIK Regulation No.2001/11 and 2002/17 on Value Added Tax, Law No. 2004/48 on Tax Administration and Procedures, UNMIK Regulation No. 2004/51 on Corporate Income Tax, UNMIK Regulation No. 2004/52 on Personal Income Tax) with its provisions has defined the Taxpayer and the object of taxation:

- **Taxpayers** according to the Tax Laws in Kosova, shall mean any natural or legal person, resident or non -resident with Kosova source income.
- **The object of taxation** for a non-resident taxpayer shall be taxable income from Kosova Source Income.
- **Non-resident** is a person or group of persons with the effective management place out of Kosova, which is not established in Kosova. Non-Resident means any natural person or entity that is not a resident.
- Non-resident person in Kosova creates **Permanent establishments what means any work place through which a non –resident person does business in Kosova.** This includes but is not limited to: plants, branch offices, factories, workshops and construction sites, etc.
- Non-resident person is obligated to inform Tax Administration of Kosova **on designation of its representative within three weeks**, after starting to generate revenues or after the property is purchased in Kosova.

**Under the UNMIK Regulation No. 2001/3 on Foreign Investments in Kosova,** Foreign Investment (business organization that is at least twenty-five per cent (25%) owned by a foreign investor) shall apply the same rules and regulations as domestic business organization do.

On the other hand, in no event shall a foreign investment be taxed less favorably than a similar domestic business organization.

**According to Administrative Instruction No. 2002/22** on implementation of UNMIK Regulation No.2001.16 on Business Organizations, it is established Office for Business Registration and Trading Names, which operates as an Independent Executive Agency within the Ministry of Trade and Industry.

As it is stated above in order to perform their business in Kosova, non-resident persons shall register a permanent establishment through which they will perform such activities.

They can do such thing under the **Administrative Instruction No. 2003/1 issued by the Ministry of Trade and Industry on April 2003** on the Scope of Business registration Office in Kosova. Under Section 2, paragraph 2.1, item (e), this office is dealing with registration of establishment-representative offices of foreign companies in Kosova. Whereas, Section 9 of the same Administrative Instruction emphasizes the rights of the Foreign Companies to register such establishment in Kosova, filling out an declaration form for the anticipated duration of their operation in Kosova, premise lease contract or the purchase contract of the premises, statute or establishing act of foreign company, disclosure of capital assets and other criteria set by the Business Registration Office.

From the above mentioned, if non resident-persons are interested to perform business activities in Kosova they shall comply with the laws and other applicable rules in Kosova as the domestic business does. Even so, it happens very often when foreign companies participates on the different tenders announced by different contractors or in other forms, perform their services without being registered as establishment or representative office, leave Kosova and never pay the tax liabilities for the incomes generated in Kosova.

Such occurrence has become very common in Kosova, therefore all relevant factors in Kosova involved in any way in this process should be concerned about it.

In the end, through this Memo I appeal to all public authorities in Kosova, in course of making transaction with foreign companies, to apply provisions of legal acts stated above, this means that **in addition to the necessary documentation for these companies, to have the right to exercise any economic activity or to perform services in Kosova they must provide certificate on registration of permanent establishment- representative offices in Kosova** (*such certificate would be asked prior to the signature of respective contracts to perform commercial activities*).

Accurate implementation of these legal provisions facilitate administering of the taxes by the Tax Administration of Kosova, and is on the best interest of Kosova Consolidated Budget, and on the interest of Kosova Citizens

I do hope in your support!

Date: 21.06.2006

Director of Tax Administration of Kosova

Januz KRASNIQI

