Director General of Tax Administration of Kosovo,

In accordance with the legal powers under Article 23 of Law No. 06/L-113 on Organization and Functioning of State Administration and Independent Agencies, the legal provisions of Article 26 and 48 of the Law No. 08/L-257 on the Administration of Tax Procedures, approves the following:

TAK INTERNAL REGULATION NO. 2/2024
ON REIMBURSEMENT PROCEDURES

Article 1
PURPOSE

The purpose of this Internal Regulation (hereinafter “the Regulation”) shall be to define, through the establishment of written procedures, the legal actions that will be taken in cases where it comes to the implementation of the legal provisions for reimbursements of Value Added Tax (hereinafter “VAT”), Personal Income Tax (hereinafter “PIT”) and Corporate Income Tax (hereinafter “CIT”).

Article 2
SCOPE

This Regulation shall be implemented by the relevant organizational units within the Tax Administration of Kosovo, which are competent for the handling of and decision-making in relation to reimbursements.

Article 3
LEGAL BASIS

Law No. 08/L-257 on the Administration of Tax Procedures (ATP), Article 26, Credits and Refunds, we quote:

1. “Any amount of any tax paid in excess of the amount due shall be applied to the taxpayer’s current liability for any other tax or contribution due. The TAK shall deliver to the taxpayer a notice in writing when such excess payment has been applied to another liability, advising the taxpayer of the amount of credit applied, tax and tax period.”
2. Where the taxpayer has no other outstanding tax debts owing to TAK, or where there remains an amount of tax overpaid after applying the excess provided for in paragraph 1 of this Article, the taxpayer may claim a refund from the TAK for the amount remaining overpaid.

3. The claim for credit and refund of any overpayment of any type of tax may be filed within three (3) years from the date such tax was paid or when the right to deduction arose.

4. The Tax Administration of Kosovo shall review the claim for refund within thirty (30) calendar days from the day it received the claim from the taxpayer, by ensuring that details of the amount to be refunded are timely forwarded to the Ministry or, in case of contributions, to the KPSF or other relevant funds.

5. In case when a taxpayer is entitled to a refund under paragraph 2 of this Article and that refund has not been applied within the time provided in paragraph 4 of this Article, the TAK shall pay to the taxpayer, in addition to the amount determined by the TAK to be refunded, interest at a rate prescribed by the Minister. When the TAK determines that a refund should not be issued, or it should be withheld for administrative reasons in accordance with the legislation in force, interest will not be due on the amount not issued or withheld.

6. Interest under paragraph 5 of this Article shall begin to accrue on the 31st day following the receipt of the claim for refund. This interest is calculated on a monthly basis, for each month or part of the month, until the refund is paid.

7. Regardless paragraph 1 of this Article, in cases where the taxpayer has a credit balance for more than three consecutive months and has tax debt for more than five thousand euros (€5,000), TAK notifies the taxpayer that it will initiate a VAT creed assessment and if the creditation is determined to be valid, an amount of credit up to the amount of the tax liability will be applied to the tax liability and the remaining will be refunded.”

Law No. 05/L-037 on VAT (hereinafter Law on VAT), Article 40, VAT Refund Claims, reads:

“1. A taxable person may carry forward the excess VAT credit to the following tax period or may submit a VAT refund claim if the taxable person has carried forward the input VAT excess for three (3) consecutive months. The VAT return of a taxable person reflects an amount of deductions that exceeds the amount of VAT due amount. The excess VAT credit carried forward may be applied against the VAT liability in the succeeding tax periods.

2. Without prejudice to the relevant Law on Tax Administration and Procedures and for the purpose of ensuring the correct and straightforward application of this Article, the following procedures shall apply in respect of VAT refund claims:
   2.1. a taxable person may claim a VAT refund if for three (3) consecutive months is in credit and at the end of the third months the amount of VAT credit exceeds the value of three thousand (3,000) € and if all VAT and other tax returns for all past tax periods have been submitted.
   2.2. the taxable person that has exports may claim a VAT refund after each tax period, provided that the following conditions are met:
2.2.1. the amount of VAT credit exceeds three thousand (3000) € at the end of the tax period;
2.2.2. the taxable person complies with all applicable customs and VAT provisions, and;
2.2.3. all VAT returns and other tax returns for all past periods are submitted.”

Administrative Instruction No. 03/2015 on VAT, for the implementation of Law No. 05/L-037, Article 59, Request for VAT reimbursement, reads:

“1. Compensation of Value Added Tax

1.1. In conjunction with Article 40, paragraph 1 of the Law, if the amount of input tax in any tax period (for example one month) is higher than the amount of tax due for the same tax period, the taxpayer has a right to bear the VAT credit to the next tax period. The taxpayer must use this tax credit as payment of tax for the next tax period.

1.2. According to the Law on Tax Administration and Procedures, and based on Article 40, paragraph 2 from the Law, the taxable person has the right to claim refund.

1.3. According to Article 40, sub-paragraph 2.1 of the Law, the taxable person may request reimbursement of VAT if for three consecutive months is in credit and the end of the third month the amount of credit VAT exceeds 3,000 € provided that taxable person have been able lending at the end of each tax period for VAT during the quarter. It also requires that the taxable person has submitted all the statements of VAT and other taxes for all past tax periods, in accordance with legal requirements.

2. Requirements of VAT refunds on a monthly basis, as refunds for exports:

According to Article 40, paragraph 2, subparagraph 2.2 of the Law, a taxable person who exports goods can request reimbursement of VAT after each tax period, provided that.....

3. Request for reimbursement for contractors of European Commission:

3.1. Notwithstanding paragraph 2 of this Article, the taxable person has the right to apply for a refund of VAT on a monthly basis for VAT deduction related to the supplies directly funded by the European Commission, in accordance with sub-paragraph 3.1 of Article 33 of the Law, irrespective of the amount of VAT credit...”

Law No. 05/L-028 on Personal Income Tax, Article 43, paragraph 6, reads:

“6. If paid amount, or credited amount in compliance with the paragraph 5. of this Article are higher than total amount of tax assigned in compliance with this law, the taxpayer has the right to:

6.1. reimbursement on the excess amount of paid tax: or
6.2. with the request of the taxpayer, has the right to carry out as advanced payment for the following year.”

Law No. 06/L-105 on Corporate Income Tax, Article 38, paragraph 6, reads:

“6. If the amounts paid or credited according to paragraph 5. of this Article are greater than the total tax due determined in accordance with this Law, the taxpayer shall be entitled to:

6.1. reimbursement of the excess tax paid; or
6.2. Upon the request of the taxpayer, he or she is entitled to carry forward that amount as an advance payment for the subsequent year as well as for paying tax liabilities for any type of tax and pension contribution.”

Despite the aforementioned legal provisions, according to this Regulation, the taxpayer shall not be required to complete and submit the request/form for reimbursement, but only the completion of the tax declaration, namely the completion of the relevant section in the tax form according to the types of tax, shall be considered a request for reimbursement of funds.

Article 4
REQUEST FOR REIMBURSEMENT

A request for a reimbursement of funds shall be considered the submission of the tax declaration for VAT, PIT and CIT, by completing the current sections for reimbursement, such as: section 70 in the VAT form, section 43 in the PIT form and section 48 in the CIT form.

A taxpayer who submits a VAT declaration and fills in section 70 on the VAT form, which is considered a reimbursement request, may not make corrections to that VAT declaration or to other preliminary VAT declarations.

Article 5
THE RIGHT TO A VAT/PIT/CIT REIMBURSEMENT

Every taxable person who meets the conditions set forth in Article 40 of the Law on VAT shall have the right to a VAT reimbursement. To apply for a VAT reimbursement, the taxable person must meet the following criteria:

a) To have completed and submitted electronically the VAT declaration, filling in the corresponding section “Request for reimbursement”;

b) The declaration must be submitted by the 20th of the following month, after the month for which the reimbursement is requested;

c) If for three consecutive months it is in credit and at the end of the third month the amount of VAT credit exceeds the value of three thousand euros (€3,000.00).

The taxable person who exports goods may request a VAT reimbursement after each tax period, respecting the legal conditions for exporters. This rule shall not apply to supplies treated as exports, provided for in Article 33 of the Law on VAT.

The taxable person shall be entitled to a VAT reimbursement on a monthly basis for the deductible VAT related to the supplies that are directly financed by the European Commission, respecting the legal requirements for contractors of the European Commission.

The person, who stopped its activity and is in VAT credit, shall have the right to request a reimbursement regardless of the value of the remaining credit.
If the amount of the reimbursement requested by the taxpayer turns out to be incorrect by the assessment of TAK, either in category “A”, “B” or “C”, for the over-declared amount, penalties shall be applied according to the Law on the Administration of Tax Procedures, while the approved amount shall be reimbursed in compliance with Article 40 of the Law on VAT.

The Tax Administration of Kosovo shall withhold the VAT reimbursement if the taxpayer does not have evidence and documents or there are indications that the data reported in the VAT declaration in which the amount of the VAT reimbursement was reported and the previous declarations are not correct. Such indications must be documented in the officer’s official “Minutes” report, explaining the reasons for not approving the requested reimbursement by category and time frame. Such tax report provides evidence until the taxable person proves otherwise.

The Tax Administration of Kosovo shall not recognize the right to deduct the deductible VAT, nor that of reimbursement, when the taxable person (buyer) has not executed the transactions of the purchases over three hundred euros (€300), made by the taxable person, through the bank account and/or other forms of electronic payment.

The Tax Administration of Kosovo with a reasoned decision must notify the taxpayer of the withholding of the reimbursement and provide an explanation for the reasons why the reimbursement was withheld.

According to the Law on the Administration of Tax Procedures, the taxpayer shall have the right to appeal the decision of the Tax Administration.

The Tax Administration of Kosovo, before processing a request for a VAT reimbursement, for a taxable person, shall have the right to force that person to prove that the purpose of the economic activity is to execute taxable transactions, which give him/her the right to VAT deduction.

Every taxpayer, who fulfils the conditions defined in Article 43 of the Law on PIT or Article 38 of the Law on VAT, within a period of three (3) years, shall have the right to a reimbursement of overpaid tax.

Article 6
OPERATION OF REIMBURSEMENT DIVISION

The Reimbursement Division within the Department of Reimbursements and Calls for Taxpayer shall be authorized to manage, review and handle requests for tax reimbursements, subject to the risk analysis procedure and reimbursement criteria.

At the moment when the taxpayer has submitted the tax declaration through the electronic system or other ways provided for submission of declarations according to the legislation, as well as at the same time he/she has completed the current sections 70 - in the form for VAT, 43 - in the form for PIT and 48 – in the form for CIT, it shall be considered to have submitted a request for a tax reimbursement.

When the Reimbursement Division accepts the request for reimbursement through the electronic system or other ways provided for submission of declarations according to the
legislation (VAT, PIT or CIT), it shall delegate this request according to the order of acceptance to the authorized official within the Reimbursement Division for its review.

The Reimbursement Division shall be authorized to complete and approve the final reimbursement forms (CPO – Refund Order, Refund Decision, KR001 – Internal Fund Transfer Form), which forms must be signed by the Director of Department for Reimbursements and Calls for Taxpayers and authorized persons of the Reimbursement Division.

Article 7

REVIEW OF REIMBURSEMENT BY CATEGORIES

Procedures for reviewing the reimbursement request shall be implemented considering the taxpayer performance from the TAK information system as it is subject to the risk analysis procedure and reimbursement criteria.

Since the initiation of application of the “Reimbursement Management Module (RMM)”, all reimbursement information from the completion of the reimbursement sections by tax types to the reimbursement approval and refusal, including the categorization, duration, average time, etc., shall be registered in this System/Module-RMM.

Reimbursement shall be automatically categorized by the information system based on the reimbursement criteria previously determined according to category “A”, “B” and “C”.

All reimbursements shall be registered through this module, with the exception of refunds of overpaid funds, refunds of pension contributions, refunds with the decision of the Appeals Division in TAK, refunds with the Court decision, as well as any other case of refunds that are not included in category of reimbursements.

When the reimbursement requests are received and registered by the electronic information system, the system shall automatically categorize them and simultaneously notify the Department of Reimbursements and Calls for Taxpayers of the reimbursement request.

After receiving the application from the system, the Director of the Department of Reimbursements and Calls for Taxpayers shall delegate the request for reimbursement to the Reimbursement Division, namely the Head of the Division, who shall then delegate the same request to the respective authorized reimbursement officer, depending on Category “A” or “B”.

If the system categorizes the reimbursement request in Category “C,” then the Head of the Division shall delegate such a case to the RTD/LTD/MTD for further review, namely to be subject to the audit procedure. After the audit, RTD/LTD/MTD shall provide the Reimbursement Division with an Audit Report, based on which the Reimbursement Division decides on the taxpayer request.

The Reimbursement Officer, after receiving the request from his/her Head, shall verify and handle the documentation of reimbursement request and depending on whether the legal procedures for reimbursements have been adhered to, shall decide on approval, withholding or rejection of the reimbursement request. The request shall be reviewed by the Reimbursement Officer in written form as foreseen for Category “A” or “B”.
Reimbursement requests for Category “A” and “B”, for which, according to the case officer, the crediting or transactions are suspicious, the officer shall via an activity request from the hierarchy to delegate the case to RTD/LTD/MTD for verifying the accuracy of crediting and transactions. At the same time, the Reimbursement Division shall inform the taxpayer that the review of his/her request shall be delayed due to the operative analysis of the points to be verified.

In case the verification from the RTD/LTD/MTD results in findings that lead to the change in the amount required to be reimbursed, the case shall continue with audit procedure as if it was the case for Category “C” taxpayer (not reject), where then the inspector shall complete the audit within twenty-five (25) calendar days from the submission of the reimbursement request.

The Reimbursements Division or RTD/LTD/MTD may not reject the reimbursement request if there are any technical irregularities, irregular documents, suspicious invoices, fiscal receipts not issued, wrong listing of sales in the declaration sections, etc., but such cases shall be handled either by the Reimbursement Division or RTD/LTD/MTD and the amount of the reimbursement request shall be correctly ascertained.

If the taxpayer has requested a reimbursement in an amount greater than the amount found by the reimbursement officer or inspector, this taxpayer shall be penalized for the difference between the approved amount and the requested reimbursement amount. Moreover, in such cases, other penalties determined by the tax legislation in force shall be applied. All outstanding tax liabilities (including penalties) shall be deducted from the approved amount, while the remainder must be transferred to the taxpayer's account.

The Reimbursements Division shall reject reimbursement requests for taxpayers of Category “A” and “B” when it finds that there are irregularities that are contrary to legal procedures, such as: credit balance below three thousand euros (€3,000.00), no crediting for three (3) consecutive months (with the exception of export cases, transactions financed by the European Commission, business closure cases, etc.), credit balance carried over beyond three (3) years, payments for purchases over €300.00 between taxable persons not made through the bank account and/or other forms of electronic payment, recognition of the deductible VAT when the seller is not a VAT filer, etc.

**Article 8**

**REIMBURSEMENT REQUESTS FOR TAXPAYERS OF CATEGORY “A”**

In case the system has categorized the taxpayer in Category “A”, then through the verification and brief processing of the system data, the officer shall prepare a report/activity according to the official form. Based on these activities, the required forms shall be prepared for the execution of the reimbursement to the Treasury.

Currently, these official forms shall be sent to the Treasury in hard copy. In the future it is envisaged that reimbursements shall be processed electronically.
If the Reimbursement Officers suspect any transaction to be suspicious and a prompt verification is required by RTD/LTD/MTD, this verification requested by the Reimbursement Division for the said case with certain points, shall not take more than two (2) working days, including the drafting of a report/activity by RTD/LTD/MTD.

In case that RTD/LTD/MTD in their reporting activity find that there are significant irregularities affecting the reimbursement request, then the case shall be treated as if it was a Category “C” taxpayer.

In this case, the taxpayer must be notified by the Reimbursements Division that the case has been sent for audit due to the verification of transactions or any other irregularity identified by the tax officer. Such audits may not last longer than twenty-five (25) calendar days from the date of submission of the reimbursement request.

The period of reimbursement request review and handling when the taxpayer is categorized in “A” must not exceed **seven (7) calendar days.**

### Article 9

**REIMBURSEMENT REQUESTS FOR CATEGORY “B” TAXPAYERS**

In case that the system has categorized the taxpayer in the Category “B”, the information and data shall be verified by the system and if there are no serious irregularities that would require additional verifications by RTD/LTD/MTD, the officer shall prepare a report or activity according to the official form for the requested reimbursement.

Whereas, if any additional information is required, then the officer of the Reimbursement Division may communicate with the taxpayer asking for clarifications (via telephone, contact e-mails or official letters, etc.) to clarify such ambiguities and, if necessary, bring explanatory documents (such as invoices of purchases, sales, contracts, etc.). After filling in these additional clarifications, the application must be reviewed and processed within the shortest time possible and the request shall be approved via the defined forms of activity.

In case of irregularities and deviations from the established legal rules where it is found that without a correct verification the reimbursement cannot be approved, then a request shall be made to the RTD/LTD/MTD to conduct a visit or activity before the reimbursement decision for the taxpayer who has requested the reimbursement.

That visit will result in a report as per request of the Reimbursement Division for the case, with specific, detailed points and the activity shall not last more than five (5) working days from the moment the request is addressed to RTD/LTD/MTD by including the drafting of a report/activity by RTD/LTD/MTD.

Depending on the description of the situation in the RTD/LTD/MTD report, it will be decided to approve the reimbursement request within the deadline set for Category “B” or return this reimbursement request to the RTD/LTD/MTD for audit, as if it is of Category “C”.

In this case, the Reimbursement Division shall notify the taxpayer that the case has been sent for audit due to the verification of transactions or any other irregularity identified by the tax
officer. Such audits may not last more than twenty-five (25) calendar days from the date of submission of the reimbursement request.

The duration of review and handling of reimbursement requests when the taxpayer is categorized in “B” shall not exceed fifteen (15) calendar days.

Article 10
REIMBURSEMENT REQUESTS FOR CATEGORY “C” TAXPAYERS

In case the system has categorized the taxpayer in Category “C”, the Reimbursements Division shall delegate the reimbursement request to RTD/LTD/MTD. Tax audit procedures must be developed for all these cases sent to RTD/LTD/MTD.

After the completion of the tax audit by RTD/LTD/MTD, they shall inform the Reimbursements Division about the results of the tax audit. RTD/LTD/MTD shall send an Audit Report (signed and stamped by the responsible persons) and, if requested, shall also send other additional explanatory documents.

Based on the taxpayer's reimbursement request and on the basis of the report prepared by RTD/LTD/MTD, the Reimbursements Division shall make a decision on the taxpayer's reimbursement request.

The Reimbursement Division shall then generate from the system the following reimbursement forms, such as: KR001, CPO, Decision, etc., and the reimbursement module shall automatically cover from the initially approved amount all tax liabilities (if there are tax liabilities) and shall transfer the remaining part to the taxpayer's account, by completing the forms for the Treasury for the execution of funds.

If, even after receiving the Audit Report and additional clarifications from RTD/LTD/MTD, the Reimbursements Division finds that not all information about irregular transactions has been handled, it may return the same report for reconsideration or transfer it to other Departments dealing with the quality audit or verification of the transaction between the parties and in this case the reimbursement shall be held until the verification of the transaction’s accuracy.

The duration of the tax audit procedure in cases of Category “C” should not exceed the deadline of twenty-five (25) calendar days from the date of submission of the reimbursement request. Cases where delays are due to objective reasons related to the reasons of the taxpayer shall be exempted.

For all types of “A”, “B” and “C” categories, if it is first established through various information sources of TAK, that the taxpayer is involved in any suspicious transaction, the reimbursement request procedure shall be treated as of Category “C”, and then delegated to RTD/LTD/MTD for tax audit.
Article 11
TIME LIMITS FOR REVIEW OF REIMBURSEMENT REQUEST

The time limit for submitting a reimbursement request from Information Technology to the Department of Reimbursements and Call for Taxpayers shall be one business day. Each application must be recorded in the special registers of the Reimbursement Management Module – RMM.

From the moment that the reimbursement request is submitted in the system, the Director of the Department of Reimbursement and Calls for Taxpayers must delegate the request to the Head of the Reimbursement Division within the same day.

The Director of the Department of Reimbursements and Calls for Taxpayers, in cooperation with the Head of the Reimbursements Division, within the shortest time possible, shall delegate the request to the reimbursements officer for consideration of the reimbursement request.

The Reimbursement Officer shall verify the necessary documentation based on which he/she assesses whether the reimbursement will be approved or rejected (rejection is made only in cases when they are contrary to the laws in force mentioned above), respecting the time limit according to the reimbursement categories: “A”, “B” and “C”.

Time limit for the review of reimbursements according to reimbursement categories, including the time used by RTD/LTD/MTD and that of the Reimbursements Division.

The time limit for review and decision-making related to reimbursement requests according to Law No. 08/L-257, Article 26, paragraph 4, is thirty (30) calendar days from the date of submission of the application; however, there is a legal possibility that for reasons based in accordance with Article 99 of Law No. 05/L-31 for the General Administrative Procedure, this deadline shall be postponed for a certain period, but it cannot be longer than the initial deadline.

In such cases, the Reimbursement Division must justify in writing the postponement of the deadline for decision-making, notifying the applicant within the first thirty (30) days that the examination and decision related to his/her application has been postponed for a maximum period of thirty (30) additional days from the legal deadline.

Article 12
AUDIT AFTER APPROVAL OF REIMBURSEMENT

For Category “A” and “B” taxpayers, who have been approved for reimbursement through activities (not tax audits), based on the occasional results of the “Risk Analysis” system and other circumstances, TAK shall reserve the right to audit any declaration submitted within the time period provided by the applicable legislation in force.
Article 13
REPORTING

Through the Reimbursement Management Module, the Director of the Department of Reimbursements and Calls for Taxpayers and the Reimbursements Division shall have access to all reimbursement requests, including the taxpayer's reimbursement categorization, determination of how the reimbursement request will be reviewed (activity, compliance audit or tax audit), the duration of the reimbursement review, delegation, etc. Also, the reimbursement request shall be approved or rejected by the reimbursement officer, which is approved by the Director of the Department of Reimbursements and Calls for Taxpayers via this application.

The Reimbursement Division, based on the MMR and other information from the system, must make periodic analyses and reports, depending on the requirements of the Senior Management of TAK, the Ministry of Finance, Labour and Transfers and international institutions that support TAK. The Reimbursements Division shall periodically reconcile data with the Treasury Department and the Budget Office of TAK.

After reviewing the cases, the Reimbursements Division shall periodically verify the correct and real categorization based on the parameters and results of the reimbursement risk analysis system. This process shall serve for the evaluation, the periodic audit of the categorization of the reimbursements approved with AU005 even after the reimbursements. These cases must be selected according to the sampling method, in a certain percentage of the total cases of approved reimbursements.

Article 14
APPROVED REIMBURSEMENT EXECUTION PROCEDURES

At the moment when the reimbursement is approved by the Reimbursements Division, the system must generate the form KR001/AU027 where in this form the taxpayer's obligations shall be automatically covered in the order starting from the oldest obligations.

Completed forms for the transfer of funds in physical or electronic form shall be forwarded to the Treasury, where records and reports are kept for accepted/approved cases. Documents for the Treasury – Refund Order and the Decision, must be signed by the Director of the Department of Reimbursements and Calls for Taxpayers.

Article 15
DOCUMENTS NECESSARY FOR EXECUTION OF REIMBURSEMENT

In order to execute the case in the Treasury, the taxpayer shall be obliged to bring to the Reimbursements Division these documents for openness of the supplier:
- Copy of the Certificate with Unique Business Identification Number/Fiscal Number;
- Copy of the identity card/passport of the owner/responsible persons;
- Bank confirmation that the account is active and in the name of the business/person who requested the tax reimbursement.
Article 16
REPEALING PROVISIONS

Upon the entry into force of this Regulation, the previous Regulation “TAK Internal Regulation No. 02/2023 on Reimbursement Procedures”, dated 25.09.2023, shall be repealed.

Article 17
ENTRY INTO FORCE

This Regulation shall enter into force on the date of signature by the Director General of TAK.

Data: 19/03/2024
Prishtina

Ilir Murtezaj
Acting Director General of TAK