



**Republika e Kosovës**  
**Republika Kosovo - Republic of Kosovo**  
*Kuvendi - Skupština - Assembly*

---

**Law No. 04/L-102**

**ON AMENDING AND SUPPLEMENTING THE LAW ON TAX  
ADMINISTRATION AND PROCEDURE 03/L-222**

**Assembly of Republic of Kosovo,**

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves

**LAW ON AMENDING AND SUPPLEMENTING THE LAW ON TAX  
ADMINISTRATION AND PROCEDURE 03L-222**

**Article 1**

After Article 1 of the basic law a new Article 1.A shall be added with the following naming and content:

**Article 1.A**  
**Purpose of the Law**

The purpose of this law is to establish the new complaint procedure against decisions of tax bodies.

## Article 2

1. Article 1 of the basic law, Definition 1.6. Independent Review Board, shall be amended and reworded as following:

1.6. **Independent Review Board** - the Board for reviewing the appeals of taxpayers regarding the taxes.

2. Article 1 of the basic law, after Definition 1.45. two new definitions 1.46 and 1.47. shall be added with the following text:

1.46. **Fiscal Division** – a division established by the Kosovo Judicial Council in compliance with the Law on Courts and acts within the Department for Administrative Issues of the Basic Court of Prishtina.

1.47. **Fiscal Sector** – includes the department of appeals within the Kosovo tax Administration, Appeals Sector in Kosovo Customs and Committee for Review of Appeals in the property tax in the Ministry of Finance.

## Article 3

1. Article 77, paragraph 6. of the basic Law shall be reworded with the following text:

6. A taxpayer who does not accept a decision of the Appeals Division may appeal it to the Independent Review Board within thirty (30) days of receiving the notification of the decision, for all decisions received by 30<sup>th</sup> November 2012. As of 1<sup>st</sup> December 2012, the competent court entitled to receive the appeals against the Appeal Division's decisions shall be the Fiscal Division of the Administrative Department of the Basic Court of Prishtina. The time within which to lodge an appeal before the competent court shall be thirty (30) days from receiving the notification of the Appeal Division's decision.

2. Article 77 paragraph 8. of the basic Law shall be reworded with the following text:

8. Where the Appeals Division has not delivered a decision within sixty (60) days of the date on which an appeal was filed, the taxpayer may appeal on the assessment or any other official determination directly to the Independent Review Board, by 30<sup>th</sup> November 2012. As of 1<sup>st</sup> December 2012, if the Appeals Division has not delivered a decision within sixty (60) days of the date on which an appeal was filed, the taxpayer may appeal directly the challenged fiscal assessment or any other official determination to the competent court, as defined in Article 3 of this Law.

#### **Article 4**

Article 78 of the basic Law shall be named and reworded with the following text:

#### **Article 78 The Independent Review Board**

The Independent Review Board, established under this law, shall be competent to receive and deal with all the appeals from taxpayers, which shall be lodged before 30th November 2012 and of those pending before it at that time, in accordance with its jurisdiction set by this law.

#### **Article 5**

Article 79, paragraph 5. of the basic Law shall be reworded with the following text:

5. If new facts become known following a decision of the Independent Review Board or within the procedures starting at Fiscal Division, those facts may be used by TAK in making an assessment of any additional tax that may be due, provided the time limit has not expired.

#### **Article 6**

1. Article 80 paragraph 5. of the basic Law shall be reworded with the following text:

5. If a Board decision is not delivered to the parties within the period of ninety (90) days, as set out by this paragraph, the appellant may submit an appeal to the competent court on the basis of the provisions set out in this law and the Law on Administrative Conflict 03/L-202. The competent court in dealing with the appeals submitted under this Article shall be:

5.1. The Supreme Court until 31<sup>st</sup> December 2012

5.2. The Appeals Court as of 1<sup>st</sup> January 2013.

2. Article 80, paragraph 6. of the basic Law shall be reworded with the following text:

6. All cases pending before the Board on the date on 30<sup>th</sup> November 2012, must be decided by the same, no later than 31<sup>st</sup> December 2013.

**Article 7**  
**Judicial Review**

Article 81, paragraph 1. of the basic Law shall be named and reworded with the following text:

**Article 81**  
**Judicial Review**

1. Against Decisions of the Board may be appealed to the competent court, provided that the appeal is submitted within sixty (60) days from receiving the notification of the decision to:

1.1. The Supreme Court for the decisions notified until 31<sup>st</sup> October 2012.

1.2. The Court of Appeal for the decisions notified as of 1<sup>st</sup> November 2012.

**Article 8**

After Article 81 of the basic law 10 new Articles 81.A, 81.B, 81.C, 81.D, 81.E, 81.F, 81.G, 81.H, 81.I, and 81.J are added as following:

**Article 81.A**  
**Appeals to the Court**

1. As of 1<sup>st</sup> January 2013, the Fiscal Division shall assume the competencies of the Independent Review Board, and shall be the first instance court to which an appeal against Appeal Division decisions shall be lodged.

2. The Fiscal Division, shall be established by the Kosovo Judicial Council, in accordance with the Law on Courts.

3. Professional Adviser shall support the professional work of the judges of the Fiscal Divisions. The terms of appointment, dismissal and status of the technical experts shall be defined by the Kosovo Judicial Council.

**Article 81.B**  
**Jurisdiction**

1. The Fiscal Division shall be deemed competent to adjudicate in the first instance any decision from the Appeal Department concerning Taxes, customs duties and any other contributions as set by the legislation in force.

2. The appeal jurisdiction of the Fiscal Division, covers following taxes and duties:

2.1. Personal Income Tax;

2.2. Corporate Income Tax;

2.3. VAT Law;

2.4. Customs Duties;

2.5. Excise Duties;

2.6. Taxes on Immovable Property;

2.7. Any other tax or contributions applied in Kosovo.

3. Against the decisions of the Fiscal Division of the Administrative Department can be submitted an appeal to the Court of Appeals.

### **Article 81.C** **Competencies, composition and procedural rules**

For matters not regulated by this law regarding the competencies and the procedural rules of the competent courts the Law on Administrative Conflicts, Amendment and Supplementation of the Law 03/L-202 and any other relevant law in force in Kosovo shall apply. In case of conflict of this Law with other Laws the provisions contained in the current law shall prevail.

### **Article 81.D** **Parties**

1. Submitter of the appeal before the Fiscal Division of the Department for Administrative Issues of the Basic Court of Pristina shall be the taxpayer who has received the challenged decision from the fiscal, customs or other competent administration or municipal administration.

1.1. before the Fiscal Division of the Department for Administrative Issues of the Basic Court of Pristina, the party in appeal proceeding should always be the Fiscal, Customs or municipal competent administration, which has issued the challenged decision.

1.2. before the Court of Appeals, as judge of the second instance and the Supreme Basic court, as judge of final instance, the plaintiff or appellant may also be the Fiscal, Customs or municipal competent administration, which has acted as defendant in the first instance.

1.3. taxpayers can stand before the competent court without being represented or assisted by a lawyer or a professional tax adviser, when the value of the dispute is less than fifteen thousand (15,000) euro.

1.4. tax and Customs Administration and any competent authority shall be represented and defended before the courts by their legal service officers, unless they wish to be assisted by a professional lawyer.

2. The tax investigation unit shall be supported by an intelligence team for the purpose of disclosure of potential criminal tax cases. General Director may describe as needed more appropriate task to the intelligent team and to the investigation unit for efficient disclosure and the investigation of tax crime.

### **Article 81.E** **Content of the appeal**

1. A taxpayer who has received a decision from the Appeal Division or has not received any decision from it within the time limit set by paragraph 2. Article 3 of this Law, or has not received the requested decision by the competent tax or customs administration within the time set by law, may lodge an appeal to the Fiscal Division of the Administrative Department of the Basic Court of Prishtina.

2. The request from the interested party to initiate the legal proceeding before the competent court must be made in writing and delivered at the same time to both the court and the opposing party.

3. An appeal addressed to the Basic Court must contain one of the following request:

3.1. the annulment, totally or partially, of the challenged decision; or

3.2. the issuance of the reimbursement of the taxes unduly paid, which was not issued in the foreseen terms;

3.3. the issuance of the decision which has not been provided by the competent fiscal and customs administration;

3.4. the issuance of the decision to remit the customs debt, which was not issued in the foreseen terms, or

3.5. the restitution of the things seized and the compensation of the damage suffered because of the execution of the contested decision.

4. The appeal must indicate:

- 4.1. the name of the tax or customs competent administration that has issued the challenged decision or that has not provided the requested decision within the time limit as set by Article 77 of the basic Law;
  - 4.2. the reference number and date of the challenged decision;
  - 4.3. the personal details of the plaintiff.
  - 4.4. the legal and factual reasons, in addition to those indicated in Article 16 of the Law on Administrative Conflict, for appealing;
  - 4.5. the evidence supporting the request;
  - 4.6. any other document deemed relevant in the proceeding;
  - 4.7. the signature of the appellant or of the appellant's authorized representative.
5. If the person appealing to the court proves that at the time indicated in paragraph 7. Article 14 of the basic law or during the appeal procedure before the appeal department, he/she could not submit the documents or other evidence due to causes which were beyond his/her control, he/she will be allowed to submit it for the first time before the court.
6. The court will decide on the reasonability of the impediments alleged by the claimant.
7. In case the appeal is not complete, Article 33 of Law on Administrative Conflicts shall find application.

#### **Article 81.F Burden of proof**

1. The taxpayer shall bear the burden of proof of the facts supporting his/her requests.
2. The Tax, Customs or other competent administration shall bear the burden of proving of the facts which support this decision and oppose the taxpayer's requests.
3. The evidence gathered in a tax and customs related criminal proceeding and the decision of the criminal judge, can be used in a trial before the Fiscal Division, on condition of identity of facts and persons.

#### **Article 81.G Hearing**

1. The Fiscal Divisions of the Administrative Department of the Basic Court and the Court of Appeal shall hold a public hearing where parties are heard and evidence is reviewed.

2. The court may hold a closed session, when there are appropriate reasons concerning security and confidentiality issues involved.

### **Article 81.H** **Procedure before the Court of Appeal**

1. The request for appeal against a decision of the Fiscal Division of the Basic Court must be addressed and delivered to the **Court of Appeal** and to the opposing party.

2. The appeal addressed to the **Court of Appeal** must contain the request for annulment, totally or partially, of the challenged decision by the Basic court.

3. The appeal against the decision of the Fiscal Division of the Basic Court must indicate:

3.1. the reference number and date of the challenged decision issued by the Basic Court;

3.2. the personal details of the plaintiff;

3.3. the personal details of the defendant;

3.4. the legal and factual reasons for appealing;

3.5. the evidence supporting the request;

3.6. any other document deemed relevant in the proceeding;

3.7. the signature of the appellant or of the appellant's authorized representative

4. No evidence, other than that already submitted during the first instance stage, can be produced. The court may allow new evidence when:

4.1. the evidence was not available at the time of the decision appealed.

4.2. the evidence is necessary to avoid manifest of injustice to the party requesting its admission.

5. The decision of the Basic Court can be appealed to the competent court within sixty (60) days of its official communication to the parties.

6. If no appeal is lodged within the time above indicated, the decision of the Basic Court is considered as being definitive



**Article 81.I**  
**Judicial Decisions**

1. In accordance with Article 9 and Article 34 of the Law on Administrative Conflicts, the appeal can be approved, totally or partially or rejected.
2. The court deciding on the appeal should:
  - 2.1. confirm the validity of the challenged decision and reject the appeal; or
  - 2.2. nullify or revoke totally the decision and endorse the appeal; or
  - 2.3. nullify or revoke partially the decision and endorse accordingly the appeal, or
  - 2.4. instruct the competent body to issue the decision when its issuance has been unlawfully denied or delayed.
3. The decision of the court will be binding on both the person appealing and the tax or customs administration or other authority involved, from the moment of its official communication to the party.
4. For implementation of Court's decision (paragraph 3 of this Article) Article 46 paragraph 4. and 5. and Article 65 of the Law on Administrative Conflicts shall find application.
5. If decisions of the Basic Court or of the Court of Appeal are contested to the competent court, the interested party can ask for a suspension of their effects for the time needed to proceed the contest, by providing an adequate bank guarantee for the unpaid taxes and customs.

**Article 81.J**  
**Tax Agreement**

1. Before the hearing, parties can settle the dispute, totally or partially, through an agreement on the issues and the amount of taxes, duties, penalties or interest due.
2. The settlement must be in written and becomes definitive once it has been approved by the court on the grounds of its compliance with the principle of fairness and transparency.
3. Once the settlement becomes definitive, the trial before the court ends and no further request from the fiscal or customs administration on the same facts is allowed.
4. If the settlement is partial, the trial shall be carried on for the definition of the outstanding balance.

**Article 9**  
**Obligation to pay during appeals proceedings**

1. Article 82 paragraph 1. of the basic Law shall be reworded with the following text:

1. Whether or not a person has lodged an appeal to the Appeals Division, the Independent Review Board or the Competent Court, does not suspend the payment obligation of the tax duty.

2. Article 82, paragraph 2. of the basic Law shall be reworded with the following text:

2. Notwithstanding paragraph 1. of this Article, tax collection through levy on immovable property is prohibited until the time during which a taxpayer has the right to appeal to the Independent Review Board or to the competent court. Any taxpayer wishing to delay collection action prior to making an appeal to the Independent Review Board or the competent court, may submit a bank guarantee or other form of security acceptable to the tax administration, for an amount sufficient to cover the tax, the penalty, plus such interest as may accrue during any subsequent proceeding.

**Article 10**  
**Entry into Force**

This law shall enter into force fifteen (15) days after publication in the Official Gazette of the Republic of Kosovo.

**Law No. 04/L-102**  
**19 April 2012**

**President of the Assembly of the Republic of Kosovo**

\_\_\_\_\_  
**Jakup KRASNIQI**