

## **CORPORATE PROFIT TAX LAW**

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### **Part One**

#### **TAXPAYER Kinds of Taxpayers**

##### **Article 1**

A corporate profit taxpayer (hereinafter: the taxpayer) shall be any company or legal entity set up in one of the following forms:

- 1) Stock company;
- 2) Limited liability company;
- 3) General partnership;
- 4) Limited partnership;
- 5) Socially owned enterprise;
- 6) Public enterprise;
- 7) Other legal forms of companies and/or enterprises in accordance with special regulations.

A taxpayer shall also be any co-operative that earns income by selling products on the market or providing services for a fee.

A taxpayer under law shall also be some other legal entity that is not set up in any of the forms referred to in paragraphs 1 and 2 of this Article, if it earns income by selling products on the market or providing services for a fee.

#### **Residents and Non-residents**

##### **Article 2**

Any taxpayer referred to in Article 1 of this Law shall be a resident of the Republic of Serbia (hereinafter: the resident taxpayer) who is subject to taxation for any profit it generates in the territory of the Republic of Serbia (hereinafter: the Republic) and outside it.

For the purposes of this Law, any resident taxpayer shall be a legal entity formed or having its head office of actual management and control in the territory of the Republic.

##### **Article 3**

Any non-resident of the Republic (hereinafter: the non-resident taxpayer) shall be subject to taxation for any profit it generates through a permanent operating unit in the territory of the Republic.

For the purposes of this Law, any non-resident taxpayer shall be a legal entity formed and having its head office of actual management and control outside the territory of the Republic.

##### **Article 4**

A permanent operating unit shall be understood to mean any permanent place of business through which a non-resident conducts its business, and it may be the following in particular:

1. Branch;
2. Plant;
3. Representative office;
4. Place of production, factory or workshop;
5. Mine, quarry or other site of exploitation of natural resources.

A permanent operating unit may also comprise a permanent or movable site, construction and mounting works, if they last more than six months, including:

- a) One or several construction or mounting projects executed concurrently, or
- b) Several construction or mounting projects executed one after the other without interruption.

If in representing a non-resident taxpayer, a person has and exercises the authority to conclude contracts on behalf of that taxpayer, it shall be deemed that the non-resident

taxpayer has a permanent operating unit with regard to the operations performed by the representative on behalf of the taxpayer.

A permanent operating unit shall be deemed non-existent if the non-resident taxpayer conducts its business through a commissioner, broker or any other person which in the conduct of its own business acts in its own name and for the taxpayer's account.

Neither shall the following make up a permanent operating unit:

1. Keeping stocks of goods or materials belonging to any non-resident taxpayer exclusively for purposes relating to storage, presentation and delivery or using premises intended for such purposes exclusively;
2. Keeping stocks of goods or materials belonging to any non-resident taxpayer exclusively for the purpose of their being processed in another enterprise or by a sole proprietorship;
3. Keeping a permanent place of business exclusively for the purpose of procuring goods or collecting information for the needs of a non-resident taxpayer or for the purpose of engaging in other activities of preparatory or accessory nature for the needs of a non-resident taxpayer.

### **Article 5**

Any non-resident taxpayer who is conducting a business in the territory of the Republic by operating through a permanent operating unit which is keeping books in accordance with the regulations dealing with accounting and auditing (a branch or other organisational parts of a non-resident taxpayer which are conducting a business), shall establish the taxable profit in keeping with the present law and declare the taxable income of the permanent operating unit the same as the taxpayer referred to in Article 1, paragraph 1, of this law and the tax declaration.

Any non-resident taxpayer who is conducting a business through a permanent operating unit which is not keeping books in accordance with the regulations dealing with accounting and auditing, shall keep in that permanent operating unit the records covering all data on income and expenditures, as well as all other data of importance for establishing the profit generated by that unit by operating in the territory of the Republic.

The contents of the tax declaration referred to in paragraph 1 of this Article and the way of keeping the records referred to in paragraph 2 of this Article shall be prescribed by the Minister of Finance.

## **Part Two TAX BASE Taxable Profit**

### **Article 6**

Taxable profit shall be the corporate profit tax base.

Taxable profit shall be determined in the fiscal balance sheet by adjusting the taxpayer's profit declared in the income statement which has been drawn up in conformity with the International Accounting Standards (hereinafter: IAS), International Financial Reporting Standards (hereinafter: IFRS) and regulations dealing with accountancy and audit, in the manner determined by this Law.

The taxable profit of a taxpayer who is not applying the IAS and/or IFRS pursuant to the regulations dealing with accounting and auditing, shall be determined in the tax declaration by adjusting the taxpayer's profit declared in accordance with the method of recognising, measuring and estimating the revenues and expenditures prescribed by the Minister of Finance, in the way provided by this law.

## **Adjustment of Expenditures**

### **Article 7**

The expenditures declared in the income statement in conformity with the IAS, IFRS and the regulations dealing with accountancy and auditing, with the exception of the expenditures that are to be declared in a different way pursuant to this Law, shall be recognised in the determination of taxable profit.

In establishing the taxable profit of a taxpayer who is not applying the IAS and/or IFRS pur-

suant to the regulations dealing with accounting and auditing, the expenditures established in accordance with the method of recognizing, measuring and estimating the expenditures prescribed by the Minister of Finance shall be recognized, with the exception of the expenditures which are to be established in some other way provided by this law.

#### **Article 7a**

The following shall not be recognised as a charge to expenditures:

- 1) Non-documentable expenditures;
- 2) Adjustments of individual claims from persons that are also creditors;
- 3) Gifts and contributions to political organisations;
- 4) Gifts and other expenditures on advertising and publicity that are not documented or if the recipient of a gift is an associated person as referred to in Article 59 of this Law;
- 5) Interest payable for untimely payment of taxes, contributions and other public charges;
- 5a) Cost of forced collection of tax and other debts and cost of tax offence proceedings and other proceedings conducted by competent authorities;
- 6) Fines levied by competent authorities, penalty clauses and penalties;
- 7) Receipts of employees or other persons based on profit participation;
- 8) Costs incurred for the purpose of conducting business, unless otherwise provided by this Law.

#### **Article 8**

The cost of materials and the acquisition value of sold merchandise shall be recognised in the amounts calculated by the weighted average price method or FIFO method.

The provisions of Article 61 of this Law shall apply with regard to the acquisition price of materials and the value of the merchandise procured from associated persons.

#### **Article 9**

The costs relating to wages and salaries shall be recognised in the amount charged to operating costs.

#### **Article 9a**

Calculated gratuities and pecuniary compensation due to employees on the basis of retirement or termination of employment on other grounds, shall be recognized as expenditure in the fiscal balance sheet in the taxation period in which they have been paid out.

#### **Article 10**

Depreciation of fixed assets shall be recognised as expenditure up to the amount determined by this Law.

The fixed assets referred to in paragraph 1 of this Article shall include tangible assets the service life of which is longer than a year and the individual acquisition price of which at the time of acquisition was higher than the average monthly gross wage per employee in the Republic, according to the latest figures published by the republic authority in charge of statistics, with the exception of non-expendable natural assets, as well as intangible assets, other than goodwill.

The assets referred to in paragraph 2 of this Article shall be divided into five groups the depreciation rates of which being as follows:

- 1) Group I 2.5%;
- 2) Group II 10%;
- 3) Group III 15%;
- 4) Group IV 20%;
- 5) Group V 30%.

Depreciation for the Group I fixed assets shall be determined by applying the proportionate

method to the base made up of the acquisition value of assets, for each fixed asset individually, and in case the fixed assets from this group had been acquired in the course of taxation period, by applying the proportional method in proportion to the period from the start up of calculation of depreciation to the end of taxation period.

Depreciation for the Group II-V fixed assets shall be determined by applying the digression method to the value of assets divided by groups.

The base for the depreciation referred to in paragraph 5 of this Article shall be the acquisition value in the first year and the non-written off value thereafter.

The Group I fixed assets shall be real estate.

The Minister of Finance shall regulate in greater detail the division of fixed assets into groups and the way of determining the depreciation.

**Article 11**

**DELETED – by 84/2004**

**Article 12**

**DELETED – by 84/2004**

**Article 13**

**DELETED – by 84/2004**

**Article 14**

**DELETED – by 84/2004**

**Article 15**

Expenditures on health care, cultural, educational, scientific, humanitarian, religious, environmental protection and sport-related purposes, shall be recognised as expenditure amounting to not more than 3.5% of the total revenue.

The expenditures referred to in paragraph 1 of this Article shall be recognised as outlays only if payments were made to the persons registered for such purposes in accordance with special regulations, which are using the mentioned receipts exclusively for the purpose of conducting the business referred to in paragraph 1 of this Article.

Expenditures on investment in the field of culture shall be recognised as expenditure amounting to not more than 3.5% of the total revenue.

The membership fees paid to chambers of commerce and industry, unions and associations shall be recognised as expenditure item in the tax statement up to 0.1% of the total revenue.

Membership fees the amount of which is determined by law shall be recognised as expenditure in the amount determined by law.

The expenditures on advertising and publicity shall be recognized as outlays amounting up to 5% of the total revenue.

Expenditures on entertainment shall be recognised as outlays amounting up to 0.5% of the total revenue.

Only the gifts and other expenses serving toward improvement of the taxpayer's performance shall be recognised as publicity expenditure in the tax statement.

The minister in charge of cultural affairs shall enact regulations in greater detail as to what the investment in the field of culture should be understood to mean for the purposes of this Law, having obtained the opinion of the minister of finance.

**Article 16**

The written off value of individual receivables, other than the receivables referred to in Article 7a, Item 2), of this Law, shall be recognised as a charge to expenditures, on condition that:

- 1) It is proven beyond any doubt that such receivables were previously included in the taxpayer's revenues;

- 2) Such receivables have been written off in the taxpayer's books as uncollectable;
- 3) The taxpayer presents evidence of failed collection of such receivables on the basis of legal proceedings.

The adjusted value of individual receivables shall be recognised as a charge to expenditures, if at least 60 days have expired from the deadline for their collection.

The revenues in the fiscal balance sheet for the taxation period in which the taxpayer has written off the value of the same claims shall be increased by the amount of expenditures on the basis of corrected value of the individual claims referred to in paragraph 2 of this Article, unless the taxpayer has satisfied the requirements referred to in paragraph 1 of this Article cumulatively.

All of the written off, adjusted and other receivables recognised as expenditure, which get collected subsequently, shall be included in the taxpayer's revenues at the moment of collection.

#### **Article 17**

**DELETED – by 43/2003**

#### **Article 18**

**DELETED by 43/2003**

#### **Article 19**

The total accounted interest, other than interest charged for untimely payment of taxes, contributions and other public charges, shall be recognised as expenditure in the tax statement.

In case of credits received from associated persons, the accounted interest shall be reduced in the manner determined by Article 62 of this Law.

#### **Article 20**

Any interest and related costs based on a loan extended to a permanent operating unit referred to in Article 4 of this Law by its non-resident head office, shall not be recognised as expenditure in that operating unit's tax statement.

Any compensation based on copyrights **and related rights** and industrial property rights paid by any permanent operating unit referred to in Article 4 of this Law to its non-resident head office, shall not be recognised as expenditure in the permanent operating unit's tax statement.

#### **Article 21**

**DELETED – by 84/2004**

#### **Article 22**

The taxes, contributions, fees and other public charges which are not dependent on the business operation results and have been paid during the taxation period shall be recognised as a charge to expenditures in the fiscal balance sheet.

#### **Article 22a**

The increase in the adjusted value of the balance asset claims and reservations for the off-balance item losses, which are declared in the profit-and-loss statement as a charge to expenditures in the taxation period in accordance with a bank's internal regulations, shall be recognised as a charge to expenditures fiscal balance sheet of the bank concerned, up to the amount fixed in accordance with the regulations of the National Bank of Serbia.

The increase in the indirect writing off according to the claim collectability categories, calculated and declared in the profit-and-loss statement as a charge to expenditures in the taxation period, shall be recognized as a charge to expenditures in the fiscal balance sheet of any insurance company, up to the amount fixed in accordance with the regulations of the National Bank of Serbia.

#### **Article 22b**

The long-term provisions made for the renewal of natural resources, warranty period costs and retained caution money and deposits, as well as other obligatory long-term reservations

in conformity with law, shall be recognised as a charge to expenditures.

The long-term reservations for issued guarantees and other securities shall also be recognized as a charge to expenditures, up to the utilized amount of such reservations in the taxation period and settled commitments and resource outflow based on such reservations.

#### **Article 22c**

The expenditures incurred on the basis of depreciated property, which is determined as the difference between the acquisition price of property determined in accordance with this Law and its estimated recoverable value, except in the case of damage resulting from Force majeure, shall not be recognised as a charge to expenditures in the fiscal balance sheet, but shall be recognized in the taxation period in which that property was transferred, used or in which such property was damaged due to force majeure.

#### **Income Adjustment**

#### **Article 23**

The revenue declared in the fiscal balance sheet in conformity with the IAS and/or IFRS and regulations dealing with accountancy and audit, with the exception of the revenue that is to be determined in some other way under this Law, shall be recognised in the determination of taxable profit.

In establishing the taxable profit of a taxpayer who is not applying the IAS and/or IFRS under the regulations dealing with accounting and auditing, the revenue established in accordance with the method of recognizing, measuring and estimating revenues prescribed by the Minister of Finance shall be recognized, with the exception of the revenue which has to be determined in some other way provided by the Law.

#### **Article 24**

In the case of a claim from a debtor having the status of an associated person as referred to in Article 59 of this Law or a credit extended by the taxpayer to a debtor having the status of an associated person, the interest and related costs included in the fiscal balance sheet may not be smaller than those that would have been incurred had such claim been contracted on the market and/or had the credit been extended on the market in the taxation period.

#### **Article 25**

Any income accrued to a taxpayer from dividends and a share in the profits of another taxpayer shall not be included in the tax base.

The minister of finance shall regulate in greater detail the way of excluding the income referred to in paragraph 1 of this Article from the tax base.

#### **Article 25a**

The revenue generated on the basis of non-utilized long-term reservations, which were not recognized as expenditure during the taxation period in which they were made, shall not be included in the tax base for the taxation period in which they were declared.

The minister of finance shall regulate in greater detail the way of excluding the revenue referred to in paragraph 1 of this Article from the tax base.

#### **Article 26**

The production costs shall be included in the value of the stocks of work in progress, intermediates and final products in the determination of taxable profits in conformity with the provisions of the law dealing with accountancy and audit.

In case of long production cycles and strong seasonal effect on the volume of activities, it shall be permissible to also include in the value of the stocks referred to in paragraph 1 of this Article, the appropriate part of the general overhead and sales costs and financing costs.

The value of stocks calculated pursuant to paragraphs 1 and 2 of this Article may not be greater than their sale value on the tax statement filing date.

#### **Article 26a**

**DELETED – by 84/2004**

**Article 26b**

**DELETED – by 84/2004**

**Article 26c**

**DELETED – by 84/2004**

**Article 26d**

**DELETED – by 84/2004**

**Article 26e**

**DELETED – by 84/2004**

**Article 26f**

**DELETED – by 84/2004**

**Article 26g**

**DELETED – by 84/2004**

**Article 26h**

**DELETED – by 84/2004**

**Article 26i**

**DELETED – by 84/2004**

**Article 26j**

**DELETED – by 84/2004**

**Article 26k**

**DELETED – by 84/2004**

**Article 26l**

**DELETED – by 84/2004**

**Capital Gains and Losses**

**Article 27**

A capital gain shall mean any income earned by a taxpayer by selling or transferring in other way against compensation (hereinafter: sale) the following:

- 1) Real estate;
- 2) Industrial property rights;
- 3) Interests in the capital of legal entities and shares and other securities, with the exception of bonds issued in conformity with the regulations dealing with settlement of commitments of the Republic of Serbia based on the loan towards economic development and household foreign exchange savings and debtor securities issued in conformity with law by the Republic, an autonomous province, a local self-government unit or the National bank of Serbia;
- 4) Investment units bought up by open investment funds, in conformity with the law dealing with investment funds.

A capital gain makes up the difference between the sale price of the property referred to in paragraph 1 of this Article (hereinafter: the property) and its acquisition price established in accordance with the provisions of this Law.

If the difference referred to in paragraph 2 of this is negative, a capital loss is involved.

**Article 28**

For the purposes of this Law, the sale price used for the determining the capital gain shall be understood to mean the contract price or market price determined by competent tax office, if it finds that contract price is lower than the market one.

The contract or market price referred to in paragraph 1 of this Article shall be the price without tax on the transfer of absolute rights.

In the case of transfer of rights in exchange for another one, the sale price shall mean the market price of the right obtained against compensation set in the way referred to in

paragraph 1 of this Article, adjusted by any received or paid difference in money.

#### **Article 29**

For the purposes of this Law, the acquisition price used in the determination of capital gains shall be the price at which a taxpayer has acquired the assets, less the depreciation worked out in accordance with this Law.

The acquisition price referred to in paragraph 1 of this Article shall be corrected to the estimated or fair value established in accordance with the IAS and/or IFRS and the adopted accounting policies, if the change to fair value has been declared wholly as revenue of the period in which it was made.

If the price at which the assets were acquired has not been declared in the taxpayer's books or in accordance with the provisions of paragraphs 1 and 2 of this Article, the acquisition price to be used in working out the capital gains shall be the market price on the date of acquisition as determined by the competent tax office in the way provided by provisions 1 and 2 of this Article.

In the case of sale of real estate under construction, the acquisition price shall include the construction costs declared until the date of sale in accordance with IAS and/or IFRS and the regulations dealing with accounting and auditing.

In the case of real estate acquired on the basis of the founder's share or by increasing the founder's share, the acquisition price shall be the market price of that real estate on the date of issue of the founder's share.

In the case of securities which are traded on the regulated market, according to the law dealing with the securities and other financial instruments market, the acquisition price shall be the price the taxpayer can prove to be the actually paid one and if the taxpayer has no proof to that effect, the lowest price fetched on the regulated market in the year preceding the sale of such securities or in the trading period, if trading lasted less than a year.

In the case of securities which are not traded on the regulated market, the acquisition price of securities shall be the price the taxpayer can prove to be the actually paid one and if the taxpayer has no proof to that effect, their nominal value.

In the case of securities acquired on the basis of the founder's share or by increasing the founder's share, the acquisition price shall be the market price valid on the regulated market on the share issuing date or if such price was not fixed, the nominal value of securities on the share issuing date.

The acquisition price of a share in the equity of legal entities and industrial property rights shall be the price the taxpayer can prove to be the actually paid one. The acquisition price of a share in the equity of legal entities and industrial property rights, acquired on the basis of the founder's share or by increasing the founder's share shall be the market price valid on the share issuing date.

The acquisition price of an investment unit shall be the net value of the open fund assets per investment unit on the date of payment plus the purchase fee, if the managing company charges one, in conformity with the law dealing with investment funds.

#### **Article 30**

Any capital gain shall be included in taxable profit in the amount set in the way referred to in Articles 27 through 29 of this Law.

Any capital loss incurred in the sale of a proprietary right may be offset with the capital gain made in the sale of another proprietary right in the same year.

If a capital loss is declared even after the offsetting referred to in paragraph 1 of this Article, it is permissible for it to be offset with future capital gains in the next five years.

#### **Article 31**

Any change of the status of a resident taxpayer made in conformity with the law dealing with companies (hereinafter: the status change) shall defer the onset of tax liability based on

capital gains.

The tax liability based on capital gains as referred to in paragraph 1 of this Article shall run from the moment a legal entity sells the assets it had acquired on the basis of status change.

Any capital gain referred to in paragraph 2 of this Article shall be calculated as the difference between the sale price of property and its acquisition price paid by the legal entity that had transferred that property to another legal entity by status change, adjusted in the way referred to in Article 29 of this Law, from the date of acquisition to the date of sale.

The right to the deferment of payment of corporate profit tax on the capital gains made in the way referred to in paragraph 1 of this Article shall apply, if the owner of the legal entity which had transferred property on the occasion of status change has received compensation in the form of shares or interest in the legal entity to which the property was transferred, as well as any compensation in cash, the amount of which is not greater than 10% of the par value of the obtained shares or interests.

If the compensation in cash referred to in paragraph 4 of this Article is greater than 10% of the par value of the obtained shares or interests, the tax liability on capital gain runs from the moment the change of status is made and the capital gain shall be calculated as the difference between the price at which the property could have been sold on the market and the acquisition price referred to in Article 29 of this Law.

### **Tax Treatment of Operating Losses**

#### **Article 32**

Any losses incurred in the conduct of commercial, financial and non-commercial transactions declared in the tax statement, with the exception of those from which the capital gains and losses determined in conformity with this Law originate, may be transferred to the account of the profit declared in the tax statement in future accounting periods, but not for longer than five years.

#### **Article 33**

The utilisation of the tax facility referred to in paragraph 32 of this Article shall not be terminated in the event of change of status or change of legal form of companies.

In the event of partition or separation, the facilities referred to in Article 32 of this Law shall be divided proportionately and the competent tax office shall be notified accordingly.

### **Part Three**

## **TAX TREATMENT OF A TAXPAYER'S LIQUIDATION AND BANKRUPTCY**

#### **Article 34**

Any profit determined in the proceedings for the liquidation of any taxpayer shall be taxable.

The profit of a taxpayer shall be determined in the liquidation proceedings as the positive difference between the taxpayer's assets at the beginning and at the end of the liquidation proceedings, or as the difference in assets during the liquidation proceedings for which the tax declaration and fiscal balance sheet should be submitted, as determined in the financial statements submitted in keeping with the regulations dealing with accounting and auditing, where the initial balance of the liquidation period is equal to the balance at the end of taxation period preceding the start up of liquidation proceedings.

Any taxpayer in relation to whom the liquidation proceedings have been instituted shall file with the competent tax office an announcement and a tax statement, as on:

- 1) The date of institution of liquidation proceedings - within 15 days from the date of forwarding the financial statements in keeping with the regulations dealing with accounting and auditing;
- 2) The date of completion of liquidation proceedings - within 15 days from the date of forwarding the financial statements in keeping with the regulations dealing with accounting and auditing.

The period for which the base referred to in paragraph 2 of this Article is determined shall

correspond to the actual duration of liquidation proceedings, but it may not be longer than a year, and if proceedings are carried over to the next year, the taxpayer concerned shall also compile a tax statement as on 31 December of the current year and file it within 10 days from the expiration of the term set for the presentation of financial reports.

#### **Article 35**

Any assets left over after satisfying the creditors (liquidation residue) exceeding the value of invested capital shall be deemed a capital gain.

#### **Article 36**

If the value of invested capital is greater than the liquidation residue, it shall be deemed that a capital loss has been incurred.

#### **Article 37**

The provisions of Article 34 of this Law shall also apply to bankruptcy proceedings accordingly.

### **Part Four TAX PERIOD Article 38**

The financial year shall be the period for which the profit tax is to be calculated.

A financial year shall mean a calendar year, except when the business is dissolved or started up or status-related changes are made in the course of a year, as well as in the case of institution of bankruptcy or liquidation proceedings.

At the request of a taxpayer who has obtained the consent of the Minister of Finance or the Governor of the National Bank of Serbia to draw up and present financial reports as on the last day of the financial year which is different from the calendar one, the competent tax office shall render a decision allowing the financial year to be different from the calendar one, on condition that the duration of the taxation period is 12 months. The taxpayer concerned shall apply the thus allowed taxation period for at least five years.

The taxpayer referred to in paragraph 3 of this Article shall submit the tax return and fiscal balance sheet for the purpose of establishing the final tax liability for the period from 1

January of the current year to the beginning of the financial year different from the calendar one according to the decision of the competent tax office, within ten days from expiration of the deadline for submission of financial statements for the period for which the tax declaration and fiscal balance sheet are submitted.

If a taxpayer has paid in advance less tax than it was bound to pay according to the liability worked out in the tax declaration, it shall pay the balance before submitting the tax return and present evidence of that balance being paid.

If a taxpayer has paid in advance more tax than it was bound to pay according to the liability worked out in the tax declaration, the surplus paid tax shall be counted as an advance for the next period or be refunded at its request within 30 days from receipt of the refunding request.

### **Part Five**

### **TAX RATE**

#### **Article 39**

The corporate profit tax rate shall be proportional and uniform.

The corporate profit tax rate shall be **10%**.

#### **Article 40**

Withholding tax shall be charged and paid at the rate of 20% on the income earned by a non-resident taxpayer from a resident taxpayer on the basis of dividends and a share in the profit of a legal entity, copyrights and related rights and industrial property rights, interest and rent on leased real estate and chattels in the territory of the Republic of Serbia, unless otherwise provided by an international agreement on the avoidance of double taxation.

The withholding tax referred to in paragraph 1 of this Article shall be charged and paid on the income of non-resident taxpayers from staging entertainment, artistic, sport or similar pro-

grammes, which is not taxed as income of individuals (performers, musicians, athletes and the like) in accordance with the regulations dealing with individual income tax.

Tax shall be charged at the rate of 20% on the income earned by a non-resident taxpayer from a resident taxpayer, some other non-resident taxpayer, individual, non-resident or resident or open investment fund in the territory of the Republic, on the basis of capital gains generated in accordance with the provisions of Articles 27 through 29 of this Law, unless otherwise provided by an international agreement on the avoidance of double taxation.

Any income-receiving non-resident taxpayer shall submit the tax declaration to the tax office covering the municipality in the territory of which the income was earned, through a tax agent appointed in compliance with the regulations dealing with the taxation procedure and taxation administration, within 15 days from the date of generation of the income referred to in paragraph 3 of this Article, on the basis of which the competent tax office shall render a decision.

The Minister of Finance shall deal in greater detail with the contents of the tax return referred to in paragraph 4 of this Article.

The withholding tax referred to in paragraphs 1 and 2 of this Article and the tax mentioned in the decision referred to in paragraph 3 of this Article shall not be chargeable and payable if the income referred to in paragraphs 1 through 3 of this Article is paid to a permanent operating unit of a non-resident taxpayer referred to in Article 4 of this Law.

#### **Article 40a**

When calculating the withholding tax on the income of a non-resident, the payer of income shall apply the provisions of the agreement on the avoidance of double taxation, on condition that the non-resident concerned can prove its status of a resident of the state with which the Republic has concluded an agreement on the avoidance of double taxation and that the non-resident is the actual owner of income.

The non-resident concerned may prove to the payer of income its status of a resident of the state with which an agreement on the avoidance of double taxation referred to in paragraph 1 of this Article has been concluded by presenting a certificate of residence authenticated by competent authorities of the other contracting state of which it is a resident, on a special form provided by the regulation enacted in keeping with the law dealing with the taxation procedure and taxation administration.

If the payer of income applies the provisions of the agreement on the avoidance of double taxation and the requirements referred to in paragraphs 1 and 2 of this Article have not been satisfied, in consequence of which the tax is underpaid, it shall pay the difference between the tax paid and the tax owed under this Law.

At the request of a non-resident, the competent tax office shall issue a certificate of the payment of tax in the Republic.

The provisions of the agreement on the avoidance of double taxation shall apply to any non-resident taxpayer receiving the income referred to in Article 40, paragraph 3, of this Law, in keeping with the provisions of paragraphs 1 through 3 of this Article.

#### **Part Six**

### **TAX INCENTIVES**

#### **Article 41**

Taxpayers shall be granted tax incentives for the purpose of achieving economic policy aims relating to the fostering of economic growth, development of small enterprises and concession-related investment.

This Law alone shall determine the tax incentives relating to corporate profit tax.

#### **Article 42**

**DELETED – by 18/2010**

#### **Article 43**

**DELETED – by 18/2010**

## **Tax Exemptions**

### **Article 44**

Exemption from corporate profit tax shall apply to any taxpayer referred to in Article 1, paragraph 3, of this Law (hereinafter: non-profit organisation), which declares income that is up to 400,000 dinars higher than its expenditures in the year for which the right to exemption is granted, on the following conditions:

- 1) That the non-profit organisation does not distribute the thus generated surplus to its founders, members, executives, employees or persons associated with them;
- 2) That the salaries paid by the non-profit organisation to its employees, executives and persons associated with them are not greater than twice the average salary paid in the branch to which that non-profit organisation belongs;
- 3) That the non-profit organisation does not distribute assets in favour of its founders, members, executives, employees or persons associated with them.

The right to exemption shall not apply to any non-profit organisation which declares income that is by more than 400,000 dinars higher than its expenditures, as well as to any non-profit organisation that enjoys a monopolistic or dominating position on the market as determined by the law dealing with the curbing of monopolistic or dominating positions.

Any non-profit organisation shall provide and declare in its tax statement the data on the income and expenditures incurred and show in the tax balance separately the income earned on the market and expenditures associated with it.

Associated persons shall be understood to mean the persons referred to in Article 59 of this Law.

The minister of finance shall set the contents of the tax statement referred to in paragraph 3 of this Article and the way of keeping a record of revenues and expenditures.

The non-profit organization referred to in paragraph 1 of this Article may not exercise the right to other tax facilities provided by this Law.

### **Article 45**

In the case of any concession-related investment, the concession-receiving enterprise or concessionaire owning an enterprise registered for engagement in concession-related activities shall be exempt from tax on the profit earned on the basis of the income stemming from the subject matter of concession up to five years from the contracted date of completion of the concession-related investment wholly.

If the concession-related enterprise or concessionaire referred to in paragraph 1 of this Article earns profit prior to completion of the concession-related investment, it shall be exempt from profit tax.

The term referred to in paragraph 1 of this Article shall be set by the Government, depending on the time necessary for the exploitation of the subject matter of concession to be started up.

For the purpose of exercising the right to exemption from profit tax, any concessionaire which is not bound to form a concessionaire enterprise under the law dealing with concessions, shall separately account and determine the profit accrued on the basis of income stemming from the subject matter of concession in conformity with law.

The minister of finance shall set out in greater detail the way of declaring the income and expenditures of concessionaires as referred to in paragraph 4 of this Article.

### **Article 46**

Any enterprise engaged in vocational training, professional rehabilitation and employment of disabled persons shall be exempt from corporate profit tax, in proportion to the share of such persons in the total number of its employees.

## **Tax Credits**

#### **Article 47**

Any taxpayer which has generated profit in a newly established operating unit in an underdeveloped region as defined in accordance with the regulations dealing with regional development or identifying underdeveloped regions (hereinafter: the underdeveloped regions) shall be entitled to a corporate profit tax reduction in the duration of two years, in proportion to the share of such profit in the total corporate profit.

The condition for utilising the facility in the form of tax reduction (hereinafter: tax credit) referred to in paragraph 1 of this Article shall be the keeping of separate books for that unit.

#### **Article 48**

The taxpayer who invests in real estate, plants, equipment or biological means (hereinafter: fixed assets) of his own serving for the conduct of his main business and lines of business entered in the taxpayer's founding document or in some other document of the taxpayer determining the taxpayer's lines of business, shall be entitled to a tax credit amounting to 20% of the investment made, provided that it may not be greater than 50% of the tax calculated in the year in which the investment was made.

Notwithstanding the provision of paragraph 1 of this Article, any taxpayer who is classified as a small legal entity under the law dealing with accountancy and audit, shall be entitled to a tax credit amounting to 40% of the investment made in fixed assets for the conduct of its main business and lines of business entered in the taxpayer's founding document or in some other document of the taxpayer determining the taxpayer's lines of business, provided that it may not be greater than 70% of the tax calculated in the year in which the investment was made.

The non-utilised part of the tax credit may be transferred to the profit tax account of future taxation periods, but to the limit of 50% or 70% of accounted tax in that taxation period, but for not longer than ten years.

In each year of the period referred to in paragraph 3 of this Article, the tax credit relating to the investment made in that year shall be applied first and thereafter, the carried over tax credits shall be applied in the order of investment, up to the limit of 50% or 70% of accounted tax in that taxation period.

The fixed assets referred to in paragraphs 1 and 2 of this Article shall not be understood to mean aircraft and watercraft not used for business purposes, passenger automobiles, other than automobiles intended for taxi service, rent-a-car service, driver schools and special automobiles with built-in appliances for the transport of patients; furniture, other than furniture intended for furnishing hotels, motels, restaurants and youth, children's and workers' holiday camps; carpeting; works of fine and applied arts and interior decoration items; and tools and inventory subject to calculated writing off.

In the event of the fixed assets referred to in paragraphs 1 and 2 of this Article being transferred prior to the expiration of three years from the date of acquisition, except for reasons of status change, the taxpayer concerned shall forfeit the right to the tax credit referred to in paragraphs 1 and 2 of this Article and on the date of submission of tax declaration for the next taxation period, it shall account in it and pay the tax it would have paid had it not utilized the tax credit, indexed from the tax declaration submission date for the taxation period in which he had exercised the right to tax credit to the date of transfer, by the retail price growth rate as published by the republic authority in charge of statistics.

If the fixed assets referred to in paragraphs 1 and 2 of this Article are transferred after three years from the date of acquisition and before the expiration of the term referred to in paragraph 3 of this Article, the taxpayer concerned shall not have the right to use any longer the non-utilised part of the tax credit, starting from the taxation period in which the transfer was made.

If the taxpayer makes an investment in the fixed assets referred to in paragraphs 1 and 2 of this Article by making an advance payment, on the basis of certified interim statement and the like and fails in the next taxation period because of breach of the acquisition contract or in

the taxation period in which has completed such investments in fixed assets, to carry out a transfer from the fixed assets under preparation to the acquisitioned fixed assets used for the conduct of its business, or to enter such fixed assets in the books, it shall forfeit the tax credit and submit a tax declaration for the next taxation period showing the amount of tax it would have paid had it not utilized the tax credit, indexed from the date of submission of the tax declaration for the taxation period in which it had acquired the tax credit to the date of submission of the tax declaration for the next taxation period, by the retail price growth rate published by the republic authority responsible for statistics.

#### **Article 48a**

Notwithstanding the provisions of Article 48, paragraphs 1 and 2, of this Law, any taxpayer shall be entitled to the tax credit referred to in that article amounting to 80% of the investment made in that year in the fixed assets of its own serving for the conduct of his business, on condition that under the law dealing with the classification of branches of industry and the register of classification units, he is included in one of the following branches of industry according to its main line of business:

- 01 – Agriculture;
- 05 – Fisheries;
- 17 – Production of textile yarn and fabrics;
- 18 – Production of apparel, fur finishing and dyeing;
- 19 – Leather processing and production of leather items;
- 27 – Production of base metals;
- 28 – Production of standard metal products;
- 29 – Production of machines and appliances;
- 30 – Production of office and computing machines;
- 31 – Production of electrical machines and devices;
- 32 – Production of radio, TV and communications equipment;
- 33 – Production of medical, precision and optical instruments;
- 34 – Production of motor vehicles, trailers and semi-trailers;
- 35 – Production of other means of transport;
- 37 – Recycling;
- 92 – Group 9211 – movie and video production.

Any taxpayer which has been classified as provided by paragraph 1 of this Article, shall be entitled to a tax credit for all lines of business referred to in paragraph 1 of this Article which are entered in its founding document or in some other document of the founder referring to the lines of business it is conducting.

Any taxpayer referred to in paragraphs 1 and 2 of this Article shall be entitled to tax credit without any limitations in relation to the tax calculated in the year in which the investment was made and in 10 years thereafter to which the non-utilised portion of the tax credit may be carried over.

The provisions of Article 48, paragraphs 5 through 9, of this Law, shall apply to the enjoyment of the tax credit referred to in paragraphs 1 through 3 of this Article.

#### **Article 49**

**DELETED – by 15/2010**

#### **Article 50**

**DELETED – by 84/2004**

#### **Investment Incentives**

#### **Article 50a**

Any taxpayer that invests 800 million dinars in its fixed assets or such amount is invested in

its fixed assets by another person and uses such funds in the conduct of its main line of business and lines of business entered in the taxpayer's founding document or in some other taxpayer's document identifying the lines of business conducted by the taxpayer and employs during the investment period at least additional 100 persons for an indefinite period of time, shall be exempt from corporate profit tax for a period of ten years, in proportion to that investment.

The investing in fixed assets by another person pursuant to paragraph 1 of this Article shall also mean investing in fixed assets and increasing the equity in keeping with law.

In a case referred to in paragraph 2 of this Article, fixed assets are evaluated according to market (fair) value.

Following the fulfilment of the requirements referred to in paragraph 1 of this Article, the tax exemption period runs from the first year in which taxable profit is made.

For the purposes of paragraph 1 of this Article, newly employed persons shall mean the persons who were given jobs by the taxpayer in the period of qualifying for tax exemption, so that at the moment of meeting the requirements for utilizing the mentioned tax facility, the taxpayer had at least 100 additional employee working for the taxpayer directly, in relation to the number of its employees in the period in which it began to qualify for tax exemption.

For the purposes of paragraph 1 of this Article, newly employed persons shall not be understood to mean the ones who have been employed indirectly or directly by an associated person referred to in Article 59 of this Law.

#### **Article 50b**

Any taxpayer who is conducting a business in an underdeveloped region shall be exempt from the legal entity profit tax in the duration of five years, subject to meeting the following requirements:

- 1) That it or some other person has invested more than eight million dinars in that taxpayer's fixed assets;
- 2) That it is using 80% of the value of its fixed assets in the conduct of its main line of business and lines of business entered in the taxpayer's founding document or mentioned in some other document of the taxpayer, identifying the lines of business conducted by the taxpayer in an underdeveloped region;
- 3) That it has employed at least five additional permanent employees during the investment period;
- 4) That at least 80% of permanent employees are permanent or temporary residents of the underdeveloped region concerned.

The tax exemption referred to in paragraph 1 of this Article may be enjoyed in proportion to investment.

The tax exemption applies following the fulfilment of the requirements referred to in paragraph 1 of this Article, as of the first year in which taxable profit is obtained.

A permanent employee of the employer as referred to in paragraph 1 of this Article in an underdeveloped region, shall be understood to mean a person who has been employed by that taxpayer and has resided in the underdeveloped region concerned for at least nine months in the calendar year.

For the purposes of paragraph 1, item 3, of this Article, newly employed employees shall not be understood to mean persons who have not been employed indirectly or directly in an associated person referred to in Article 59 of this Law.

For the purposes of paragraph 1 of this Article, the investment in fixed assets by another person shall also mean investment in fixed assets and increasing the equity in conformity with law.

In a case referred to in paragraph 1 of this Article, fixed assets shall be evaluated according to their market (fair) value.

#### **Article 50c**

If a taxpayer referred to in Articles 50a and 50b of this Law reduces the number of employees who are working directly for the taxpayer to less than the total number of permanent employees in relation to the number of employees it had in the taxation period in which it met the requirements for the tax exemption referred to in Article 50a, paragraph 1, and Article 50b, item 3), of this Law, or reduces the percentage laid down in Article 50b, paragraph 1, item 4), it shall forfeit the right to tax exemption for the whole period of utilising the tax exemption and declare in the tax declaration for the next taxation period, as well as pay the tax it would have paid had it not utilised this facility, indexed from the date of submission of the tax declaration for the taxation period in which it had acquired the right to tax exemption to the date of submission of the tax declaration for the next taxation period, retail price growth rate as published by the republic authorities in charge of statistics.

#### **Article 50d**

If before expiration of the period of exemption from tax, a taxpayer referred to in Articles 50a and 50b of this Law goes out of business, stops using or transfers the assets referred to in Article 50a, paragraph 1, and Article 50b, paragraph 1, and does not invest in new fixed assets a

sum that is equal to the market price of transferred assets, at least to the value which provides for the total amount of investment not to fall below the amounts laid down in Articles 50a and

50b of this Law, it shall forfeit the right to tax exemption for the whole period of utilising the tax exemption and declare in the tax declaration for the next taxation period, as well as pay the tax it would have paid had it not utilised this facility, indexed from the date of submission of the tax return for the taxation period in which it had acquired the right to tax exemption to the date of submission of the tax return for the next taxation period, retail price growth rate as published by the republic authorities in charge of statistics.

#### **Article 50e**

**DELETED – by 18/2010**

#### **Article 50f**

Should a taxpayer referred to in Articles 50a and 50b of this Law acquires property on the basis of status change, where capital gain is deferred pursuant to Article 31 of this Law, it shall pay tax on the profit accrued in a period of three years preceding the fulfilment of requirements and in the period of tax exemption referred to in Articles 50a and 50b, in proportion to thus acquired property.

#### **Article 50g**

The proportion referred to in Articles 50a, 50b and 50f shall be determined in the way presented in greater detail by the minister of finance.

The proportion referred to in paragraph 1 of this Article shall be established for each taxation period for the duration of tax exemption.

#### **Article 50h**

The minister of finance shall determine in greater detail the keeping of books on the performance shown by the beneficiaries of tax incentives referred to in Articles 50a and 50b of this Law.

#### **Article 50i**

The competent organisational unit of the Tax Authority shall determine the fulfilment of requirements for the enjoyment of the tax facilities referred to in Articles 50a and 50b of this Law.

#### **Article 50j**

The right to the tax credit referred to in Articles 48 and 48a of this Law and the investment incentives referred to in Articles 50a and 50b of this Law may not be exercised for the pur-

pose of obtaining the equipment already used in the Republic.

The tax incentives referred to in paragraph 1 of this Article may not be transferred to some other legal entity which has not acquired the right to utilize them pursuant to this Law or if another legal entity is participating in the status change with a taxpayer which is utilizing the mentioned tax incentives.

The right to incentives in the case of investments referred to in Articles 50a and 50b of this Law may not be utilized for the fixed assets which are not regarded as fixed assets in conformity with Article 48, paragraph 5, of this Law.

### **Part Seven**

## **ELIMINATION OF DOUBLE TAXATION OF THE PROFIT EARNED IN ANOTHER STATE**

### **Profits Accrued to a Resident Taxpayer's**

#### **Permanent Operating Unit**

#### **Article 51**

If a resident taxpayer earns profit by conducting business in another state and tax was paid on that profit in another state, it shall be granted a tax credit on its corporate profit tax account determined in conformity with the provisions of this Law, amounting to the tax paid in another state.

The tax credit referred to in paragraph 1 of this Article may not be greater than the amount that would be obtained by applying the provisions of this Law on the profit earned abroad.

#### **Inter-company Dividends**

#### **Article 52**

A parent legal entity which is a resident taxpayer of the Republic may decrease the calculated corporate profit tax by the amount of tax paid by its non-resident branch in another state on the profit from which dividends have been paid out, including the parent legal entity income, as well as by the amount of the withholding tax the non-resident branch has paid in another state on the dividends paid out.

The income from dividends coming from a non-resident affiliate shall be included in the resident legal entity's income plus the paid corporate profit tax and the withholding tax paid on the dividends referred to in paragraph 1 of this Article.

The tax credit referred to in paragraph 1 of this Article may be used towards reducing the parent legal entity's accounted tax by the amount of tax paid in another state, but not exceeding the amount of tax that would be levied on profits or dividends at the rate provided by Article 39, paragraph 2, of this Law.

The non-utilised portion of the tax credit referred to in paragraph 3 of this Article may be carried over to the parent legal entity tax account in the future accounting periods, but not for longer than five years.

For the purposes of this Law, a parent legal entity shall be understood to mean a legal entity that owns the shares of or interests in other legal entities on conditions determined by this Law.

For the purposes of this Law, an affiliate shall be understood to mean any legal entity in whose capital the parent legal entity has a share on conditions determined by this Law.

#### **Article 53**

The right to the tax credit referred to in Article 52 of this Law may be exercised by any parent legal entity that has possessed 25% or more shares or interests of the non-resident affiliate for at least the whole year preceding the presentation of statement.

Any taxpayer referred to in paragraph 1 of this Article shall present to the competent tax office appropriate evidence of the size of its share in the capital of its non-resident affiliate, duration of holding that share and tax paid by the affiliate in another state, together with its income statement and tax statement.

The provisions of paragraphs 1 and 2 of this Article shall apply accordingly also when a parent legal entity is exercising direct control over its non-resident affiliate on the basis of owning 25% or more shares of or interests in the non-resident affiliate concerned.

#### **Article 53a**

A parent legal entity which is a resident taxpayer of the Republic may decrease the calculated legal entity profit tax by the amount of withholding tax paid by its non-resident branch in another state on interest and royalties.

The income stemming from interest and royalties from a non-resident branch shall be included in the income of a resident legal entity plus the paid withholding tax on interest and royalties.

The tax credit referred to in paragraph 1 of this Article may be utilized towards reducing the accounted tax of a parent legal entity by the amount of tax paid in another state, but not exceeding the amount of tax that would be charged on interest and/or royalties at the rate provided by Article 39, paragraph 2.

#### **Article 54**

The minister of finance shall regulate in greater detail the modality of exercising the right to the tax credit referred to in Articles 52, 53 and 53a.

### **Part Eight**

## **GROUP TAXATION AND TRANSFER PRICES Tax Consolidation**

#### **Article 55**

For the purposes of this Law, a parent legal entity and its affiliated legal entities make up a group of associated legal entities, if direct or indirect control over at least 75% of shares or interests exists among them.

Associated legal entities shall have the right to apply for tax consolidation on condition that all of them are residents of the Republic.

The parent legal entity concerned may file the application for tax consolidation with the competent tax office not before expiration of the taxation period in which the requirements referred to in paragraphs 1 and 2 of this Article were met, from the beginning to the end of that period.

If the requirements referred to in paragraphs 1 through 3 have been met, the competent tax office shall render within 30 days from the filing date of request, a decision approving the tax consolidation as of the taxation period in which the requirements referred to in paragraphs 1-3 of this Article were met.

#### **Article 56**

Each member of a group of associated legal entities shall file its own tax declaration and fiscal balance sheet and the parent legal entity shall file the consolidated fiscal balance sheet for the group of associated legal entities.

The taxation period losses of one or several associated legal entities may be offset in the consolidated tax statement at the expense of other associated legal entities in the group.

The taxable profit earned by a member of a group of associated legal entities, which is declared in the consolidated fiscal balance sheet, may not be reduced by the amount of losses in that member's fiscal balance sheets of the previous years or previous taxation periods.

Each member of a group of associated legal entities shall be a payer of the tax accounted in the consolidated tax statement, in proportion to the taxable profit declared in individual tax statements.

The minister of finance shall regulate in greater detail the modality of avoiding double exemption or double taxation of items in the consolidated tax statement.

#### **Article 57**

Once approved, any tax consolidation shall be applied for at least five years, or taxation periods.

If prior to the expiration of the term referred to in paragraph 1 of this Article, the conditions referred to in Article 55, paragraph 1 and 2, of this Law change or if one legal entity, several associated legal entities or all associated legal entities in a group subsequently opt for individual taxation prior to the expiration of the term referred to in paragraph 1 of this Article, all associated enterprises shall pay proportionally the balance of the privilege they had used.

#### **Article 58**

#### **DELETED –by 84/2004**

#### **Transfer Prices**

#### **Article 59**

A transfer price shall be understood to mean the price that comes into being in connection with transactions involving assets or making commitments among associated persons.

A person associated with a taxpayer shall be understood to mean an individual or legal entity in whose relations with the taxpayer, there is a possibility of exercising control over or exerting considerable influence on business decisions.

The possession of 50% or more or the largest single portion of shares or interests shall mean that control over the taxpayer is possible.

Besides the case referred to in paragraph 3 of this Article, influence on a taxpayer's business decisions also exists when a person associated with a taxpayer has more than 50% or the largest number of votes individually in the taxpayer's controlling bodies.

A person associated with a taxpayer shall also be understood to mean a legal person in which, like in the taxpayer, the same legal entities participate in control, supervision or capital in the way determined in paragraphs 3 and 4 of this Article.

#### **Article 60**

Any taxpayer shall declare in its tax statement the transactions referred to in Article 59, paragraph 1, of this Law separately.

For the purposes of paragraph 1 of this Article, the taxpayer shall declare in its fiscal balance sheet separately the interest and costs stemming from the loan or credit, up to the level provided by the provisions of Article 62 of this Law.

Any taxpayer shall declare in its tax statement separately, together with the transactions referred to in Article 59, paragraph 1, of this Law and paragraphs 1 and 2 of this Article, the value of such transactions at prices that would have been fetched on the market for such or similar transactions, had an associated person not been involved (the "arm's length" principle).

The duties referred to in paragraphs 1, 2 and 3 of this Article shall also apply to transactions between any operating unit referred to in Article 4 of this Law and its non-resident head office.

#### **Article 61**

The difference between the price determined by the "arm's length" principle and the taxpayer's transfer price shall be included in the tax base.

Comparative market prices shall be used in the determination of the transaction price by the "arm's length" principle and when that is not possible, by the cost plus the usual profit margin method or the resale price method.

The minister of finance shall regulate in greater detail the application of the methods referred to in paragraph 2 of this Article.

#### **"Arm's Reach" Interest and Prevention of Thinned Capitalisation**

#### **Article 62**

In the case of a debt to a creditor having the status of an associated person referred to in Article 59 of this Law, the amount of interest and costs stemming from loan or credit up to four times the value of the taxpayer's own capital shall be recognized as expenditure in the fiscal balance sheet of any taxpayer other than a bank.

In the case of banks, the limit referred to in paragraph 1 of this Article shall be the taxpayer's tenfold own capital.

For the purposes of this Law, the own capital is equal to the difference between the assets on the basis of which the taxpayer is earning income and the debts associated with them, where the assets and debts are averaged as on 1 January and 31 December of the current year.

The Minister of Finance shall deal in greater detail with the way of averting the thinning capitalization.

## **Part Nine**

### **DETERMINATION AND COLLECTION OF CORPORATE PROFIT TAX Tax Declaration Filing**

#### **Article 63**

Any taxpayer shall file with the competent tax office the tax declaration in which the tax is calculated and the fiscal balance sheet for the period for which the tax is determined.

Besides the tax declaration and fiscal balance sheet, any taxpayer shall present to the competent tax office also the financial statements it is bound to present to the competent authority in keeping with the regulations dealing with accounting and auditing (statement of accounts, income statement, cash flow report, report on changes in capital, etc.), other documents required under this Law, as well as the documents requested by the competent authority in keeping with the regulations dealing with taxation proceedings and taxation administration.

The tax declaration shall be filed within 10 days from the expiration of the deadline set for the filing of financial reports.

The minister of finance shall prescribe in greater detail the contents of the tax declaration and the fiscal balance sheet.

#### **Article 64**

Any taxpayer who starts up a business in the course of the year shall file a tax declaration within 15 days from the date of registration with competent authorities.

The taxpayer concerned shall include in the tax declaration referred to in paragraph 1 of this Article an estimate of its income, expenditures and profits for the taxation period which begins, in the case of a taxpayer registered up to the 15th day of the month, as of the month in which it was registered and in the case of a taxpayer registered from the 16th day to the end of the month, as of the first day of the next month. The taxpayer concerned shall also account in the tax declaration the monthly profit tax paid in advance.

#### **Article 65**

Any taxpayer whose right to tax exemption expires in the course of the year, shall file with the competent tax office its tax declaration together with the fiscal balance sheet within 15 days from the date of that expiration.

### **Calculation and Payment of Tax**

#### **Article 66**

Any taxpayer shall calculate in the tax declaration the profit tax for the tax period for which the declaration is being filed.

If any taxpayer has paid in advance less tax than it was bound to pay according to the tax declaration, it shall pay the difference before filing the tax declaration.

The taxpayer concerned shall present together with tax declaration the proof that it has paid the difference in tax referred to in paragraph 2 of this Article.

If any taxpayer has paid in advance more tax than it was bound to pay according to the tax declaration, the excessive amount paid in shall be regarded as an advance on the following tax period or be reimbursed to the taxpayer at its request.

#### **Article 67**

Any taxpayer shall pay the profit tax in the course of the year in the form of monthly ad-

vances, the amount of which shall be fixed on the basis of the previous year's **or the previous taxation period's** tax declaration in which he has presented data of importance for fixing the advances in the current year.

The monthly tax advances shall be paid by the fifth day of the current month for the previous month.

The payment of monthly advances in accordance with the tax declaration referred to in paragraph 1 of this Article shall be effected for the month in which the declaration was filed, starting from the first day of the next month in relation to the month in which the declaration was filed.

Pending the payment of monthly advances pursuant to paragraph 3 of this Article, the taxpayer concerned shall pay in the current year monthly advances corresponding to the monthly advance in the last month of the previous taxation period, and at the beginning of payment of the monthly advance pursuant to paragraph 3 of this Article, the amount of such advances shall be adjusted up or down, so that the total advance payments made from the beginning of the current year or the beginning of the taxation period are brought to an amount which would be obtained when advance payments are made in accordance with the tax declaration referred to in paragraph of this Article.

The taxpayer concerned shall calculate and pay interest on the monthly advances not paid within the term referred to in paragraph 2 of this Article, in conformity with the law governing the taxation procedure and taxation administration.

#### **Article 68**

If in the course of current year significant changes occur in a taxpayer's business, tax instruments change or other circumstances substantially affecting the amount of monthly advance arise, the taxpayer concerned, having filed the tax declaration referred to in Article 63, paragraph 1 of this Law, may file the tax declaration together with the fiscal balance sheet, showing the data of importance for changing the monthly advance and its calculated amount, within 30 days from the expiration of the period for which the fiscal balance sheet has been drawn up.

The taxpayer concerned may start paying the advances in accordance with the tax declaration referred to in paragraph 1 of this Article for the month in which the declaration was filed, starting from the first day of the next month in relation to the month in which the declaration was filed.

#### **Article 69**

If a taxpayer fails to file the tax declaration or if it is found in the tax checking procedure that the tax declaration is incomplete, that it contains untrue data or that it is deficient and irregular in some other way of importance for the determination of tax liability, the tax office shall determine the tax liability for the tax period or the monthly advance for the current year, in conformity with the law governing the taxation procedure and taxation administration.

#### **Article 70**

In the event of institution of liquidation or bankruptcy proceedings, the liquidator or receiver shall secure, within 15 days from the date of institution of proceedings, an account of the outstanding debts to be paid from the liquidation assets or bankrupt's estate and notify the competent tax office accordingly.

The competent tax office shall render a ruling determining the tax liability within 30 days from receipt of the tax declaration referred to in Article 34, paragraph 3 and 4, of this Law.

#### **Article 70a**

The competent tax office shall render a decision on any filed tax declaration referred to in Article 40, paragraph 1, of this Law within 15 days from the date of receipt.

The tax levied by decision of the competent tax office referred to in Article 70, paragraph 2, of this Law and paragraph 1 of this Article, shall be paid by the taxpayer concerned within 15 days from receipt of that decision.

## **Withholding Tax**

### **Article 71**

Any taxpayer shall account, withhold and pay in the prescribed accounts at the moment of payment of income referred to in Article 40, paragraphs 1 and 2, of this Law the withholding tax on each individual income earned and/or paid out, when it is earned and/or paid out.

The income referred to in paragraph 1 of this Article shall mean the gross income the non-resident taxpayer would have earned and/or collected had tax not been deducted from the earned and/or paid income.

The withholding tax referred to in paragraph 1 of this Article shall be calculated and paid in conformity with the regulations valid at the moment of realization and/or income payment.

### **Complaint**

#### **Article 72**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law Suspension of Procedure Article 73**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Application of the Law Governing the Taxation Procedure**

#### **Article 74**

With regard to the determination, collection and refunding of tax, legal remedies, penal provisions and other matters not dealt with by this Law, the provisions of the law governing the taxation procedure and taxation administration shall apply.

#### **Articles 75**

**DELETED – by 84/2004**

#### **Article 76**

**DELETED – by 84/2004**

#### **Forced Collection**

#### **Article 77**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Decision Ordering Forced Collection**

#### **Article 78**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Forced Collection Costs**

#### **Article 79**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

#### **Article 80**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Objects and Means of Execution**

**Presentation of Decision**

#### **Article 81**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Priority in Settlement**

**Article 82**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Decision on the Object and Means of Execution**

**Article 83**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Collection against Real Estate**

**Article 84**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Exemption from Forced Collection**

**Article 85**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Forced Collection from Funds in Taxpayer's Account**

**Article 86**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Article 87**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Forced Collection against Tax Debtor's Chattels**

**Article 88**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Inventory and Evaluation**

**Article 90**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Article 91**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Article 92**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Third Party Action**

**Article 93**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Article 94**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Article 95**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation**

**Seizure of Listed Things and Sale**

**Article 96**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Article 97**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Article 98**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Article 99**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Article 100**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Forced Collection against Tax Debtor's Pecuniary Receivables**

**Article 101**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Forced Collection against Tax Debtor's Non-pecuniary receivables**

**Article 102**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Legal Recourse in the Forced Collection Procedure**

**Article 103**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Article 104**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Collection Security**

**Article 105**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Order of Settlement in Forced Collection**

**Article 106**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Interest**

**Article 107**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law**

**Tax Refund and Right to Interest**

**Article 108**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law  
Article 109**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law  
Unenforceability  
Official Secret  
Article 110**

**CEASED TO BE VALID – pursuant to 80/2002 – Taxation Procedure and Taxation  
Administration Law  
Guarantee  
Article 111**

The payer of income shall guarantee the payment of withholding tax.

All partners in a legal entity set up as a general partnership shall be jointly and severally liable for that general partnership's outstanding tax debts to the extent of their assets.

The general partner in a legal entity set up as a limited partnership shall be jointly and severally liable for outstanding debts of that partnership.

Any shareholder or member of a limited liability company owning 50% or more shares or interest shall be jointly and severally liable for the outstanding tax debts of that subsidiary company.

The tax debts referred to in paragraphs 2 through 4 of this Article shall also include the forced collection costs, interest and fines.

**Part Ten  
PENAL PROVISIONS  
Article 112**

Any taxpayer shall be fined 100,000 to 600,000 dinars for breach of regulations in the following cases:

- 1) If it fails to calculate and pay the withholding tax (Article 40, paragraphs 1 and 2);
- 2) **DELETED – by 18/2010**
- 3) If it fails to declare separately in the tax account the value of the transactions conducted with associated persons in accordance with the "arm's reach" principle (Article 60);
  - 4) If it fails to present to the tax office the income statement, balance sheet and other prescribed or requested documents (Article 63, paragraph 2);
- 5) If it fails to present the fiscal balance sheet within the prescribed term or if it presents incorrect data in the fiscal balance sheet, which could bring about a reduction of the tax base or unfounded exercise of the right to tax incentives or if it fails to present other required documents (Articles 34, 63, 65 and 70);
- 6) If upon starting up its business, it fails to present the estimate of income, expenditures and profits for the business year and account the profit tax within the prescribed term (Article 64, paragraph 2);
- 7) If it fails to pay in the monthly advance within the prescribed term (Article 67, paragraphs 2 and 3, and Article 68, paragraph 2);
- 8) If it fails to pay in within the prescribed term the difference between the tax calculated in the tax declaration and the paid in monthly tax advances (Article 38, paragraph 5 and Article 66, paragraphs 2 and 3);
- 9) If it fails to pay timely the tax pursuant to the decision of the competent tax office (Article 70a, paragraph 2).

The responsible person in a legal entity for any act referred to in paragraph 1 of this Article shall also be fined 2,500 to 20,000 dinars for breach of regulations.

#### **Article 113**

Any taxpayer which/who fails to file the tax declaration and tax account or presents inaccurate data in the tax declaration and tax statement, which could have resulted in a reduction of the tax base or unfounded exercise of the right to tax facilities may be subjected to a protective measure prohibiting it/him from conducting certain business in the duration of three months to a year.

#### **Article 114**

The procedure for levying the fines for breach of regulations pursuant to the provisions of this Law shall be conducted by the Republic Tax Authority in accordance with regulations dealing with breaches of regulations, unless otherwise provided by this Law.

When the requirements for the protective measure referred to in Article 113 of this Law have been fulfilled, the Republic Tax Authority shall not levy a fine, but apply to the authorities dealing with breaches of regulations for the institution of breach of regulations proceedings.

### **Part Eleven**

## **TRANSITIONAL AND CONCLUDING PROVISIONS**

#### **Article 115**

Any taxpayer who acquired the right to the tax exemptions and facilities referred to in Article 42 and 46 of the Enterprise Profit Tax Law (RS Official Gazette, Nos. 43/94, 53/95, 52/96, 54/96, 42/98, 48/99 and 54/99) shall have the right to utilise such exemption until the end of the term it has been set for.

#### **Article 116**

Any procedure for the determination and collection of the enterprise profit tax for the year 2001, commenced with pursuant to Articles 43 and 60a of the Enterprise Profit Tax Law (RS Official Gazette, Nos. 43/94, 53/95, 52/96, 54/96, 42/98, 48/99 and 54/99) shall be finalised in conformity with that law.

#### **Article 117**

The tax account for the 1 January to 30 June 2001 period shall be compiled in conformity with the regulations valid until the effective date of this Law.

The tax account referred to in paragraph 1 of this Article shall be filed within eight days from the end of the term set for filing the half-yearly statement of accounts.

#### **Article 118**

This Law shall supersede on its effective date the Enterprise Profit Tax Law (RS Official Gazette, Nos. 43/94, 53/95, 52/96, 54/96, 42/98, 48/99 and 54/99).

Pending the adoption of regulations pursuant to the provisions of this Law, the provisions of the regulations adopted pursuant to the law referred to in paragraph 1 of this Article shall apply.

#### **Article 119**

This Law shall come into force on the eighth day upon its publication in the Republic of Serbia Official Gazette, and it shall be enforceable as of 1 July 2001, with the exception of Article 107, which shall be applicable as of the effective date of this Law.

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#### **“Article 5**

**Banks and other financial organisations shall compile the tax statement for 2003 and subsequent years in conformity with Article of this Law.**

## **Article 6**

This Law shall come into force on the **first day** upon its publication in the Republic of Serbia Official Gazette.”

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## **“Article 50**

The impacts of harmonising the initial book status from 1 January 2004, for the purpose of applying the IAS in conformity with the regulations dealing with accounting, and Article 16 of this Law, do not affect the taxpayers’ established tax liability in 2003 and the amount of established advances for 2004.

## **Article 51**

The Government of the Republic of Serbia shall set the way of determining and paying the monthly advances on the profit tax in 2004 once this Law comes into force.

## **Article 52**

Taxpayers may enjoy the tax credit referred to in Article 30 of this Law in 2004 on the basis of the investments made in fixed assets in conformity with the provisions of that Article, as of the effective date of this Law.

## **Article 53**

Any taxpayer who had acquired the right to and started enjoying the tax facilities pursuant to Article 49 of the Enterprise Profit Tax Law (RS Official Gazette, Nos. 25/01, 80/02 and 43/03), may carry on enjoying such facilities until the expiration of their validity, under the conditions set by the provisions of that Article.

## **Article 54**

The taxpayers who acquire the right to tax incentives under this Law may not be brought into a less favourable position with regard to the conditions and terms for the exercise of such rights because of subsequent changes in laws and regulations.

## **Article 55**

The fiscal balance sheet for 2004 shall be drawn up in conformity with the provisions of this Law.

## **Article 56**

The provisions of Articles 1 through 14 and Articles 16 through 19 of this Law shall be applicable as of 1 January 2004.

## **Article 57**

This Law shall come into force on the eighth day upon its publication in the Republic of Serbia Official Gazette.

## **18/2010 AMENDED PROVISIONS WHICH HAVENO BEEN INTEGRATED INTO TEXT:**

### **“Article 71**

Any taxpayer which had not exercised the right to the tax incentive referred to in Articles 50a and 50b of the Enterprise Profit Tax (RS Official Gazette, Nos. 25/01, 80/02, 80/02-dr., 43/03 and 84/04) by 31 December 2009 may use the mentioned tax facilities on conditions provided by the regulations the validity of which runs from 1 January 2010.

### **Article 72**

Any taxpayer which had not exercised the right to transfer of capital loss and transfer of the loss referred to in Article 30, paragraph 3, and Article 32, as well as to the transfer of the non- utilised tax credit referred to in Article 52, paragraph 4, of the

**Enterprise Profit Tax (RS Official Gazette, Nos. 25/01, 80/02, 80/2-dr., 43/03 and 84/04) and not declared the data in the fiscal balance sheet and tax declaration for the year 2009, may exercise such right until expiration of the deadline and in the way provided by that law.**

**Article 73**

**The minister of finance shall issue the regulations referred to in Articles 3, 18, 30, 53 and 59 of this Law within 12 months from the effective date of this Law.**

**Article 74**

**The 2009 fiscal balance sheet shall be drawn up in accordance with the regulations which were valid on 31 December 2009.**

**Article 75**

**Tax liability shall be established, accounted and paid according to the provisions of this Law as of 1 January 2010, in keeping with the provisions of Articles 3, 6, 8, 9, 10, 11, 15, 16, 18, 20, 21, 29, 33, 32, 39, 40, 41, 47, 52, 58 and 59 of this Law.**

**Article 76**

**This Law shall come into force on **the first day** upon its publication in the Republic of Serbia Official Gazette.**