

Amendments to the Law on Corporate Income Tax

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Administrata Tatimore e Kosovës
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Amendments to the Law no. 06/L-105 on Corporate Income Tax

| Article of the Law | Description |
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| Article 2. Scope: | A new Article has been added, according to which the provisions of the Corporate Income Tax Law are binding for the Tax Administration of Kosovo and for all persons within the scope of the Corporate Income Tax Law. |
| Article 3. Legal definitions: | Some legal definitions have been amended and reworded with the aim at clarifying and aligning the terms with all other tax laws, such as: Capital Assets, Resident, Permanent Establishment, Related Person, Supplier, Transfer Pricing, Controlled Transaction, Consideration, Technical provisions; Mathematical provisions; Provisions for expected losses on loans, etj. |



Article 6. Taxable Income:

At Article 6 "Taxable Income", from paragraph 2 has been deleted sub-paragraph 2.1 regarding businesses licensed by the CBK to insure or re-insure life, property or other risks, while in this paragraph has been added a sub-paragraph regarding gross interest income. In addition, paragraph 3 has been added, whereby for a taxpayer who is not taxed on real income, taxable incomes are considered as gross incomes. Also, a new paragraph has been added to this Article, whereby gross interest income under sub-paragraph 2.3 of this Article does not include interest on assets of the Kosovo Pension Savings Fund or any other pension fund defined under the relevant pension savings legislation in Kosovo.

Article 7. Tax Rate:

At Article 7 "Tax Rate", paragraph 2 related to Insurance Companies has been deleted and now under this Law, Insurance Companies are treated as any other legal entity.

Article 8. Exempted Incomes:

At Article 8 "Exempted Incomes", a paragraph related to Tax breaks has been reworded to grant the right to benefit all businesses regardless of whether they are new or not, and a new paragraph has been added, whereby the Minister is required to issue a sub-legal act for the implementation of this Article.



Article 9. Disallowed Expenses:

At Article 9 “Disallowed Expenses”, a new paragraph has been added, according to which the expenses disallowed are those for amusement and recreation purposes, unless if they have occurred in relation to the taxpayer's business offering amusement and recreation activities.

Article 10. Eligible expenses:

At Article 10 "Eligible Expenses", a new paragraph has been added, according to which the Minister shall issue a sub-legal act on documented expenditures inquired from customs assessments and reassessments.

Article 11. Deductions allowed for public interest activities

At Article 11 "Deductions allowed for public interest activities", in paragraph 1 has been added sub-paragraph 1.1. according to which contributions made by taxpayers in the field of culture, youth and sports are computed according to Law no. 05/L-090 on Sponsorships in the Field of Culture, Youth and Sport. Thus, according to the Law on Sponsorships:

- 1. Sponsors, under this Law, shall be eligible to thirty percent (30%) deduction from income tax for sponsorships in sports activities.*
- 2. Sponsors, under the Law no. 05/L-029 on Corporate Income Tax, shall be eligible to twenty percent (20%) deduction from income tax for sponsorships in the field of culture and youth.*

Article 13. Bad Debts expenses:

At Article 13 “Bad Debts expenses”, paragraph 4 has been deleted, therefore paragraph 5 has now become paragraph 4.



Article 14. Provisions for expected losses on loans, technical and mathematical provisions

Article “Reserve Fund” has been totally changed to “Provisions for expected losses on loans, technical and mathematical provisions”, and is now as follows:

1. Provisions for expected losses are not allowed as deductible expenses in the determination of taxable income, except as provided in paragraphs 2. and 3. of this Article.
2. Banks, microfinance institutions and non-bank financial institutions licensed by the CBK for the determination of taxable income shall be entitled to recognize deductible expenses the provision for expected losses from loans up to eighty percent (80%) of the amount determined by a sub-legal act issued by the CBK.
3. Financial insurance and reinsurance institutions licensed by the CBK, in determining the taxable income, shall be entitled to recognize the deductible expenses for technical and mathematical reserves up to eighty percent (80%) of the amount determined by the Law on Insurances and sub-legal acts issued by the CBK.
4. After recognizing the provisions under paragraph 2. of this Article, any amount deducted from the collection of provisioned loans shall be included in taxable income, and any amount increased up to the allowable amount shall be recognized as a deductible expense.
5. After the recognition of technical and mathematical provisions under paragraph 3. of this Article, any amount deducted from provisions is included in taxable income, and any amount increased in provision up to the allowable amount is recognized as deductible expense.
6. If the CBK requires correction of the provisions declared under paragraphs 2. and 3. of this Article, such changes shall be regulated in the tax declaration.
7. The Minister shall issue a sub-legal act for the implementation of this Article.



Article 16. Depreciation:

At Article 16 “Depreciation” has been deleted paragraph 7 dealing with capital assets purchased and commenced to depreciate according to grouping method before the Law No. 03/L-162 on Corporate Income Tax entered into force, as according to Law no. 05/L-029 on Corporate Income Tax there is no chance of depreciating capital assets in group, rather they shall be depreciated individually. In addition, at this Article has been deleted paragraph 9 Po ashtu, te ky nen është eliminuar edhe paragrafi nr. 9, Depreciation of group assets from one thousand (1,000) € to three thousand (3,000) € purchased from 1 January 2010 until this Law enters into force.

Article 18. Special allowances for new assets:

Article 18 “Special allowances for new assets” has been reworded stipulating that The deduction shall be allowed only if the asset is new or is placed into service in Kosovo for the first time. A deduction shall not be allowed if the asset is transferred from an existing or a former business in or outside Kosovo. In addition, in this Article has been added paragraph 4 according to which special allowances for new assets shall not be permitted for persons benefitting from tax breaks and other special facilities.

Article 22. Capital Gains and Losses:

At Article 22 “Capital Gains and Losses” paragraph 7 has been deleted, where capital gains and losses shall not be recognized for the grouped assets prior to entry into force of the Law no. 05/L-029 on Corporate Income Tax.



Article 24. Tax Losses:

At Article 24 “Tax Losses”, paragraph 2 has been amended and losses may be transferred over for only up to four (4) years.

Article 28. Transfer of prices:

Article 28 “Transfer of prices” has been completely reworded in order to be clearer and in line with the OECD principles, whereby is provided that for determining of transfer price shall be used traditional methods of transaction, and in certain circumstances taxpayer may apply traditional methods of profit.

Article 29. Avoidance of Double Taxation:

Article 29 “Avoidance of Double Taxation” has been reworded in order to be clear and in line with the OECD model.

Article 30. Permanent Establishment

Article 30 “Permanent Establishment” has been reworded in order to be in line with the OECD model.

Article 31. Withhold Tax on Income, Pensions, Interest, Royalties, Rents, Lottery Winnings, and Games of Chancet:

At Article 31 “Withhold Tax on Income, Pensions, Interest, Royalties, Rents, Lottery Winnings, and Games of Chance” has been added a new paragraph, whereby is included withholding tax from taxable salaries paid to natural non-business persons. In addition, from sub-paragraph 1.3 has been deleted part of health insurance. The health insurance part was unnecessary to be included in this paragraph under the current law no. 05/L-029 on Corporate Income Tax.



Article - Treatment of insurance activities:

Article “Treatment of insurance activities” has been completely deleted.

Article 32. Withhold Tax for Special Categories:

Article 32 “Withhold Tax for Special Categories”, namely paragraph 1 of this Article has been reworded changing the rate from 3% to 1% as follows:

1. Any taxpayer who makes payments for natural non-business persons, farmers, collectors of recycled materials, mountain fruit, medicinal plants and similar, is obliged to withhold tax at the rate of one percent (1%) in gross payment, at the time of payment.

Article 35. Requirement for Books and Records:

Article 35 “Requirement for Books and Records” has been reworded, whereby the limit has been changed from 50,000€ to 30,000€ in order to be in line with the Value Added Tax limit.

Article 36. Requirements for Books and Records for Small Businesses:

Article 36 “Requirements for Books and Records for Small Businesses” has been reworded, whereby the limit has been changed from 50,000€ to 30,000€ in order to be in line with the Value Added Tax limit.

Article 37. Tax Declaration:

Article 37 “Tax Declaration” has been reworded completely in order to be clear and easily applicable, as well as it defines when shall annual declarations be submitted in case an economic activity is closed.



Article 38. Tax Payments:

Article 38 “Tax Payments” has been reworded, whereby the limit has been changed from 50,000€ to 30,000€ in order to be in line with the Value Added Tax limit. Also, paragraph 6, sub-paragraph 6.2 has been reworded so as advance payment may be carried forward in order to pay tax liabilities as in advanced payment or in any type of tax and pension contribution. In addition, in sub-paragraph 5.1 has been defined that deductions are also withholding tax amounts by others and paid to the TAK not only according to Law on CIT, but also according to PIT.

Attention:

In general throughout Law no. 05/-L-029 on Corporate Income Tax, language errors have also been corrected, and some paragraphs have been reworded in order to make them clearly understandable.





Thank you for your attention!



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