



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



To:	Regional Managers
From:	Audit Department
Date:	02.10.2007
Subject:	Public Rulings

Under the Law 2004/48 Section 9, the Director may issue public rulings to explain how TAK shall interpret and apply the provisions of the legislation that it administers in order to provide guidance to persons required to pay tax or to withhold tax.

The purpose of this ruling is the unification of the actions for tackling problems faced with during the implementation of the tax legislation.

Public rulings shall be made available to the public and brought to the attention of persons affected by the rulings.

We will present below some of the Taxpayer's requirements for public rulings on the following problems:

- 1. spoiled goods-because of the expired date, breaches or breakdowns,***
- 2. burned goods ,***
- 3. Expenses, presented by the Taxpayer , occurred out of Kosovo***
- 4. Expenses under the guarantee,***
- 5. Documents issued by fictitious businesses,***
- 6. Registration of the goods on stock .***

Regarding to the deductible expenses for the above mentioned items, for the tax periods for Profit Tax on 2002, 2003 and 2004 we have to refer to the Section 6 of Regulation No. 2002/3 on "Profit Tax in Kosovo " ,and section 2 of Administrative Instruction No. 02/2002 dated 01 April 2002 on implementation of Profit Tax in Kosovo.

Starting from the tax period 2005 and further TAK shall refer to the Section 7 of regulation No. 2004/51 on "Corporate Income Tax" , and Section 3 of Administrative Instruction No. 01/2005 on Corporate Income Tax.

For recognizing the expenses for PIT, we have to refer to Section 9 of the Regulation 2004/52 on Personal Income Tax, and Section 12 of the Instruction No. 02/2005 of this Regulation.

1. Spoiled goods-because of the expired date, breaches or other breakdowns.

Spoilage of the goods which has happened as a result of the expired date, in order to be accepted as deductible expense for tax purposes, shall be documented as following:

- *Purchase documents of the goods being spoiled ,*
- *List of the spoiled goods : name of the spoiled goods, measuring unit, amount of the spoiled goods ,costing price per unit of the spoiled goods, value of the spoiled goods, date of purchase, date of production, expiration date etc.*
- *Document of the respective institutions that can verify spoilage of the goods: report of sanitary institutions and the other associated documents that verifies spoilage of the goods.*

Spoilage of the goods will be accepted as deductible expense for the tax purposes, on the tax period in which the spoilage happened, with costing price used for purchase of goods which have been spoiled.

In the case that goods were insured and the insurance company compensates the goods, then as deductible expense will be the negative difference not covered by the insurance company, but in the case that insurance company will compensate the goods spoiled with higher amount than costing price of the spoiled goods, then the positive difference will be considered as taxable income.

2. Burned goods

In the case when the goods are burned, the costing price of the goods will be recognized as deductible expense for the tax purpose.

If burned goods were insured, and the insurance company will compensate them, the compensated part will be considered as income for the company.

In order to proof that goods were burned, Taxpayer shall present the following documents:

- *Purchase document for the goods,*
- *The Report from the competent bodies showing that goods were burned,*
- *Respective specification showing the quantity of burned goods,*
- *Other possible evidences that documents that goods were burned*

3. Expenses presented by the Taxpayer, occurred out of Kosovo

In order for an expense occurred out of Kosovo to be acceptable as deductible expense for the tax purposes, must be :

- *Fully documented with pertinent documents: Contract, invoices, receipts,*
payment document, traveling ticket, travel order, authorization etc..
- *Must be related exclusively with its business activity.*
- *Must belong to the referred tax period.*

Relating to the nature of the expense, should be and other supporting documents, for example for expenses occurring during the official trip of an authorized person, made out of country : authorization for the person(employee),traveling order(permission), traveling ticket, invoices showing the expenses occurred out of Kosovo, payment document, receipt for food expenses and other supporting documents as well, that can evidence that expenses occurring during official trip are exclusively related to the business activity.

4. Expenses under the guarantee

Expenses under the guarantee will be accepted as deductible expense for tax purpose only for such amount happened within that tax period.

Initially we are going to present an imaginary example that shows how to calculate one product during its sale under the guarantee:

Total amount of the sale of the product is 2,000.00 € This amount includes the value of the product which is 1,500.00 €, whereas 500.00 € is amount of the guarantee that product bears.

Whole amount of the product (2,000.00 €) shall be declared on the column Taxable Supplies (sales) with the rate of 15%.

Businesses that provide services under the guarantee shall make a specification covering such services, including here and information on the replaced parts, beneficiary name and duration of the working hours. Taxpayer can prove that certain service under the guarantee happened, using as evidence the replaced parts.

If the manufacturer for the purpose of the guarantee compensates the business for the provided services, that part of compensation will be considered as income.

Consumer (beneficiary) does not pay anything for such services, because on the initial cost (purchase cost) was included the part of the amount under the guarantee.

5. Documents issued by fictitious businesses

Documents issued by fictitious businesses, will not be accepted as document that can show a purchase, expense or something else.

TAK is entitled to ask any person for providing information, in order to verify the document's credibility. Such cases TAK will carry on to the other institutions for the implementation of the Law and further follow up.

If it was proved that the business is fictitious, under the Section 38 of Law No 2004/48 on the Tax Administration and Procedures, invoice issued by fictive company can be re-characterized.

The re-characterization means: invoice review and partial or complete refusal of the invoice.

6. Registration of the goods in stock

Under the Law 2004/48 On Tax Administration and Procedures, Section 12, it is an obligation creation and retaining of the records. Under this Section, Taxpayers are obligated to keep and produce documentation regarding the origin of the goods.

During the stock documentation, Taxpayer shall possess the following documents:

- 1. Single Administrative Document (SAD) together with the supporting invoice from the seller of the goods.*
- 2. Purchase invoice, issued by the seller, which includes all the information about the seller and buyer.*
- 3. Purchase book, where are recorded all imports and domestic purchases.*
- 4. List of the goods, which have been created by the Taxpayer itself, on the end of the year or on the end of any tax period.*

Sanctions on non compliance with tax legislation regarding to the stocks

1. If the Taxpayer has the SAD for the goods that he possesses on the stock, and this SAD has been registered on the Purchase Book, then we have to find out that goods that Taxpayer keeps on the stock, have the origin and are legal. In addition to the SAD, Taxpayer shall have the supporting invoice that has been issued by the seller out of Kosovo. In the case when the SAD has not been registered on the purchase book, under the Law 2004/48 on Tax Administration and Procedures, Section 46.2, will be issued a fine in amount of 125€ to the Taxpayer.

2. If the Taxpayer has an invoice for domestic purchases for the goods that he has on the stock, which contains all the needed items provided on the Tax legislation, and all the needed data for the seller and buyer as well, and this invoice has been registered on the purchase book, then we can make a conclusion that goods from the stock has the origin and are legal. In case that this invoice has not been registered on the purchase book, Under the Law 2004/48, section 46.2 a fine in amount of 125€ will be issued to the Taxpayer.

3. In the case when the Taxpayer does not possess the required documents to document the stock, then the conclusion is that goods on the stock are without origin, therefore the Taxpayer will be treated under the section 49.5 of Law 2004/48 on Tax Administration and Procedures.