



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 issues:

Public Explanatory Decision No. 1 / 2014 For Taxable Income from long-term construction

Purpose

The purpose of this Public Explanatory Decision is to clarify tax obligations respectively the manner of declaration and payment of Value Added Tax (VAT) and Personal Income Tax, respectively Corporate Income Tax, for taxpayers engaged in long-term constructions contracts and projects, that are subject of Article 6 of Administrative Instruction No.13/2010 respectively Article 4 of Administrative Instruction No.14/2010.

Definitions

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

- **“constructors”** – those who perform the construction work (either directly or through sub-contractors) who are paid by an “investor” who progressively pays for the construction work by way of some combination of advance payments, progress payments and final payments.
- **“investors”** – those who finance the construction contract work and who pay “constructors” for that work
- **“constructor/investor”** those who both finance and perform the construction contract work themselves

The legal base of VAT calculation during period 01.07.2001 until 30.06.2010

Taxpayers engaged in long-term constructions contracts and projects, from VAT perspective, have taxable supply and exempt supply. As a result of this arises the need for regulating the right of input VAT, which is defined with a legal base as following:

- Article 12 of Regulation No. 2002/17 on Value Added Tax regulates exempt supplies in paragraph:
(d) *A transfer of title or lease of land or residential property;*
- Article 21.4 of Regulation No. 2002/17, determines:
A credit of input tax shall not be allowed in respect of an exempt supply referred to in section 12 (d).
- Article 12, Paragraph 1.4 of the Law No. 03/L-114 applied during the period 01.01.2009 to 30.06.2010;
- Article 21, Paragraph 4 of the Law Nr. 03/L-114, determines:
A credit of input tax shall not be allowed in respect of an exempt supply referred to in Article 12.
- Article 24 of Administrative Instruction No. 01/2004.

Tax Credit Coefficient (TCC)

In cases when taxable person (VAT filers) perform taxable supplies and exempt supplies of goods or services, it is required to be estimated Tax Credit Coefficient. TCC is estimated based on this formula:

$$\text{TCC} = \frac{\text{Taxable supplies}}{\text{Taxable supplies} + \text{exempt supplies}}$$

The coefficient will be calculated at the end of tax period and shall be applied in VAT paid at imports, intra FRY-inflows and purchases within country for that tax period. The result will be VAT allowed as a deductible tax for the tax period that is deductible from estimated tax of the same period.

Due to the specific nature of this economic activity, the Tax Administration of Kosovo has issued Instruction for “**Construction Enterprises**” on 30.06.2006 on how to apply TCC. This was done in order to simplify TCC’s estimating and applying, based on planned participation, expressed on percentage and that is in harmony with respective articles of VAT Regulation.

Example 1 (Applying Tax Credit Coefficient)

Taxable person “X”, in tax period March 2008 has start to build a building that within construction structure will posses business locals in this proportion:

- 70% - participation of supplies without the right of credit (residential part) and
- 30% - supply with the right of credit (business locals).

Taxable person, from Purchase Book for each tax period will do cutting (estimation), based on % (percentage) foreseen in the project.

Purchase Book – March/2008

Purchases without VAT	Purchases with VAT		VAT	Purchase total
	Imports	Vendor		
a	b	c	ç	d =a+b+c+ç
5,000.00				5,000.00
	10,000.00		1,500.00	11,500.00
		20,000.00	3,000.00	23,000.00
5,000.00	10,000.00	20,000.00	4,500.00	39,500.00

In the table above (Purchase book) are shown purchases based on purchase bills.

Based on this example, only 30% of total amount of input VAT will be accepted for the taxpayer, while the other part of 70% will be corrected as following: adjustments for the tax period March 2008 will be as following:

10,000.00 x 30 % = 3,000.00 (Amount of 3,000€ is placed in column [16] of VAT declaration)
x 70% = 7,000.00 (Amount of 7,000€ is placed in column [14] of VAT declaration)
20,000.00 x 30% = 6,000.00 (Amount of 6,000 € is placed in column [18] of VAT declaration)
x 70% =14,000.00 (Amount of 14,000 € is placed in column [14] of VAT declaration)
3,000.00 x15% = 450.00 (Amount of 450 € is placed in column [17] of VAT declaration)
6,000.00 x15% = 900.00 (Amount of 900 € is placed in column [19] of VAT declaration)
7,000.00 x15% = 1,050.00 (Amount of 1050 € is placed in column [14] of VAT declaration)
14,000.00 x15% = 2,100.00 (Amount of 2,100 € is placed in column [14] of VAT declaration).

Placing in declaration after necessary adjustments:

	<u>Amount</u>	<u>VAT</u>
Purchase without VAT + correction of 70% + 70% of VAT part (4.500,00-1.350,00)	26.000,00 + 3.150,00	

[14] Purchases without VAT + adjustment 70% (base and VAT)	29.150,00	
[16] Imports (adjustment 30% remain part)	3.000,00	[17] 450,00
[18] Vendor taxable purchases with 15% (adjustment 30% remain part)	6.000,00	[19] 900,00

	38.150,00	1.350,00

From above example we can see that part of 70% (base and VAT) is carried forward for each tax period in column **[14]-Excluded purchases and with non-deductable VAT**, that in fact makes the distinguish between Tax Declaration of VAT and Purchase Book.

At supplies (sales), the coefficient it is not used. Therefore, supplies are registered in the same amount as they are billed.

VAT that is not accepted as a deductible it is recognized as expenditure (cost) at Corporate Income Tax or Personal Income Tax.

Legal base of calculation VAT after entering into force of the Law No. 03/L-146 (01.07.2010)

Entering into force of a new law No. 03/L-146 on Value Added Tax, the legal base for regulating coefficient for tax credit is as following:

Article 28 – Exemptions for other activities

Paragraph 1.11. the supply of houses, apartments or other accommodation used for a relevant residential purpose.

Article 39 – Calculation of the deductible proportion of input VAT:

Paragraph 1. Deductible VAT based on real use that was done.

In the case of goods and services used by a taxable person both for realizing transactions in respect of which VAT is deductible for the used goods and services, and for realizing transactions in respect of which VAT is not deductible for the used goods and services, only such proportion of the VAT is deductible as is attributable to those transactions in respect of which VAT is deductible. The taxable person may be authorised by TAK to make the deduction on basis of the real use made if he provides in his accounting records, data on the input VAT for which he is entitled and is not entitled to deduct input VAT for all used goods and services.

- **Deductible temporary proportion (DTP) of VAT:**

- a) based on transactions data from the previous year or
- b) based on taxable person's own prognosis;

$\text{DTP} = \frac{\text{Taxable supply}}{\text{Taxable supply} + \text{Excluded supply}}$

- Deduction of the input VAT should be regulated based on tax declaration of tax periods of January on following year in order to have this equation:

Deductible temporary proportion = deductible actual proportion

- **Calculation of deductible proportion should not include:**

- The amount of attribute turnover for supplies of capital goods used from taxable person for the needs of his business;
- The amount of supplying financial services as referred in paragraph 1 of article 28 of this Law, if they are developed in irregular bases.

- VAT deductible proportion should be determined annually as a percentage and it should be rounded in an integer that follows.
- **Deductible temporary proportion and deductible actual proportion.** Regulating at the end of tax period of January of following year.
- Taxable person may determinate deductible proportion for each individual area of its activities separately, as long as he keeps separately notes for each individual area of his activities.
- Based on paragraph 6 of article 39 of the Law No. 03/L-146, deductible proportion may be assigned based on volume, measure, quantity (for example in construction contracts in square meter/m²) where it is reflected participation of taxable supplies and supplies without the right of VAT deduction.

If is acted based on this paragraph TAK should be notified for the method of determinations deductible proportion, at least 15 days before the period starts.

Taxable person should calculate deductible proportion, selected based on this sub-article at least for 12 months.

For any change of methods for calculating deductible proportion TAK should be notified for any change, within 15 days before the tax period.

- TAK is entitled to:
 - Forbid to the taxable person to use the selected method for determination of deductible proportion if the selected method do not enable the TAK to control adequately deduction of VAT input - after the announcement made in accordance with paragraph 6 of article 39;
 - Authorize or request from taxable person to make the deduction based on real usage made for all or a part of goods or services.

Regulations of deductions based on Article 41 of the Law No. 03/L-146

- **Paragraph 1.1.** – Deduction of VAT input is calculated in a higher amount or lower than the amount for which taxable person is entitled to.
- **Paragraph 5** – No regulation will be made in deduction of VAT input if difference in deductible actual proportion (coefficient of tax credit) is **lower than 20€**.

Entering into force of the new law, Article 41 – adjustments of deductions is replaced with the Article 24 of the Law No. 04/L-108 for amendment and adjustment of VAT Law No. 03/L-146, amended and adjusted with the Law No. 03/L-197.

- **Paragraph 4** - No adjustment will not be done in deduction of VAT input if difference in deductible actual proportion (coefficient of tax credit) is **less than 3% of the points**.

Example 2

Deductible temporary proportion of VAT:

- a) based on transactions data from the previous year

During **2010** taxable person “X” is planning to build a premise and foresee of calculation deductible proportion is:

- 70% - participation of supplies without the right of credit (residential part) and
- 30% - supply with the right of credit (business locals).

Purchases without VAT	Purchases with VAT		VAT (16%)	Purchase total
	Imports	Vendor		
a	b	c	ç	d =a+b+c+ç
5,000.00				5,000.00
	10,000.00		1,600.00	11,600.00
		20,000.00	3,200.00	23,200.00
5,000.00	10,000.00	20,000.00	4,800.00	39,800.00

Taxpayer submit tax declaration based on foresee 30% with 70%. Calculations for adjustments come as following:

10,000.00 x 30% = 3,000.00	(Amount of 3,000€ is placed in column [27] of VAT declaration)
x 70% = 7,000.00	(Amount of 7,000€ is placed in column [23] of VAT declaration)
20,000.00 x 30% = 6,000.00	(Amount of 6,000 € is placed in column [31] of VAT declaration)
x 70% =14,000.00	(Amount of 14,000 € is placed in column [23] of VAT declaration)
3,000.00 x 16% = 480.00	(Amount of 480 € is placed in column [28] of VAT declaration)
6,000.00 x 16% = 960.00	(Amount of 960 € is placed in column [32] of VAT declaration)
7,000.00 x 16% = 1,120.00	(Amount of 1,120 € is placed in column [23] of VAT declaration)
14,000.00 x 16% = 2,240.00	(Amount of 2,240 € is placed in column [23] of VAT declaration).

Appearance in declaration after necessary adjustments:

	<u>Amount</u>	<u>VAT</u>
Purchases without VAT+correction of 70% + 70% of VAT part (4.800,00-1.440,00)	26.000,00 + 3.360,00	

[23] Purchases without VAT + adjustment 70% (base and VAT)	29.360,00	
[27] Imports (adjustment 30% remain part)	3.000,00	[28] 480,00
[31] Taxable vendor adjustments with 15% (adjustment 30% remain part)	6.000,00	[32] 960,00

	38.360,00	1.440,00

At the end of 2010 it was noticed that in general supplies, the participation of supplies without a right of credit was 60% and those with a right of credit 40%. In this case, adjustments will be done in declaration form of January 2011, as following:

Purchases without VAT	Purchases with VAT	VAT	40% with VAT		60% without VAT	
5.000,00	Imports 10.000,00	1.600,00	4.000,00 (10.000 x 40%)	640,00 (4.000 x 16%)	6.000,00 (10.000 x 60%)	960,00 (6.000 x 16%)
	Vendor purchase 20.000,00	3.200,00	8.000,00 (20.000 x 40%)	1.280,00 (8.000 x 16%)	12.000,00 (20.000 x 60%)	1.920,00 (12.000 x 16%)
5.000,00	30.000,00	4.800,00	12.000,00	1.920,00	12.000,00	1.920,00

Adjustment with real coefficient for declaration:

25,880.00	4,000.00	640.00
	8,000.00	1,280.00
25,880.00	12,000.00	1,920.00
Difference	3480	(3000)
		(480)

In the previous case we have a situation when deduction of VAT was lower (30%) in comparison with the right of deduction (40%). Necessary adjustments in January declaration form will be:

VAT Adjustments

Tax declaration form will be fulfilled with data of January tax period and it will contain necessary adjustments to reflect necessary change as following:

[39] Adjustment to reduce VAT for payment	3,000.00
[40] Credit in VAT adjustment	480.00

In above adjustments it is seemed that the purchase line without the right of deduction VAT input should be adjusted (deducted for 3,480.00) while the purchase adjustments with the right of deduction of VAT input increases for 3,000.00€ plus output VAT for €480.00.

Warning:

In the opposite case, if deduction of VAT is higher than deduction for which taxable person had the right, the adjustments should be done as following:

[18] Adjustments to increase VAT for payment	xxx
[19] Debit in VAT adjustments	xxx.

Adjustment for the year in which it was noticed that TCC had amendments it will be done with declaration form of January of the following year. In these cases, through the January declaration will be adjusted VAT deductions for all tax periods from the beginning of project, as long as they are not older than 6 years.

Treatment of garage for VAT aspects

Article 28, paragraph 1.10 and 1.11 of the Law No. 03/L-146, cite:

1. the following other activities are exempted:

1.10. The supply of land or land on which a building or house stands,

1.11. The supply of houses, apartments or other accommodation used for a relevant residential purpose,

Through above legal provisions it is concluded that garage supply (in residential buildings) it is not exempted from VAT that means that it is taxable supply.

Exemption from above conclusion is the case when garage is inseparable part of residential building and as such it can not be bought separately but necessarily should be bought when the apartment/house is bought.

Recognition of incomes and expenses (costs) in long-term contracts

According to the Law No. 03/L-162 on Corporate Income Tax respectively Article 5, taxable income is defined as following:

Taxable income for a tax period shall mean the difference between gross incomes received or accrued during the tax period and the deductions and allowances allowable under this law with respect to such gross income.

While paragraph 5 of the above article, determine:

As an exception to this Article, taxpayers engaged in long-term constructions contracts and projects shall report the taxable income from those long-term contracts and projects in the manner prescribed in a sub-legal act issued by the Minister.

Administrative Instruction No. 14/2010, Article 4, paragraph 1, cite:

Paragraph 5 of article 5 of The Law provides for a departure from the normal taxable income determination rules in respect of taxpayers engaged in long-term construction contracts and Projects.

In Article 4, paragraph 3.1 of Administrative Instruction No. 14/2010, citation:

3. For corporate income tax purposes:

3.1. “constructors” are required to use the “percentage of completion cost estimate” method (where reported income and expenses are based on the proportion of the construction that is completed based on the proportion that contract expenditures incurred for work performed to date bear to the estimated total contract expenditures)”.

Paragraph 5 of Article 4 of Administrative Instruction No. 14/2010 requires that the billing for percentage of work performed to be done until the end of a tax period/year. Citation:

It is important that receipts or percentages of completion are correctly reflected at or near the end of each tax year. A taxpayer using the “income taxed as accrued” method cannot defer assessment of contract income simply by deliberately refraining from or postponing billing until after the end of a tax year when there was an entitlement under the contract to bill before the end of the tax year

Example 3

(Recognition of revenues for Personal Income Tax or Corporate Income Tax)

The following example illustrates the method of determining the stage of completion of a contract and the duration of the recognition of income and expenses of the contract.

A construction contractor has a fixed price of 250,000.00 € to build a bridge. Initial assumption of contractor for the costs of the contract is 150,000.00 €. Construction of the facility will occur during 2010 and 2011.

The contractor determines the stage of completion of the contract by estimating the part of the costs that have come up for work performed until now, keeping the most recent total cost of the contract.

A summary of financial data during the construction period is as follows:

	2010	2011
Initial amount of agreed income of the contract	250,000.00	250,000.00
<u>Expenses incurred up to date</u>	<u>90,000.00</u>	<u>150,000.00</u>
Contract costs to complete the work	60,000.00	-
Total estimated costs of contract	150,000.00	150,000.00
Estimated profit	<u>100,000.00</u>	<u>100,000.00</u>
Stage of completion (90,000/150,000)	60%	100%

Amounts of income, expenses and profit recognized in income statement in two years as follows:

	Up to now	Recognized in last year	Recognized in actual year
2010			
Income (250,000 x 60%)	150,000.00	-	150,000.00
<u>Expenses (150,000 x 60%)</u>	<u>90,000.00</u>	<u>-</u>	<u>90,000.00</u>
Profit	60,000.00		60,000.00
2011			
Income	250,000.00	150,000.00	100,000.00
<u>Costs</u>	<u>150,000.00</u>	<u>90,000.00</u>	<u>60,000.00</u>
Profit	100,000.00	60,000.00	40,000.00

Administrative Instruction No 14/2010, in Article 4, Paragraph 3.2. define:

3.2. “investors” and “constructor/investors” :

are required to use the “income taxed as accrued” method (where income is reported on the basis of payments accrued (where there are receipts and/or an entitlement to receive based on a contract) and expenses are proportionately allowed on a similar basis. In situations where in any tax year no income has been received and no contracts have been made which would give rise to an entitlement to receive income, then no income shall be reported and no expenses shall be allowed in relation to the long-term construction contract in that tax year.

Paragraph 3.3. of Article 4, cites:

Where upon completion of a construction contract by “investors” or “constructor/investors” there are parts of the construction that remain unsold, where the income from such sales (and their associated expenses) have not yet been recognized, the value of such unsold parts shall be recorded as inventory of the investor or constructor/investor and be recorded on their balance sheet until sales take place.

Paragraph 3.6 of Article 4 of Administrative Instruction No. 14/2010 and Paragraph 3.6. of Article 6 of Administrative Instruction No. 13/2010, determines:

Any taxpayer who has commenced a long-term construction contract before the date of entry into force of this Administrative Instruction shall make an adjustment to their taxable income to reflect the change in method.

Based on paragraph 4, submitted advances are considered part of taxable incomes. Citation:
Many long-term construction contracts and projects involve the charging of upfront “advance” contract payments which may be payable when little or no expenses may have been incurred. In such cases, the taxation of such income shall be determined according to the method the taxpayer is using to account for income from such contracts and projects. If the taxpayer is using the “income taxed as accrued” method (investors and constructor/investors), such “advance” payments will form part of taxable income when received, but if the taxpayer is using the “percentage of completion cost estimate” method (constructors), such “advance” payments will only form part of taxable income on a proportionate basis as construction proceeds.

Example 4 (PIT and CIT)

The following example refers to recognition of taxable incomes from “investors” and “constructors/Investors” when the project’s planned expenses are in accordance with real expenses occurred until the end of project. It also presents the situation when at the end of realizing the project there are unsold stocks. The example is in accordance with tax legislation of relevant periods.

Data:

- Project realization will be done for three years;
- Planned cost of the project is 2 million euros;
- Within the project there are 4.500 m².

(Planned expenses are in accordance with real expenses)

Year I-2009: occurred expenses 800 thousand. Submitted advance 500 thousand euros
 Year II-2010: occurred expenses 300 thousand. Submitted advance 700 thousand euros
 Year III-2011: occurred expenses 900 thousand. Submitted advance 400 thousand euros.

2,000,000.00	1,600,000.00

Cost price per unit = Project amount / m² ;

Based on project, CP = 2.000.000,00 / 4500 = 444,44€

Year I - (2009)

-Contracts for advances received 1.000 m² =500,000.00 €
 -Occurred expenses 800,000.00 €
 Received advance is “deferred revenue” while occurred expenses are “following investment”.

Year II- (2010)

Adjustments from 2009 (Due to entering into force of the Law and Administrative Instruction)

based on requests of paragraph 3.6 to reflect the change of method.

- Recognition of revenues in amount of 500,000.00 from submitted advances/earnest from 2009 and
- Recognition of occurred expenses in proportion of submitted advances ($1.000 \text{ m}^2 \times 444.44 = 444.444,44 \text{ €}$)

Gross profit is $500,000 - 444,444.44 = 55,555.56 \text{ €}$

Recognition of revenue for 2010

- Contracts for advances received $1.200 \text{ m}^2 = 700,000.00 \text{ €}$
- Occurred expenses $300,000.00 \text{ €}$

Recognition of revenues from submitted advances/earnest and recognition of occurred expenses in proportion of submitted advances. ($1.200 \text{ m}^2 \times 444.44 = 533.333,33 \text{ €}$)

Gross profit is $700,000 - 533,333.33 = 166,666.67 \text{ €}$

Recognition of revenues in total for 2010 is:

$$\begin{array}{r} 500,000 \quad - \quad 444,444.44 = 55,555.56 \text{ €} \\ 700,000 \quad - \quad 533,333.33 = 166,666.67 \text{ €} \\ \hline 1,200,000.00 - 977,777.77 = 222,222.23 \text{ €} \end{array}$$

Year III- (2011)

- Contracts for advances received $740 \text{ m}^2 = 400,000.00 \text{ €}$
- Occurred expenses $900,000.00 \text{ €}$

Recognition of revenues from submitted advances/earnest and recognition of occurred expenses in proportion of submitted advances ($740 \text{ m}^2 \times 444.4444 = 328.888,89 \text{ €}$)

Project completion and remain stock (unsold):

- **Sales in advance** ($1.000 \text{ m}^2 + 1.200 \text{ m}^2 + 740 \text{ m}^2$) = $2.940 \text{ m}^2 \times 444.44 \text{ €} = 1.306.666,67 \text{ €}$
- **Remaining stock** (Project $4.500 \text{ m}^2 - \text{Sales } 2.940 \text{ m}^2$) = $1.560 \text{ m}^2 \times 444,44 \text{ €} = 693.333,33 \text{ €}$
- With a project completion there is not construction in progress, but costs are carried at stocks ($1.560 \text{ m}^2 \times 444,4444 = 693.333,33 \text{ €}$) and are carried forward until they will be realized – sold.

Example 5 (PIT and CIT)

Realization of the same project but in the case when in the last year there is deviation from planned expenses (occurred costs are lower than planned costs).

The evidence is retained based on planning and only at the last year is harmonized with real cost while completely deviation should reflect only in project's closing year.

Data:

- Project realization will be done for three years;

- Planned cost of the project is 2 million euros;
- Within the project there are 4.500 m².

Planned expenses

Year I -2009: occurred expenses 800 thousand. Submitted advance 500 thousand euros

Year II -2010: occurred expenses 300 thousand. Submitted advance 700 thousand euros

Year III-2011: occurred expenses 900 thousand. Submitted advance 400 thousand euros

2,000,000.00

1,600,000.00

Cost price = Project's amount / m², based on project CP= 2.000.000,00 / 4500 = 444,4444 €,

Actual expenses of the project completion are 1.800.000€ while it was planned 2.000.000€

Real expenses (occurred)

Year III-2011: Occured expenses 700 thousand. Submitted advance 400 thousand

Real cost 1.800.000,00 : 4.500 m² = 400.00 € per m²

Adjusting the costs in case of changing the cost price per m ²						
Deduction of cost price from 444.4444 € to 400.00 € per m ²						
Years	m ²	Planned price	Amount	Actual price	Amount	Difference(-)
2009	1,000.00	444.44	444,440.00	400.00	400,000.00	(44,440.00)
2010	1,200.00	444.44	533,328.00	400.00	480,000.00	(53,328.00)
Ligji 2010	2,200.00		977,768.00		880,000.00	(97,768.00)
2011	740.00		-	400.00	296,000.00	296,000.00
Recognition of costs/expenses in case of project completion (with adjustments at the last year, when it is ascertained the real cost) 296,000.00 -97,768.00 = 198,232.00						198,232.00

For the recognition of revenues in installment payments after the project completion, it is important ascertainment of moments as following:

- Adjustments in incomes to reflect changing of method in accordance with the new applicable Law if we have submitted advances before Law 03/L-162,
- All submitted advances and payment installment while the building is under construction should be recognized as revenues in the year when they are submitted and in proporcion should be recognized expenses too,

- When the property is given for usage, the remain part (unpaid part that is expected to be paid with installement during next years) will be recognized as revenues, despite that collection will be done based on contract during the incoming years because the property is not at stock but it is sold.

Guarantee / retention payments

Treating of aspects for taxable incomes regarding to retention payments offered to long-term contracts, is regulated with paragraph 6 of Article 4 of AI 14/2010, where it is emphasized:

Notwithstanding the above paragraphs, if any long-term construction contract contains a provision for retention payments (where there is provision for the customer to retain a percentage of the contract price until the maintenance period specified in the contract has elapsed), such payments will not form part of taxable income until the contractor either receives them or becomes entitled to receive them from the customer. Where such retention moneys are paid to the contractor before they are actually due on condition that the contractor remedies any defects before the construction work is handed over or accepted by the customer, they shall be treated as taxable income when such moneys are received, unless they are retained in a separate account and not available for disbursement or general use by the contractor until the construction works are completed in which case the moneys will not be treated as taxable income until the contractor is entitled to withdraw or apply them.

Paragraph 7 – Barter Transactions

Where there are barter transactions as part of a long-term construction contract, such transactions shall be recognized as income or expense at market values in accordance with Article 47 of Law No. 03/L-222 On Tax Administration and Procedures. In those situations where market values cannot be determined or reasonably estimated, the investor or constructor/investor can apply to TAK (with appropriate justifying evidence) for approval to recognize such barter transaction incomes and expenditures at the end of the construction contract.

According to paragraph 8 of Article 13 – Creating and retaining records of the Law No. 03/L-222 a sub-legal act there are details regarding to retaining books and registrations for activities related to long-term contracts.

These details are presented in paragraph 13 of Article 17 of Administrative Instruction No.15/2010.

13. Special additional requirements for activities related to long-term contracts: in addition to other record-keeping requirements established in this Section, companies engaged in long-term contracts, such as construction or installation projects lasting 12 successive months or more, must maintain a separate accounting for each project. If multiple contracts exist within the project, there must be separate accounting for each contract within the project. For each contract, there must be a separate accounting for all expenses and inflows (advance payments, fees, etc.)

Entry into force

This Public Explanatory Decision shall enter into force on the date signed by the General Director of TAK.

Date: 14/03 /2014

General Director of TAK


Behxhet Haliti Zyra Qendrore

