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Administration Mission
in Kosovo



UNMIK

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Kosovo

PROVISIONAL INSTITUTIONS OF SELF GOVERNMENT

KUVENDI I KOSOVËS
СКУПШТИНА КОСОВА
ASSEMBLY OF KOSOVO

Law No.2004/48

ON TAX ADMINISTRATION AND PROCEDURES

The Assembly of Kosovo,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, "On the Authority of the Interim Administration in Kosovo,"

Based on the authority granted to the Provisional Institutions of Self-Government by UNMIK Regulation No. 2001/9 of 15 May 2001, "On a Constitutional Framework of Self-Government," in particular Chapter 5.1(a), 5.1(b), 9.1.1, 9.1.11, and 9.1.26 (a) thereof,

Recognizing that UNMIK Regulation No. 2000/20 of 12 April 2000 "On Tax Administration and Procedures" set out rules and procedures for administering taxes in Kosovo before UNMIK Regulation No. 2000/29 of 20 May 2000 "On the Establishment of a Presumptive Tax," UNMIK Regulation No. 2001/11 of 31 May 2001 "On Value Added Tax in Kosovo," UNMIK Regulation No. 2001/35 of 22 December 2001 "On Pensions in Kosovo," UNMIK Regulation No. 2002/3 of 20 February 2002 "On Profit Tax in Kosovo" and UNMIK Regulation No. 2002/4 of 20 February 2002 "On Personal Income Tax in Kosovo" were introduced,

For the purpose of establishing a comprehensive set of rules and procedures for the administration of taxes and contributions imposed by legislation effective in Kosovo, which are consistent with international best practices and European standards,

Adopt:

LAW ON TAX ADMINISTRATION AND PROCEDURES

Definitions
Article 1

"**Assessment**" means the determination of a taxpayer's liability for a specific tax and a specific tax period.

"**Delivery**" means the service of a relevant document on a taxpayer by:

- a. handing the document to the taxpayer, the taxpayer representative, a member of the taxpayer's household, or an officer, director or employee of the taxpayer (such action is deemed complete whether the person agrees to take the document or not);
- b. leaving the document at the taxpayer's dwelling or usual place of business; or
- c. sending the document by mail to the taxpayer's last known address.

“Director” means the Director of the Tax Administration of Kosovo.

“Employee” means a physical person who performs work for wages under the direction and control of an employer, regardless of whether the work is performed under a contract, some other commercial agreement, or whether there is a written or an unwritten agreement. An employee includes all public officials and members of executive, representative and judicial bodies.

“Employer” means any person who pays wages and includes:

- a. a public authority;
- b. a business organization;
- c. a permanent establishment of a non-resident;
- d. a non-governmental organization;
- e. an international organization;
- f. a government of an external area; and
- g. a physical person who pays wages in the course of carrying on business in Kosovo.

“Entity” means a corporation or other business organization that has the status of a legal person under UNMIK Regulation No. 2001/6 of 8 February 2001 “On Business Organizations”, a business organization operating with socially owned assets, a non-governmental organization registered under UNMIK Regulation No. 1999/22 of 15 November 1999 “On the Registration and Operation of Non-Governmental Organizations in Kosovo,” and a permanent establishment of a non-resident. The term entity does not include a personal business enterprise or a partnership.

“Independent Review Board” means the Board established under the present law to hear tax appeals from taxpayers.

“Information statement” means:

- a. personal income tax annual reconciliation statement;
- b. a quarterly statement of pension contributions withheld and paid; and
- c. any form designated by the Director for the purpose of persons applying for tax identification numbers and being registered for tax.

“Intangible property” means patents, copyrights, licenses, franchises, and other property that consists of rights only, but has no physical form.

“Legal person” means a corporation or other business organization that has the status of a legal person under UNMIK Regulation No. 2001/6 of 8 February 2001 “On Business Organizations” and other legislation applicable in Kosovo.

“Levy” means the seizure or other taking of property for the payment of any tax due to the Tax Administration of Kosovo.

“**Lien**” means the right of the Tax Administration of Kosovo to take and hold property of the taxpayer as security for payment of any tax and the right to sell such property and apply the proceeds of the sale to that tax .

“**Market value**” means the price at which similar goods or services of like quality and quantity would be sold in an arms-length transaction.

“**Non-resident**” means any person who is not a resident.

“**Partnership**” means a general partnership, a limited partnership or similar pass-through arrangement that is not a legal person under UNMIK Regulation No. 2001/6 of 8 February 2001 “On Business Organizations”, and that proportionately shares items of capital, income, profit and loss among its partners.

“**Permanent establishment**” means a workplace through which a non-resident does business in Kosovo, including plants, branch offices, representative offices, factories, workshops and construction sites.

” **Person**” means a physical person or an entity.

“**Personal business enterprise**” means a physical person engaged in business who is not an agent or employee of another business.

“**Physical person**” means an individual or natural person.

“**Public authority**” means a central, regional, municipal, or local authority, public body, ministry, department, or other authority that exercises public executive, legislative, regulatory, administrative or judicial power.

“**Related persons**” means persons that have a special relationship that may materially influence the economic results of transactions between them. Special relationships include:

- a. the persons are officers or directors of one another’s business;
- b. the persons are partners in business;
- c. the persons are in an employer-employee relationship;
- d. one person holds or controls 50% or more of the shares or voting rights in the other legal person;
- e. one person directly or indirectly controls the other person;
- f. both persons are directly or indirectly controlled by a third person; or
- g. both persons are members of the same extended family, including a spouse, ancestor or descendant, sister or brother, nephew or niece, spouse of a sister or brother, a sister or brother of a parent or parents-in law and a brother or sister-in-law.

“**Resident**” means:

- a. a physical person who has a principal residence in Kosovo or is physically present in Kosovo for 183 days or more in any tax period; or
- b. an entity which is established in Kosovo or has its place of effective management in Kosovo.

“**Self-employed person**” means any physical person who works for personal gain, in cash or in kind, who is not covered by the definition of an employee under the present law. A self-employed person includes a personal business enterprise and a partner engaged in a business.

“**TAK**” means the Tax Administration of Kosovo.

“**Tax**” includes any tax, contribution or fee payable to TAK under legislation applicable in Kosovo.

“**Taxable person**” has the same meaning as that term is defined under Article 1.25 of UNMIK Regulation No. 2001/11 of 31 May 2001 “On Value Added Tax in Kosovo”.

“**Tax advisor**” means a person who provides tax advice to a taxpayer in the course of a tax procedure.

“**Tax declaration**” means:

- a. a personal income tax declaration;
- b. a profit tax declaration;
- c. a presumptive tax declaration;
- d. a VAT declaration;
- e. a hotel, food and beverage service tax declaration; and
- f. a pension contribution declaration.

“**Taxpayer**” means any person who is required to pay any tax under legislation applicable in Kosovo, and includes a taxable person.

“**Taxpayer representative**” means any person that represents a taxpayer in the course of a tax procedure within the terms of a written authorization.

“**Tax period**” means the period of time to which a specific tax liability relates established under legislation applicable in Kosovo.

“**Wages**” means any amount paid by an employer, in cash or in kind, as compensation for service rendered by an employee in the course of employment, whether or not under a written contract of hire. Wages includes salary, emolument, bonus, commission, or any other payment relating to employment.

1.2. In this law, unless the context otherwise requires, the singular includes the plural and the plural includes the singular.

1.3. References to Parts and Articles in this law are references to those in this law, unless otherwise expressly stated.

The Tax Administration of Kosovo Article 2

2.1. The Tax Administration of Kosovo (hereinafter “TAK”) shall be established as a separate service within the Ministry of Finance and Economy, with specific independence. The Tax Administration that was established under Tax Administrative Instruction No. 1/2000 shall continue as TAK.

2.2. TAK shall be responsible for applying the provisions of the present law and any other legislation applicable in Kosovo that requires it to administer any tax.

Director of TAK
Article 3

3.1. TAK shall be headed by a Director who shall be proposed by the Minister of Finance & Economy and approved by Government. The SRSG shall make the final decision on the appointment of the Director.

3.2. The Director may be dismissed only on the ground of corruption, malfeasance or incompetence. To remove the Director, a proposal for removal must be presented to the SRSG by the Minister of Finance & Economy after the approval of Government. The SRSG shall make the final decision on removal.

3.3. The Director shall have:

- a. the duty to enforce the provisions of the present law;
- b. the duty to collect all taxes levied under legislation applicable in Kosovo that authorizes TAK to administer such tax;
- c. the duty to prepare advertisements, notices, and other communications to ensure that all persons understand their obligations and rights under the present law;
- d. the duty to ensure the uniform application of the tax laws in Kosovo;
- e. the power to appoint such persons as may be required to carry out the provisions of the present law in conformity with the Kosovo Civil Service rules; and
- f. the power to establish an organizational structure within TAK appropriate for its functions.

Deputy Directors
Article 4

4.1. The Director shall be assisted by Deputy Directors. The Deputy Directors shall be proposed by a selection panel formed in accordance with UNMIK Regulation 2001/36 of 22 December 2001 "On the Kosovo Civil Service" and chaired by the Director. The Director shall make the final decision on the appointment of the Deputy Directors based on the results of interviews and the Kosovo Civil Service appointment process.

4.2. The Deputy Directors shall be responsible for the functions that are assigned to them and will assist the Director with these functions.

4.3. The Deputy Directors may be removed only on the ground of corruption, malfeasance or incompetence. In order to remove a Deputy Director, a proposal for removal must be presented to a disciplinary committee nominated by the Director. The Director shall make the final decision on removal with the Kosovo Civil Service removal process.

Senior Managers
Article 5

5.1. Headquarters and Regional Managers shall be nominated by a panel formed in accordance with UNMIK Regulation 2001/36 of 22 December 2001 "On the Kosovo

Civil Service.” The Director shall make the final decision on the appointment of the Headquarters and Regional Managers.

5.2. Headquarters and Regional Managers shall be responsible for the functions that are assigned to them and will assist the Director and Deputy Directors with these functions.

5.3. Headquarters and Regional Managers may be removed only on the grounds of corruption, malfeasance or incompetence. In order to remove a Headquarters or Regional Manager, a proposal for removal must be presented to a disciplinary committee nominated by the Director. The Director shall make the final decision on removal.

Tax Officials Article 6

Within the rules established by UNMIK Regulation No. 2001/36 of 22 December 2001 “On the Kosovo Civil Service,” the Director shall:

- a. have the authority to employ such persons as may be reasonably required, taking into account the budgetary limits of TAK;
- b. develop procedures pursuant to which tax officials will be promoted solely on the basis of meritorious service and ability to perform the work of the position to which they are being promoted;
- c. develop procedures to dismiss tax officials who do not perform their work at a necessary standard or other improper execution of duties;
- d. develop procedures for tax officials to seek redress for grievances concerning promotions, dismissals, and related matters;
- e. require tax officials to wear or carry an official TAK identification card while conducting business and to produce the card upon request.

Delegation Power Article 7

7.1. The Director may delegate to any officer of TAK any power or duty conferred or imposed on the Director by the present law other than this power of delegation.

7.2. The Director may revoke any power or duty delegated under Article 7.1 at any time.

Reporting Article 8

8.1. The Director shall furnish periodic reports of TAK’s operations and performance to the Minister of Finance and Economy.

8.2. The Director shall produce an annual report on the operations of TAK and deliver the report to the Minister of Finance and Economy, the Government of Kosovo, the Assembly, and the SRSG within three months after the end of each calendar year.

8.3. The annual report of TAK shall include:

- a. details of the budget of TAK;
- b. details of the number and level of staff of TAK;
- c. details of the revenues collected by TAK showing details of the amount of revenue from each type of tax and each district and such other details as may be requested by the Minister of Finance and Economy;
- d. estimates of the cost of collection for each type of tax revenue collected;
- e. details of all tax liabilities cancelled under Article 36, including the names of the persons whose liability has been cancelled and the amount cancelled;
- f. details of all prosecutions for tax offences, including the name of each person who has been convicted and the amounts of tax involved; and
- g. information on the use of the powers authorized by Article 13, including the number and nature of any complaints about the use of those powers, but not including the names of the persons involved.

Public Rulings

Article 9

9.1. The Director may issue public rulings to explain how TAK shall interpret and apply the provisions of the legislation that it administers in order to provide guidance to persons required to pay tax or to withhold tax.

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

9.3. A public ruling issued under this Article is binding on the Director for any tax liability arising in a tax period prior to the time such ruling is revoked by TAK.

9.4. A public ruling is not binding on a person liable to pay tax under the legislation applicable in Kosovo.

Individual Rulings

Article 10

10.1. The Director may issue a ruling to a particular person explaining how TAK shall interpret and apply the provisions of the present regulation as it applies to a particular transaction or arrangement planned by the person seeking the ruling.

10.2. If the taxpayer has made a full and true disclosure of the nature of all aspects of the transaction relevant to the ruling, and the transaction proceeds in all material respects as described in the taxpayer's application for the ruling, the ruling shall be binding on TAK and the taxpayer with respect to the application of the law as it stood at the time of the ruling.

Taxpayer Identification Number Article 11

11.1. All persons who are subject to any tax administered by TAK under legislation applicable in Kosovo shall obtain a taxpayer identification number to secure proper identification of such person.

11.2. The taxpayer identification number for corporations, partnerships, and personal business enterprises shall be the business registration number assigned by the Ministry of Trade and Industry.

11.3. The taxpayer identification number for individuals shall be the personal identification number they receive from UNMIK. If an individual is unable or ineligible or neglects or refuses to obtain a personal identification number from UNMIK, he or she shall apply for a taxpayer identification number from TAK. The Director shall designate procedures to be followed for application for a taxpayer identification number, which shall include the type of information and documentation or proof required.

11.4. The taxpayer identification number for budget organizations shall be the number they receive from TAK.

11.5. The taxpayer identification number for non-governmental organizations shall be the number they received from the UNMIK Non-Governmental Organization liaison office or any successor authority designated to perform non-governmental organization liaison functions.

11.6. The Director may require each taxpayer to include their taxpayer identification number on any form, notice, declaration, payment document or any other document used for purposes of the present law or other applicable legislation.

11.7. The Director shall ensure that any identification numbers assigned to taxpayers are made available to the Custom Service as defined in UNMIK Regulation No. 2004/1 of 30 January 2004 "On the Customs Code of Kosovo".

Creating and Retaining Records Article 12

12.1. A person who is liable to pay or withhold tax shall create records of account in written or electronic form which determine their liability to pay or withhold tax. The specific books and records required to be prepared and retained shall be those set out in the relevant legislation and administrative instructions. TAK may require a taxpayer to translate any records that are not in one of the official languages of Kosovo.

12.2. Notwithstanding the recordkeeping requirements set out in other tax legislation and administrative instructions:

- a. A person required to create records under the present law shall retain those records for a period of at least six years after the end of the tax period in which the tax liability to which they relate arose;

- b. TAK may allow taxpayers, who so request, to store original records on microfilm or another storage medium and such records shall be treated as being originals subject to any conditions specified by TAK;
- c. The records required to be created and retained under this Article shall relate to the tax periods specified in applicable legislation in Kosovo. The Director may allow taxpayers to keep records for different tax periods where he or she believes it is necessary for their efficient operation to do so, and in such case he or she shall specify how those laws are to be applied in those cases to ensure that neither TAK nor the Kosovo Pensions Savings Trust is adversely affected.

12.3. Books and records for businesses with annual turnovers over 50.000 euro shall be kept in conformity with generally accepted accounting principles as defined in Article 2.1 of UNMIK Regulation No. 2004/1 of 30 January 2004 On the Customs Code of Kosovo.”

Access to books, records, computers and similar record storage devices
Article 13

13.1. Subject to the limitations in this Article, the Director or any officer authorized by the Director in writing for this specific purpose shall have, at all times and without any prior notice, full and free access to any premises, place, book, record, computer or similar record storage device where there are reasonable grounds for concluding that access may provide the Director with materials relevant to any tax obligation.

13.2. The information referred to in Article 13.1 shall be accessible whether it belongs to the taxpayer, a person who had financial dealings with the taxpayer, an employer, employee, self-employed person, or any other person who has information that may lead to verification of the taxpayer’s liability.

13.3. The Director or officer authorized by the Director in writing under this Article may:

- a. make an extract or copy from any book, record, computer or similar record storage device information to which access is obtained;
- b. seize any book or record that, in the opinion of the Director or the authorized officer, affords evidence which may be material in determining the liability of a person under the tax legislation of Kosovo;
- c. retain any such book or record for as long as it may be required for determining a person’s liability or for any proceeding under the present law;
- d. require the provision of any password protecting information on a computer or similar record storage device;
- e. where a hard copy, computer disk or similar record storage device, of information is not provided, seize and retain the computer or similar record storage device for as long as necessary to copy the information required;
- f. make checks on a person’s assets and liabilities where such checks, in the opinion of the Director or the authorized officer, afford evidence which may be material in determining the liability of a person under the tax legislation of Kosovo;

- g. The powers under this Article shall be exercised only during a taxpayer's ordinary business hours, unless the Director determines that collection of tax is in jeopardy and that such powers must be operated outside those ordinary business hours in order to protect the collection of tax.

13.4. An officer who attempts to exercise a power under this Article shall not be entitled to enter or remain on any premises, if after a request from the occupier, the officer does not produce an authorization in writing from the Director showing that the officer is authorized to operate such power under this Article.

13.5. Subject to the right to retain a document as evidence of a criminal offence, the Director or an authorized officer who removes and retains records under this Article shall make a copy of the record and return the original in the shortest time practicable.

Collection of Information or Evidence Article 14

14.1. Subject to Article 14.3, the Director may, by notice in writing, require a person, whether that person is liable to pay tax or not, to:

- a. produce certain documents required by the notice within seven days of the delivery of the notice;
- b. attend at the time and place designated in the notice (which must be at least 48 hours after the delivery of the notice) for being examined on oath before the Director or any officer authorized by the Director for this purpose, concerning the tax liability of that person or any other person or any book, record, computer-stored information in the control of that person.

14.2. Where the notice requires the production of documents or other records, such documents or records must be described with reasonable certainty

14.3. This Article shall not apply to information contained in communications that may be privileged under applicable law.

Tax Declarations Article 15

15.1. Each person subject to any tax under legislation applicable in Kosovo shall submit to TAK or its agent a completed tax declaration required by such legislation.

15.2. The tax declaration shall be filed on a form developed by TAK, which must not be unduly burdensome to the taxpayer and which is accompanied by adequate instructions.

15.3. The tax declaration shall include the taxpayer's identification number, a computation of the tax due, and all other information required by the applicable legislation or administrative instructions issued pursuant to such legislation.

15.4. The tax declaration shall be signed by the taxpayer or taxpayer representative under the penalty of criminal liability for providing false information therein. If the tax declaration is prepared by a tax advisor, the tax advisor shall also sign the declaration and provide their taxpayer identification number.

15.5. The date for submitting a tax declaration shall be prescribed in the legislation imposing the tax.

15.6. If the filing date prescribed in legislation is not a business day in Kosovo, the filing date shall be the first business day thereafter.

Self-Assessment Article 16

16.1. Where a person submits a tax declaration required under the applicable legislation, the tax stated as due, if any, on the tax form shall be treated as the taxpayer's self-assessment of tax payable and properly due.

16.2. A taxpayer may submit an amended tax declaration if he or she subsequently discovers an error in a tax declaration that has already been submitted. The deadline for submitting an amended declaration is five years after the date the declaration was submitted.

16.3. The amended tax declaration must be accompanied by any additional tax due or, if applicable, a request for credit against another liability (current or future), or a refund of the excess tax paid.

16.4. For the purposes of determining penalties under Part I of the present law, no amended tax declarations for a tax period will have any effect after the Director or officer authorized by the Director has exercised any power under Article 13 or 14 of this law and has commenced a tax investigation with respect to that tax period.

Director's Assessment of Tax Article 17

17.1. Where the Director believes that the information provided by a person on a tax declaration does not correctly disclose their tax liability, or where a taxpayer has not submitted a declaration required by the present law, the Director may make an assessment of their tax liability.

17.2. The Director's assessment shall be made to his or her best judgment and shall be based on all the evidence available to him or her, including:

- a. books, records, receipts, invoices, or other relevant information of the taxpayer;
- b. books, records, receipts, invoices, or other relevant information of third persons;
- c. information from persons who can verify the accuracy of the taxpayer's declarations books and records;
- d. other objective information about a taxpayer's income or transactions relevant to its liability.

17.3. If a taxpayer's books or records have been lost or destroyed or other circumstances exist that make a determination of a tax liability impossible, the Director shall make an assessment based on an estimate. The estimate must be based on assets, turnover,

production costs, comparative costs, and other direct and indirect methods that are relevant for calculating the tax liability.

17.4. If the records of an employer or self-employed person are lost or destroyed or other circumstances exist that make a determination of the amount of required pension contribution impossible, the Director may make an assessment of pension contributions equal to the level of contributions due for the previous monthly or quarterly period.

17.5. An assessment for withholding taxes shall be made in the same manner and subject to the same provisions and limitations that are applicable to taxes that are not withheld at the source.

17.6. The burden of proving that the making of any assessment by the Director is erroneous and the burden of proving that the amount of any such assessment is incorrect shall be on the taxpayer.

Time limits for assessment

Article 18

18.1. Subject to Article 18.2, all taxes must be assessed within six years of the date the tax declaration to which the assessment relates was due.

18.2. The Director may make an assessment at any time where:

- a. a person, with the intent of evading tax, has failed to deliver a tax declaration;
- b. a person, with the intent of evading tax, has delivered a tax form which the Director determines to be incorrect;
- c. fraud has been committed by or on behalf of a person in relation to a tax liability.

Jeopardy Assessments

Article 19

The Director may make a jeopardy assessment of tax where the Director considers that the collection of tax that will become due is in jeopardy because a person is about to evade taxation by fleeing Kosovo, transferring assets, ceasing business or taking other actions that will jeopardize collection of the tax unless a jeopardy assessment is made. An assessment under this provision may be appealed directly to the Independent Review Board.

Assessment Notice

Article 20

20.1. If the Director makes an assessment of tax, or the self-assessment by the taxpayer is not accompanied by the full amount of tax due, the Director shall deliver an Assessment Notice to the person liable for the tax.

20.2. The Assessment Notice shall contain the following information:

- a. the name of the taxpayer;
- b. the taxpayer identification number;

- c. the date of the notice;
- d. the matter and tax period or periods to which the notice relates;
- e. the amount of assessed tax, penalties, and interest;
- f. a brief explanation of the assessment;
- g. a demand for payment of the amount due;
- h. the place and manner of payment of the amount due; and
- i. the appeal procedures.

20.3. The taxpayer shall, within 10 days after the notice is delivered, pay the amount due at the place stated in the notice. The amount payable shall include the tax, penalties, and accrued interest up to and including the date of payment.

20.4. In the event of a jeopardy assessment under Article 19, the Director may demand immediate payment of tax and take enforced collection immediately to secure the payment of taxes due.

Payments Article 21

21.1. Any tax that is due and payable to TAK is a debt due to TAK.

21.2. Any person required to pay any tax to TAK under the legislation applicable in Kosovo shall, without notice or demand from TAK, pay such tax at the time and place specified in such legislation or implementing rules.

21.3. Any person who is made responsible to withhold, account for and pay over any tax on behalf of another person under the legislation applicable in Kosovo shall, without notice or demand from TAK, pay such tax at the time and place specified in such legislation or implementing rules.

21.4. Each employer who is required to make pension contributions on behalf of its employees and to withhold pension contributions from its employees pursuant to UNMIK Regulation No. 2001/35 of 22 December 2001 "On Pensions in Kosovo" shall pay such contributions at the time specified in such legislation or implementing rules.

21.5. Self-employed persons who are required to make pension contributions pursuant to UNMIK Regulation No. 2001/35 of 22 December 2001 "On Pensions in Kosovo" shall pay both the employer contribution and the employee contribution on their behalf at the time specified in such legislation or implementing rules.

21.6. Unless otherwise specified in administrative instruction, all taxes shall be paid to a bank authorized by TAK.

21.7. Notwithstanding any other provision in this Article or in the present law, where the amount of tax payable under a tax declaration is 3 Euro or less, or such other small amount as determined by the Director, TAK shall treat the tax payable as zero.

21.8. Unless designated to do so in writing by the Director, tax officials are prohibited from receiving any payment in respect of any tax.

Interest
Article 22

22.1. If any amount of any tax administered by TAK under legislation applicable in Kosovo is not paid by the last date prescribed for payment, the taxpayer shall be liable for interest.

22.2. Interest shall be calculated monthly for each month or part of a month from the date the tax is due up to and including the date the tax is paid.

22.3. The rate of interest shall be based on, but marginally higher than, the commercial bank interest rate on lending in Kosovo, shall be determined by the Ministry of Finance and Economy at least once per calendar year and shall be published by TAK.

22.4. Any interest due and payable may be collected in the same manner and with the same measures of enforcement as the tax on which it is based.

Order of Payments
Article 23

23.1. The amount of any tax paid pursuant to this law shall be distributed in the following order:

- a. collection costs
- b. penalties and fines;
- c. interest; and
- d. the amount of any tax due.

23.2. If the taxpayer does not designate the specific tax and specific tax period to which the payment relates, the payment shall be distributed to the earliest liability first, and where necessary, in the order specified in Article 23.1.

Credits and Refunds
Article 24

24.1. 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 due to TAK, if any. TAK shall deliver to the taxpayer notice in writing where such excess has been applied to another liability.

24.2. Where a taxpayer has no other current liabilities to TAK or where there remains an amount of tax overpaid after applying the excess referred to in Article 24.1 to other tax liabilities, the taxpayer may claim a refund of the amount remaining overpaid from TAK.

24.3. Where a taxpayer has no other current liabilities to TAK and where the taxpayer has not claimed a refund from TAK under Article 24.2, the excess payment shall be retained by TAK as a credit in the taxpayer's account to meet future liabilities to TAK.

24.4. Claims for credit or refund of an overpayment of any tax shall be filed by the taxpayer within six years from the date such tax was paid. The location and procedures for applying for a refund of tax and determining whether such refund is properly due shall be specified in an administrative instruction.

24.5. TAK shall action all claims for refunds by taxpayers under Article 24.2 within 60 days of the date TAK received the claim for a refund from the taxpayer, by ensuring that details of the amount to be refunded are forwarded to the Ministry of Finance and Economy or, in case of pension contributions, to the Kosovo Pension Savings Trust, for payment within that time.

24.6. Where a taxpayer has claimed a refund under Article 24.2 and that claim has not been actioned within the time provided in Article 24.5, TAK shall pay to the taxpayer, in addition to the amount to be properly refunded, interest at a rate prescribed by the Ministry of Finance and Economy in respect of each whole calendar month that occurs after that period and before details of the amount to be refunded have been forwarded to the Ministry of Finance and Economy, or to the Kosovo Pension Savings Trust for payment.

Use of Banks Article 25

25.1. With the approval of the Ministry of Finance & Economy Treasury division TAK may enter into agreements with BPK and other licensed banks by BPK for the banks to receive tax declarations and tax payments.

25.2. Under such agreements, the banks shall be obliged:

- a. to send payments of tax to the BPK within a specified period of time;
- b. to send tax declarations and other documents to TAK within a specified period of time;
- c. to group the documents in batches with a summary showing for each batch the number of documents it contains and the amount of revenue collected;
- d. to balance the daily collections with a balance control document.

Tax that is Due and Payable Article 26

26.1. Tax that has not been paid when it is due and payable, may be sued for and recovered in a court of competent jurisdiction by the Director in his or her official name.

26.2. In any proceedings under this Article, production of a certificate signed by the Director giving the name and address of the defendant and the amount of tax, and penalties and interest, if any, due shall be sufficient evidence of that amount of tax, penalties and interest for the court to give judgment for that amount.

Liens Article 27

27.1. If a person who is liable to pay any tax to TAK under legislation applicable in Kosovo neglects or refuses to pay within 10 days after delivery of an assessment notice, a lien shall arise on all property belonging to that person (whether movable, immovable, tangible or intangible) in an amount equal to the unpaid tax, plus interest, penalties, and the costs of collection.

27.2. The lien described in Article 27.1 shall arise at 5 p.m. on the date the tax is due and shall continue until the liability is satisfied or becomes unenforceable.

27.3. The lien described in Article 27.1 must be registered with the municipal cadastre office of the Kosovo Cadastre Agency and any other office responsible for registering property in Kosovo in order for the lien to have priority against all subsequently filed liens or security interests with respect to such property.

27.4. A person may appeal to TAK for release of a lien alleging an error in filing such lien. If TAK determines that the filing of the lien was erroneous, it shall promptly issue a certificate of release of such lien.

27.5. The Director may file a civil action in a court of competent jurisdiction to enforce any lien imposed by this Article.

27.6. In the event of payment of the debt to TAK, the lien shall be released.

Levies Article 28

28.1. If a person who is liable to pay any tax neglects or refuses to pay within 10 days after delivery of an assessment notice, it shall be lawful for the Director or officer authorized in writing by the Director, to collect such amount (and such further amount as shall be sufficient to cover the expenses of the levy) by levy on property belonging to such person (whether in the physical possession of the taxpayer or a third person).

28.2. In order to levy on property, an authorized officer shall deliver a notice of seizure to any person (including employers, banks, other financial institutions) in control or possession of property belonging to the taxpayer (whether movable, immovable, tangible or intangible) or who has an obligation to the taxpayer at the time the levy is made.

28.3. In the case of property consisting of accrued salary or wages, the authorized officer shall deliver a notice of seizure to an officer or employee who has the duty of paying the salary or wages.

28.4. The seizure notice shall state:

- a. the taxpayer whose property is being seized;
- b. the location of the property;
- c. the type of liability;
- d. the tax period for which the liability arose; and
- e. the amount of tax assessed.

28.5. Subject to Articles 61.2 and 61.3, any property subject to a notice of seizure can be seized by an authorized officer or the rights to which that property can be used by any person can thereafter be restricted (such that that person may use the property under the supervision of TAK, but cannot dispose of the property), provided that in either case such property cannot (except where the property is perishable) be sold or disposed of within 60 days of the notice of seizure.

28.6. If an authorized officer makes a determination that the collection of tax is in jeopardy, notice and demand for the immediate payment of tax may be made by such

officer and, on the failure or refusal to pay the tax, collection thereof by levy shall be lawful without regard to the 10 day period in Article 28.1, the 60 day period in Article 28.5 and the timeframes specified in Articles 61.2 and 61.3.

28.7. A levy on salary or wages payable to or received by a taxpayer shall be continuous and extend from the date such levy is first made until the liability out of which such levy arose is satisfied or becomes unenforceable.

28.8. Whenever any property on which the levy has been made is not sufficient to satisfy the claim for which levy is made, an authorized officer may, thereafter, and so often as may be necessary, proceed to levy other property liable to levy until the amount due from such person, together with all expenses, is fully paid.

Enforcement of Levy Article 29

29.1. Any person in possession of (or obligated with respect to) property subject to levy on which a levy has been made shall, on demand of an authorized officer, surrender such property (or discharge such obligation) to the authorized officer, except such part of the property as is, at the time of such demand, subject to execution under any judicial process.

29.2. Any person who fails or refuses to surrender any property subject to levy on demand of the designated officer shall be personally liable to the government in a sum equal to the value of the property not surrendered, but not exceeding the amount of tax for the collection of which levy has been made (together with interest, penalties, and costs), as if it were an understatement of tax.

29.3. In addition to the personal liability imposed in Article 29.2, if the failure or refusal to surrender is without reasonable cause, such person shall be liable for a penalty under Article 47.3.

Sale at Public Auction Article 30

TAK may sell at public auction any property seized pursuant to this law.

Limitations on Enforced Collection Article 31

31.1. Only that property necessary and sufficient to meet the taxpayer's current tax obligations may be subject to enforced collection action.

31.2. The following forms of a taxpayer's property shall be exempt from levies and seizures:

- a. child support and social assistance payments;
- b. essential clothing;
- c. basic food;
- d. basic furniture;
- e. basic personal effects, excluding luxury items; and
- f. any other property specified in an administrative instruction.

31.3. Actions to enforce collection of tax must be commenced within six (6) years after the assessment of the tax. Commencement of a court proceeding for collection of tax shall suspend the limitation period indefinitely.

Recovery of tax from partners and members of unincorporated associations
Article 32

32.1. The Director may recover from any of the partners of a partnership any tax (together with interest, penalties and costs) due from the partnership.

32.2. The Director may recover from any member, manager or director of an unincorporated association or organization any tax (together with interest, penalties and costs) due from the association or organization.

32.3. A member of an unincorporated association or organization shall be liable to pay tax due under Article 32.2 only to the extent that the member knew or reasonably should have known of the tax liability of the association or organization.

Jeopardy Orders
Article 33

33.1. Where the Director considers that payment of tax that will become due is at risk because a person is about to depart Kosovo, to cease business or to transfer property, or is in jeopardy for other reasons, the Director may notify any person:

- a. owing money to the person who will be liable to pay tax;
- b. holding money for the person who will be liable to pay tax;
- c. having the authority from some other person to pay money to the person who will be liable to pay tax;
- d. to set aside the money until such time as the Director issues a notice under Article 19 or withdraws the notice issued under this Article.

33.2. Any person who fails to set aside money as required under Article 33.1 shall be liable to a penalty under Article 47.4.

Article 34
Embargo on imports and exports

34.1. In any case where a person who is liable to pay any tax neglects or refuses to pay within 10 days after delivery of an assessment notice or where the Director considers that payment of tax is in jeopardy under Article 33, it shall be lawful for the Director or an officer authorized in writing by the Director, to request in writing from the Director General of the Customs Service that an embargo be placed on the release of any imports or exports by that person.

34.2. Any request made to the Director General of the Customs Service under Article 34.1 shall remain valid until the Director advises the Director General in writing of a decision to terminate the request.”

Departure prohibitions
Article 35

35.1. If the Director of TAK informs the Head of the Border Police in writing that a person liable for tax due under the present regulation has failed to pay the tax, the Border Police shall take such steps as it can to prevent such person from leaving Kosovo for a period of 72 hours from the issuance of the letter unless during that period the person:

- a. makes payment in full;
- b. makes an arrangement satisfactory to the Director of TAK for the payment of the tax.

35.2. Upon application by the Director, a court of competent jurisdiction may extend the 72 - hour period referred to in Article 35.1. The Head of the Border Police shall continue to take the steps referred to in Article 35.1 whenever he or she is notified in writing of that extension.

Cancellation of tax that cannot be collected
Article 36

36.1. Where TAK considers that it will be impossible to collect any tax due under the present law and that the liability of the taxpayer should be cancelled, TAK may recommend to the Minister of Finance and Economy that the liability be cancelled. Each case must be reviewed by a committee of three employees of TAK including the Director and a Deputy Director.

a. If the Minister of Finance and Economy accepts in writing a recommendation from TAK made under Article 36.1, TAK shall treat the liability as cancelled and the tax shall no longer be due or payable. TAK shall notify the taxpayer of the cancellation of his or her liability.

36.2. TAK may reinstate a liability cancelled under Article 36.2 where it believes it has become possible to collect the tax due provided that either:

- a. such reinstatement is done within six years of the date the tax liability became due; or
- b. the circumstances of Article 18.2 apply.

Illegal Income
Article 37

Income shall be subject to taxation in cases where the receipt of income is considered illegal under UNMIK Regulation No. 2003/25 of 6 July 2003 "On the Provisional Criminal Code of Kosovo" or any other law.

Director may re-characterize arrangements
Article 38

38.1. For the purposes of determining tax liability under the tax legislation applicable in Kosovo, the Director may:

- a. disregard a transaction that does not have substantial economic effect;
- b. re-characterize a transaction where the form of the transaction does not reflect its economic substance;

- c. re-characterize an element of a transaction that was entered into as part of a scheme to avoid a tax liability.

38.2. The Director shall notify the taxpayer of any disregard or re-characterization under Article 38.1.

Transactions between Related Persons Article 39

39.1. In any transaction between related persons, the Director may allocate income or deductions between such persons as is necessary to reflect the taxable income that would have resulted from the transaction if the persons had not been related.

39.2. In commercial or financial transactions between related persons, the Director may adjust the sales price between such persons to reflect the market value that would have occurred if the persons had not been related.

Barter Transactions Article 40

40.1. Barter transactions shall be considered as a sale of goods or the result of work or services at market values.

40.2. Tax invoices must be issued for barter transactions in the same manner as they are issued for cash transactions. If the value of a barter transaction indicated in a tax invoice is a reduced value, the Director may adjust the value of the transaction to reflect market values.

Understatements of Income and Diverted Receipts Article 41

41.1. Where an individual declares an amount of income that is insufficient to support his or her expenses incurred for personal consumption, TAK may recalculate the income of the individual on the basis of expenses incurred by the individual, taking into account income of previous periods.

41.2. A person shall be treated as having received any amount that is:

- a. reinvested or accumulated for the person's benefit
- b. dealt with on the person's behalf or as the person directs.

Penalties for Non-Compliance Article 42

Any penalty imposed under this law shall be considered as tax due to TAK, and collectable as tax.

Failure to submit a tax declaration
Article 43

Where a person who is required to submit a tax declaration under legislation applicable in Kosovo fails to do so by the due date, such person shall be liable to a penalty of five percent (5%) of the tax owed for each month or part of a month that it is late, with a maximum penalty payable of twenty-five percent (25%) of the tax due.

Failure to pay
Article 44

Where a person who is required to pay any tax under legislation applicable in Kosovo fails to pay all or part of such tax by the due date, such person shall be liable for a penalty of two percent (2%) of the tax due for each month or part of a month that the payment is late, up to a maximum of twelve months.

Understatements of Tax and Overstatements of Tax Refunds
Article 45

45.1. Where a person who is required to complete a tax declaration under legislation applicable in Kosovo understates the correct amount of tax due, or overstates the correct amount of a tax refund to which they are entitled, such person shall be liable to a penalty of:

- a. twenty-five percent (25%) of the difference between the correct amount of tax required to be declared and the amount of tax actually declared where such understatement or, as the case may be, overstatement was due to the negligence or gross carelessness of that person; or
- b. one hundred percent (100%) of the difference between the correct amount of tax required to be declared and the amount of tax actually declared where such understatement or, as the case may be, overstatement was due to a deliberate and willful attempt by that person to conceal the correct amount of tax required to be declared so as to avoid payment of, or claim a refund of, that difference.

45.2. For the purposes of Article 45.1, where a taxpayer who is required to complete a tax declaration for a tax period has failed to submit such declaration, that taxpayer shall be deemed to have declared that the amount of tax due from him or her for that tax period was zero.

Failure to File, Create or Provide Records
Article 46

46.1. Any person who is required to file an information statement with TAK and who fails to do so by the due date or who files an inaccurate or incomplete statement shall be liable to a penalty of 125 Euro for each failure to file and each inaccurate or incomplete statement.

46.2. Any person who is required to create or retain records under the legislation applicable in Kosovo and who fails to do so shall be liable to a penalty of 125 Euro.

46.3. Any person who is required to provide access to books or records or otherwise comply with Articles 13 and 14 and who fails to do so shall be liable to a penalty of 100 Euro for each day of default following the date of request by TAK. In such cases, TAK may also request a warrant from a judge authorizing the entry or access sought under Articles 13 or 14.

Failure to withhold, pay or remit taxes and other amounts
Article 47

47.1. Any person responsible for withholding, collecting or paying over tax who willfully fails to withhold, collect, or pay over that tax, shall be liable to a penalty equal to the amount of the tax not withheld, collected or not paid over.

47.2. Any employer responsible for withholding and paying to the Kosovo Pension Savings Trust any pension contributions on behalf of themselves or their employees who willfully fails to withhold any such contributions or who willfully fails to pay any withheld contributions shall be liable to a penalty equal to the amount of the contribution not withheld or not paid over to the Trust.

47.3. Any person who fails or refuses to surrender any property subject to levy without reasonable cause under Article 29.3, such person shall be liable for a penalty equal to 50 percent of the amount recoverable under Article 29.2.

47.4. Any person who fails to set aside money as required under Article 33.1 shall be liable to a penalty equal to that amount of money.

Errors by Taxpayer Representatives and Tax Advisors
Article 48

Any taxpayer representative or tax advisor who signs a tax declaration on behalf of another person, who makes an error on such declaration shall pay a penalty of 125 Euro where the error was due to carelessness or an unrealistic interpretation of the tax laws, or 250 Euro where the error was due to reckless or intentional disregard of the tax laws and regulations.

VAT Violations
Article 49

49.1. A taxable person who is required to register for VAT and who makes supplies without being registered for VAT after the time limit allowed for such registration shall be liable for the VAT due on those supplies plus a penalty of:

- a. twenty-five percent (25%) of the VAT due on those supplies where the failure to register was due to the negligence or gross carelessness of the taxable person; or
- b. one hundred percent (100%) of the VAT due on those supplies where the failure to register was due to a deliberate and willful attempt by the taxable person to not pay VAT on those supplies.

49.2. A taxable person who fails to issue a VAT invoice or who issues an incorrect invoice that results in an apparent decrease in the amount of VAT due or an apparent increase in the amount of credit claimable shall be liable for that decrease in amount due or that increase in the amount of credit claimable in respect of the invoice or transaction, plus a penalty of:

- a. twenty-five percent (25%) of the apparent decrease or increase in the amount of VAT due where the failure to issue a VAT invoice or the issue of an incorrect invoice was due to the negligence or gross carelessness of the taxable person; or
- b. one hundred percent (100%) of the apparent decrease or increase in the amount of VAT due where the failure to issue a VAT invoice or the issue of an incorrect invoice was due to a deliberate and willful attempt by the taxable person to either not issue a VAT invoice or to issue a false invoice.

49.3. A taxable person who commits any of the following violations with respect to VAT shall be liable to a penalty of 250 Euro for each violation:

- a. failure to apply to be removed from the VAT register when required to do so under applicable law;
- b. failure to display a copy of the VAT registration certificate in the manner required by applicable law.

49.4. A taxable person registered for VAT who allows another person to use its unique VAT registration certificate shall be liable to a penalty of up to 5000 Euro.

49.5. Any person who without a lawful reason is found to have goods in their possession for which no VAT invoice or other records exist in respect of that supply shall be liable, in addition to any penalties under Articles 49.1 (b) or 49.2 (b) of this Article, to a penalty of an amount equal to the estimated VAT calculated at a 15% rate of the open market value of the goods

Additional penalties Article 50

The Ministry of Finance and Economy may issue administrative instructions imposing additional penalties for tax violations, where such penalties do not exceed a total of 500 Euro.

Reduction in penalties Article 51

51.1. Where a taxpayer who is liable to one or more of the penalties set out in Articles 43 to 50, or who commits an offense set out in Articles 52 to 55, voluntarily informs TAK of their liability or having committed such an offense before the taxpayer is first notified of a pending tax investigation by TAK which might have discovered that liability or offense, the maximum financial penalty that may be imposed shall be 25% of the penalty that would otherwise have applied. Where a taxpayer so voluntarily informs after the taxpayer is first notified of a pending tax investigation, but before TAK commences that

investigation, the maximum financial penalty imposed shall be 50% of the penalty that would otherwise have applied.

51.2. Where a taxpayer with tax liability outstanding:

- a. enters into a written agreement to pay the tax outstanding through two or more installments;
- b. fulfills the terms of that written agreement; and
- c. keeps all other tax obligations up to date throughout the course of that agreement; the financial penalty that would otherwise apply in respect of the late payment under Article 44 will be reduced to two percent (2%) of the tax due and interest incurred under Article 22 will remain payable.

51.3. If a person liable to any tax proves reasonable cause, good faith, undue hardship or other grounds that will enhance the effectiveness of tax administration, TAK may reduce or waive any assessed penalty on a case-by-case basis. Each reduction or waiver must be proposed by the regional management in the taxpayer's jurisdiction and reviewed by a committee of three employees of TAK including the Director and a Deputy Director. Each reduction or waiver must be fully documented and subject to review by the Ministry of Finance and Economy.

Criminal Offenses Article 52

52.1. Any person who commits an offense described in this Part may be prosecuted in respect of that offense and if found guilty shall be liable for the punishment imposed for the offense.

52.2. Article 52.1 shall apply without prejudice to any criminal offense or criminal sanction for economic crimes as may also be imposed under the provisions of UNMIK Regulation No. 2003/25 of 6 July 2003 "On the Provisional Criminal Code of Kosovo."

Failure to create and retain records Article 53

A person who is required to create or retain records under legislation applicable in Kosovo and who fails to do so shall be liable on conviction to:

- a. a fine of twenty-five percent (25%) of the tax assessed to which the records relate if the failure to do so was due to gross carelessness on the part of the person;
- b. a fine of one hundred percent (100%) of the tax assessed to which the records relate if the failure to do so was due to a deliberate attempt to avoid payment of tax.

Abuse of position
Article 54

Any tax official who knowingly:

- a. demands from any person an amount in excess of the authorized assessment of the tax;
- b. receives or attempts to receive in cash any tax due and payable to TAK without prior approval from the Director;
- c. conducts official duties with a related person;
- d. withholds for their own use any portion of the amount of tax collected;
- e. renders a false accounting, whether verbal or in writing, of the amount of tax collected and received by him or her;
- f. gives favorable treatment to a taxpayer due to collusion, nepotism, kickbacks or bribes;
- g. assists another person to avoid tax under legislation applicable in Kosovo;
- h. defrauds a person, embezzles any money or otherwise uses their position so as to deal wrongfully either with the Director or with any other individual; or
- i. engages in any other unethical or unlawful behavior;

shall be liable on conviction to applicable penalties under the provisions of UNMIK Regulation No. 2003/25 of 6 July 2003 “On the Provisional Criminal Code of Kosovo”, provided that where no penalty is prescribed in UNMIK Regulation No. 2003/25, to:

- a. disciplinary action or dismissal;
- b. a penalty of up to 2000 Euro; and
- c. imprisonment for a period up to three years.

Fraudulent Evasion of Tax
Article 55

55.1. If any person is knowingly concerned in any fraudulent evasion or attempt at evasion of any tax, including claiming a refund to which they are not entitled, by themselves or another person, that person shall be liable on conviction to a penalty of an unlimited fine or by imprisonment of six months to five years.

55.2. Where in any assessment or any criminal offense it is possible to show that tax is due or has been evaded, but it is not possible to show in which tax period that tax is due or has been evaded, the tax shall be deemed to be due or have been evaded in the last tax period for which evidence for the assessment or the evasion exists.

Appeals to the Tax Administration
Article 56

56.1. The Director shall establish within TAK an Appeals Division responsible for considering appeals by persons who dispute an assessment or decision of the Director under legislation administered by TAK.

56.2. A person who disputes a tax assessment or official determination of TAK may appeal to the Appeals Division for reconsideration of the official determination. The appeal shall be filed within 60 days of the date that the taxpayer received the notice of the assessment or other official determination. The appeal shall be in writing and must indicate the reasons and documents on which the taxpayer bases the appeal.

56.3. The Minister of Finance and Economy may designate in an administrative instruction circumstances under which the 60 day period in Article 55.2 may be extended.

56.4. The burden of proving that an assessment or other official determination is incorrect before the Appeals Division shall be on the taxpayer.

56.5. The Appeals Division shall consider the appeal of the taxpayer and shall issue a decision thereon. The decision shall be delivered in writing to the person making the appeal as soon as practicable, but not later than 60 days after the date of appeal.

56.6. A decision of the Appeals Division shall be the final decision of the Director and shall be binding on TAK.

56.7. A person who does not agree with a decision of the Appeals Division may appeal to the Independent Review Board within 60 days of receiving notification of the decision of the Appeals Division.

56.8. Where the Appeals Division has not delivered a decision within 60 days of the day on which an appeal was filed, the taxpayer may appeal the assessment or other official determination directly to the Independent Review Board.

Establishment of the Independent Review Board Article 57

57.1. The Independent Review Board established under UNMIK Administrative Direction No. 2000/7 shall continue as the Independent Review Board under this law.

57.2. Members of the Board shall be proposed by the Government solely on their fitness to perform their functions, and appointed by the Assembly. The term for each of the members shall be two years. One-half of the members shall be replaced at the end of each calendar year.

57.3. The Board shall consist of a Chief Member and fourteen other members, all of whom are independent of the Ministry of Finance and Economy and of the Custom Service. At least seven of the members shall be from the Kosovo business community.

57.4. The Board shall pay such fees for the work of members as relates to the number of days or half days as they shall sit as members.

57.5. The Assembly may remove one or more members of the Board, with the advice of the Government, if it determines that the member is unfit to execute their functions or is in a position of conflict of interest contrary to Article 58.5.

57.6. The Board is authorized to hire competent staff, acquire equipment necessary to carry out its functions, and establish premises from which it will operate.

Role of the Board Article 58

58.1. The Board shall have jurisdiction to receive appeals against:

- a. a decision of the Appeals Division;
- b. a jeopardy assessment under Article 19;
- c. an assessment or other official determination of the Director where the Appeals Division has not delivered a decision within 60 days under Article 56.8;
- d. official determinations under other legislation in Kosovo that provides for appeals to such Board.

58.2. The person appealing to the Board shall have the burden of proving that a decision, assessment or determination against which they are appealing is incorrect.

58.3. In reviewing the decisions, assessments and determinations under Article 58.1, the Board shall, subject to Articles 58.4 and 58.5, review the relevant testimony, documents and other evidence presented by the person appealing to the Board and by TAK. The Board shall then make its own findings of fact and conclusions of law.

58.4. Unless Article 58.5 applies, the testimony, documents and other evidence presented by the person appealing to the Board and by TAK shall be limited to the same evidence that was provided in respect of the previous decision, assessment or determination which is being appealed against under Article 58.1.

58.5. The Board may allow a person appealing to the Board or TAK to present new evidence where the Board is satisfied that:

- a. such evidence was not available at the time of the decision, assessment or determination which is being appealed against under Article 58.1; and
- b. the admission of such evidence is necessary to avoid manifest injustice to the person appealing to the Board or to TAK.

58.6. The decision of the Board shall be issued in writing and shall be binding on both the person appealing to the Board and the Director unless amended or reversed by a Court.

Procedures for the Board Article 59

59.1. The Minister of Finance and Economy may establish a user fee for persons bringing appeals before the Board.

59.2. The Chief Member shall nominate an appeal panel of up to three members to hear an appeal brought before it. Cases shall be allocated on a random basis and the members of each panel shall be rotated.

59.3. The times and places of the hearings of the Board shall be specified by the Chief Member with a view to securing a reasonable opportunity for persons to appear before the Board with as little inconvenience and expense as practicable.

59.4. An appeal panel shall hear evidence under Article 58.3, discuss the case as a panel, and issue a written opinion, including the findings of fact or opinion of the Board, within 30 days after the conclusion of the hearing.

59.5. No member shall sit on an appeal panel where there is a likelihood of a conflict of interest by virtue of family relationships, business relationships or any other factors.

59.6. The members of the Board shall maintain the confidentiality of all information and data obtained while performing its official functions.

Judicial Review Article 60

Decisions of the Board may be appealed to a court of competent jurisdiction providing such appeals are initiated within 60 days of receiving notification of the decision of the Board.

Obligation to Pay During Appeals Proceedings Article 61

61.1. Whether or not a person has lodged an appeal to the Appeals Division or the Independent Review Board, tax due under the present law shall remain due and payable.

61.2. Notwithstanding Article 61.1, there shall be no enforced collection of tax until the time within which a taxpayer may appeal to the Appeals Division under Article 56.2 has expired, or until the Appeals Division has made its decision under Article 56.6, whichever is the later.

61.3. Unless the property seized is perishable, property seized by TAK shall not be sold or otherwise disposed of until the expiry of the 60 day period after delivery of notice of seizure under Article 28.5, or until the conclusion of the appeal procedures (other than Article 60) provided for in this law, whichever is the later. Where property seized has been sold or otherwise disposed of, any proceeds shall be held by TAK for the credit of the taxpayer until the matter that is appealed is finally resolved, at which time it shall be refunded to the taxpayer under Article 61.4 or deducted from the amount outstanding under Article 61.5, as appropriate.

61.4. If a matter that is appealed is finally resolved in favor of the taxpayer, TAK shall refund any excess tax paid, together with interest calculated at the rate prescribed by the Ministry of Finance and Economy in respect of each whole calendar month between the date of payment by the taxpayer to the date of TAK referring the refund to the Ministry of Finance and Economy for payment.

61.5. If a matter that is appealed is finally resolved in favor of TAK, the taxpayer shall pay outstanding tax, penalties and interest accrued until the matter was resolved.

Taxpayer Representatives Article 62

62.1. Taxpayers may participate in any aspect of a tax proceeding through a taxpayer representative.

62.2. For legal persons, taxpayer representatives may include the proprietor of a business activity, the president, director, manager, or administrator of a legal person, the bankruptcy representative of an organization in liquidation, the guardian of goods for an

insolvent business, the administrator or heirs of an estate and any other person with written authorization to represent the taxpayer.

62.3. For physical persons, taxpayer representatives may be an attorney, certified accountant or other agent with written authorization to represent the taxpayer.

62.4. The authority and duties of a taxpayer representative shall be limited to the terms of the written agreement.

62.5. The participation of a taxpayer representative in any tax proceeding shall not deprive the taxpayer of his or her personal right to participate in such proceedings and shall not deprive TAK of access to the taxpayer.

62.6. A person who is a non-resident taxpayer under the applicable tax legislation must inform TAK of its taxpayer representative within three weeks after it begins generating income or acquiring property in Kosovo.

Confidentiality of Tax Information Article 63

63.1. A tax official or any other person who has access to taxpayer information is prohibited from disclosing such information to any other person except as needed in a tax proceeding or otherwise provided in this Article.

63.2. Notwithstanding Article 63.1, a tax official may disclose information concerning a taxpayer to the following persons:

- a. the Ministry of Finance and Economy, where that information is needed for official purposes;
- b. the Kosovo Statistical Office, and the Kosovo Business Registry for use in compiling statistics or for other analytical purposes provided that the information disclosed from tax proceedings is in a form that does not identify specific taxpayers;
- c. the Kosovo Pension Savings Trust for a purpose authorized by UNMIK Regulation No. 2001/35 “On Pensions in Kosovo”;
- d. the Ombudsperson Institution established under UNMIK Regulation No. 2000/38 “On the Establishment of the Ombudsperson Institution in Kosovo,” for use in resolving taxpayer complaints;
- e. the Financial Investigation Unit established under UNMIK Administrative Direction No. 2003/3, the Financial Information Centre established under UNMIK Regulation No. 2004/2 “On the Deterrence of Money Laundering and Related Criminal Offences and other law enforcement agencies for use in:
 - (i) the investigation of tax and financial matters;
 - (ii) criminal prosecution of tax and financial offenses;
 - (iii) the investigation of other criminal offenses in Kosovo where prior approval from the Court has been obtained;
- f. the Courts for use in tax cases;

- g. the Audit Office of Kosovo for the purpose of auditing TAK pursuant to UNMIK Regulation No. 2002/18 “On Auditor General in Kosovo”;
- h. other agents or employees of TAK in the course of and for the purpose of carrying out their official duties;
- i. the tax authorities of a foreign country in accordance with international treaties or agreements;
- j. the Customs authorities, for purposes of administering the customs legislation;
- k. any person, when the taxpayer has been convicted of fraud or where the information consists of a list of registered persons for VAT in order that persons can check they are doing business with a VAT registered person.

63.3.A taxpayer may release any person from the duty of confidentiality. Such a release must be in writing and may limit the release to certain information or to use for a specific purpose.

Administrative Instructions Article 64

The Minister of Finance and Economy shall issue administrative instructions to carry out the provisions of this law. Any provisions of the instructions that are inconsistent with this law have no legal effect.

Applicable Law Article 65

The present law shall supersede any provision in the applicable law that is inconsistent with it.

Repealed Law Article 66

On the date of entry into force of the present law, UNMIK Regulation No. 2000/20 of 12 April 2000 “On Tax Administration and Procedures,” and its subsidiary legislation shall be repealed.

Entry into Force Article 67

The present law shall enter into force after adoption by the Assembly of Kosova, signature of the President of the Assembly, on the date of its promulgation by the Special Representative of the Secretary-General and shall be applicable on the first day of the calendar month.

Law No.2004/48
27 September 2004

President of the Assembly

Academic Nexhat Daci