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

LAW Nr.03/L- 162

ON CORPORATE INCOME TAX

Assembly of Republic of Kosovo,

In conformity with the Article 65 (1) of the Constitution of the Republic of Kosovo,

Adopts:

LAW ON CORPORATE INCOME TAX

CHAPTER I

GENERAL PROVISIONS

Article 1
Purpose

This Law establishes the system of Corporate Income Tax in the territory of Republic of Kosovo.

Article 2
Definitions

1. For the purposes of the present law the following provisions have this meaning:

1.1 **Capital assets** - tangible and intangible property costing more than one thousand (1,000) €, with a useful service life of one year or more;

1.2 Corporation – a legal person, which has an identity that is separate and distinct from its members, owners or shareholders. A business organization, the capital of which is divided into a specified number of shares of the same par value. Shareholders are not liable for the obligations of the corporation. A corporation may be either a joint stock company or a limited liability company, which is so indicated in its company charter and company name.

1.3 Dividend - a distribution made by a company to a shareholder:

1.3.1. of cash or shares with respect to the shareholder's equity interest in the company; and

1.3.2. of property other than cash or shares, unless the distribution is made as a result of liquidation;

1.4. Economic activity - any activity of producers, traders or persons supplying goods or services including mining and agricultural activities and activities of the professions. The exploitation of tangible or intangible property for the purposes of obtaining income therefrom on a continuing basis shall in particular be regarded as an economic activity;

1.5. Financial statement - the general purpose financial statements prepared in accordance with legislation regulating the Kosovo Board on Standards for Financial Reporting and legislation regulating the financial reporting of business associations;

1.6. Kosovo source income - means gross income that arises in Kosovo, which includes

1.6.1. Income from economic activity where such activity is located in Kosovo;

1.6.2. Income from the use of movable or immovable property located in Kosovo;

1.6.3. Income from the use of intangible property in Kosovo;

1.6.4. Interest on a debt obligation paid by a resident or a public authority;

1.6.5. Dividends paid by a resident business organization;

1.6.6. Gain from the sale of movable property, immovable property, and securities located in Kosovo; and

1.6.7. Other income not covered by the above- mentioned sub-paragraphs arising from economic activity in Kosovo.

1.7. Foreign source income - gross income that is not Kosovo source income;

1.8. **Gross income** - all income received or accrued, including but not limited to, income from production, trade, financial, investment, professional or other economic activities;

1.9. **Tangible Property** – cash, equipment, machinery, plant, property—anything that has long-term physical existence or is acquired for use in the operations of the business and not for sale to customers. In the balance sheet of the business, such assets are generally listed under the heading 'Plant and equipment' or 'Plant, property, and equipment.

1.10. **Intangible property** - patents, copyrights, licenses, franchises, and other property that consists of rights only, but are incorporeal;

1.11. **Involuntary conversion** - property, in whole or in part, that is destroyed, stolen, seized, or condemned, or the taxpayer is otherwise forced to dispose of by reason of threat or imminence of any of the foregoing;

1.12. **Open Market value** - the amount that, in order to obtain the goods or services in question at that time, a customer at the same market stage at which the supply of the same or similar goods or services takes place, would have to pay, under conditions of fair competition, to a supplier at arm's length;

1.13. **Resident** - a person or group of persons that is established in Kosovo or that has its place of effective management in Kosovo;

1.14. **Non-resident** - any person or group of persons that is not resident in Kosovo;

1.15. **Permanent Establishment** - means a fixed place of business through which the business of a non-resident person is wholly or partly carried on in Kosovo, as described in Article 29 of this Law.

1.16. **Person** - for purposes of this law shall include the following:

1.16.1. a natural person;

1.16.2. a legal person, which is a general term meaning any organization, including any business organization that has, as a matter of law, a legal identity that is separate and distinct from its members, owners or shareholders, such as, but not limited to, joint stock company and limited liability company;

1.16.3. a partnership, which means a general partnership, a limited partnership or similar pass-through arrangement that is not a legal person

and that proportionately shares items of capital, income, and loss among its partners; and

1.16.4.a grouping or association of persons, including consortiums, but excluding partnerships, set up for a common purpose of a specific economic activity. An association is two or more individuals, companies, organizations or governments, or any combination of these entities with the objective of participating in a common activity or pooling their resources for achieving a common goal. Each participant retains its separate legal status and the association's control over each participant is generally limited to activities involving the joint endeavor, particularly the division of profits. An association is formed by contract, which delineates the rights and obligations of each member;

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

1.18. **Related person** - means persons that have a special relationship that may materially influence the economic results of transactions between them. Special relationship shall mean:

1.18.1. The persons are officers or directors of one another's business;

1.18.2. The persons are legal partners in business;

1.18.3. The persons are in an employer-employee relationship;

1.18.4. One person holds or controls fifty percent (50%) or more of the shares or voting rights in the other person;

1.18.5. One person directly or indirectly controls the other person;

1.18.6. Both persons are directly or indirectly controlled by a third person;
or

1.18.7. The persons are husband or wife, or relatives to the third degree inclusive, or in law to the second degree inclusive;

1.19. **Representation costs** - all costs related to promotion of the business and include business entertainment and representation;

1.20. **Tax period** - the calendar year or any other reporting period provided in this Law.

1.21. **Immovable property** - for tax purposes, all land and establishments and structures below or above the land surface and connected to the land, including property which is accessory to immovable property; rights to which the provisions of general Law respecting landed property apply; usufruct of immovable property; and rights to variable or fixed payments as consideration for the working of, or right to work, mineral deposits, sources and other natural resources;

1.22. **Royalty** - payment of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic, or scientific work including cinematograph films, and patent, trade mark, design or model plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

1.23. **Religion** - the Islamic Community of Kosovo, the Serbian Orthodox Church, the Roman Catholic Church, the Jewish Religious Community, and the Evangelical Church.

1.24. **Eligible religion** - every religion included in the definition of religion established in this Law.

1.25. **Kosovo** - shall include all the land, inland waters and airspace of Kosovo, as defined by the Constitution of the Republic of Kosovo.

1.26. **Operating Leasing** – any leasing that is not a financial leasing.

1.27. **Financial Leasing** - a leasing that transfers substantially all the risks and rewards incident to ownership of an item of property. Title may or may not be transferred at the end of the leasing. A finance leasing meets at least one of the following four conditions:

1.27.1. if the lease life exceeds seventy-five percent (75%) of the life of the asset;

1.27.2. if there is a transfer of ownership to the leasing-receiver at the end of the leasing term;

1.27.3. if there is an option to purchase the asset at a "agreed price" at the end of the lease term;

1.27.4. if the present value of the lease payments, discounted at an appropriate discount rate, exceeds ninety percent (90%) of the fair market value of the asset.

1.28. **Subcontractor** - any person performing a part of a comprehensive project which has been undertaken by a prime contractor. The subcontractor is directly engaged in the execution and realization of the comprehensive project and acts on

behalf of the prime contractor. The period spent by a subcontractor working on a comprehensive project is considered as being time spent by a prime contractor on the project.

1.29. **Prime Contractor/ Contractor** – any business, whether an organization or individual, which has agreed to carry out operations under any legal binding document signed by the beneficiary, either by doing the operations itself or by arranging for them to be done by others.

1.30. **TAK** – the Tax Administration of Kosovo.

1.31. **Minister** - Minister of the Ministry of Economy and Finance.

Article 3 Taxpayers

1. The following persons shall be taxpayers under the present Law:

1.1. A corporation or other business organization that has the status of a legal person under the applicable Law in Kosovo;

1.2. A business organization operating with public or socially owned assets;

1.3. An organization registered as a non-governmental organization under Legislation on the Registration and Operation of Non-Governmental Organizations in Kosovo;

1.4. A non-resident person with a permanent establishment in Kosovo, subject to the provisions of paragraph 2 of the Article 4.

Article 4 Object of Taxation

1. The object of taxation for a resident taxpayer shall be taxable income from Kosovo source income and foreign source income.

2. The object of taxation for a non-resident taxpayer shall be taxable income from Kosovo sources.

Article 5 Taxable Income

1. Taxable income for a tax period shall mean the difference between gross income received or accrued during the tax period and the deductions and allowances allowable under this law with respect to such gross income.

2. A taxpayer with annual gross income over fifty thousand (50.000) € shall calculate taxable income by preparing financial statements and adjusting income and expenses recorded in such statements in the manner prescribed in the present Law.

3. A taxpayer with annual gross income of fifty thousand (50.000) € or less shall calculate taxable income:

3.1. In accordance with paragraph 2.1 of Article 35 of this Law; or

3.2. By opting to prepare financial statements, adjust income and expenses recorded and maintained in the books and records required by Article 36 of this Law, and submit annual declarations in the manner prescribed in this Law.

3.2.1. A taxpayer wishing to make the option described in sub-paragraph 3.2 shall submit a statement to the tax administration by 1 March of the tax period in which the taxpayer wishes to make the option that the option is being made. The statement to be submitted shall be in a format prescribed by the tax administration. Once such option is made, the taxpayer must continue to prepare financial statements and adjust income and expenses recorded in such statements for the tax period in which the option is made and, at least, for the next succeeding three tax periods.

3.2.2. A taxpayer eligible to reverse the option made in sub-paragraph 3.2.1 of this Article, must submit a request for ruling to TAK, in accordance with applicable provisions of the Law on Tax Administration and Procedures, and receive approval from TAK before maintaining books and records in accordance with Article 37 of this Law. Approval must be received by 1 March of the year for which the taxpayer requests the ruling.

3.3. By preparing financial statements and adjusting income and expenses recorded in such statements in the manner prescribed in the present law, if such taxpayer has income from more than one economic activity, such as rental activities and trade activities.

3.4. In accordance with sub-paragraph 2.1.3 of Article 35 of this law if the taxpayer's only income is from rental activity, unless the taxpayer is engaged in the business of renting movable and immovable property. A taxpayer engaged in the business of renting movable and immovable property is required to follow the provisions applicable to taxpayers engaged in trade or business activities.

4. As an exception to the sub-articles above, any business licensed by CBK to insure or reinsure life, property or other risks shall calculate taxable income and pay income tax in accordance with Article 32 of this law.

5. As an exception to this Article, taxpayers engaged in long-term construction contracts and projects shall report the taxable income from those long-term contracts and projects in the manner prescribed in a sub-legal act issued by the Minister.

6. Taxable income from operating leasing and financial leasing shall be determined and reported in the manner prescribed in a sub-legal act to be issued by the Minister. The sub-legal act shall describe operating leasing and financial leasing.

Article 6 Tax Rate

1. The corporate income tax rate shall be ten percent (10%) of taxable income.
2. For income taxable in tax periods prior to 1 January 2009, the corporate income tax rate shall be twenty percent (20%) of taxable income in accordance with the legislation in force at that time.

CHAPTER II INCOME EXEMPT FROM TAX

Article 7 Exempt Income

1. The following income shall be exempt from corporate income tax:
 - 1.1. Without prejudice to Article 33 of this law, the income of organizations registered under Legislation on the Registration and Operation of non-governmental organizations that have received and maintained public benefit status to the extent that the income is used exclusively for their public benefit purposes;
 - 1.2. Income of the Central Bank of Kosovo, and of entitled and duly authorized international governmental financial institutions operating in Kosovo;
 - 1.3. Dividends received by resident and non- resident taxpayers;
 - 1.4. Interest on financial instruments which are issued, or guaranteed, by a public authority of Kosovo paid out to resident or non-resident taxpayers;
 - 1.5. Income of eligible religions of Kosovo for exercising economic activities specific to their self-sustainability, such as:

1.5.1. the production of embroidery and clerical vestments, candles, icon painting,

1.5.2. woodcarving and carpentry, and

1.5.3. traditional agricultural products, in accordance with the laws applicable to religion in Kosovo.

1.6. Income of a prime contractor or a subcontractor, other than a local person, generated from contracts for the supply of goods or services to the United Nations (including UNMIK), the Specialized Agencies of the United Nations, KFOR and the International Atomic Energy Agency under the condition that they are directly engaged in projects and programs of the organizations mentioned before.

1.7. Income of a prime contractor or a subcontractor but other than a local person, generated from contracts with foreign governments, their organs and agencies, the European Union, the Specialized Agencies of the European Union; the World Bank, the IMF and international inter-governmental organizations for the supply of goods or services in support of programs and projects for Kosovo.

2. The international inter-governmental organizations shall be determined in a sub-legal act issued by the Minister.

CHAPTER III EXPENDITURE

Article 8 Disallowed Expenses

1. In determining taxable income, the following are disallowed as expenses:

1.1. Cost of acquisition and improvement of land;

1.2. Cost of acquisition, improvement, renewal and reconstruction of assets that are capitalized, depreciated or amortized under the provisions of the present Law;

1.3. Fines, penalties, costs and interest related to them;

1.4. Income taxes paid or accrued for the current or previous tax period and any interest or late penalty incurred for late payment of it;

1.5. Value added tax for which the taxpayer claims a rebate or credit for input tax under legislation on Value Added Tax in Kosovo; and

1.6. Any loss from the sale or exchange of property between related persons.

1.7. Pension contributions above the maximum amount allowed by the Kosovo pension Law.

Article 9

Allowable Expenses

1. Subject to the limitations in the present Law, in determining taxable income, a taxpayer shall be allowed as a deduction from gross income expenses paid or incurred during the tax period wholly and exclusively in connection with its economic activities, including premiums paid on the health insurance in behalf of an employee and those dependents eligible to be included in the policy of the employee.

2. Educational expenses paid by an employer to an educational institution for an employee shall be allowable in full in the year in which such expenses are paid, provided that:

2.1. education expenses are paid directly to the educational institution;

2.2. the educational institution is recognized by Law in force in Kosovo;

2.3. the education is relevant to the employee's position and does not qualify that employee for work in a different occupation; and

2.4. the employee remains in the employment of the employer after completion of the education for which the expenses were paid by the employer for a period of time to be specified in a sub-legal act issued by the Minister.

3. Training expenses (expenses incurred by an employer to provide basic skills necessary for the employee to perform assigned tasks or necessary to provide updated skills to the employee) which are job-related shall be allowable in full in the year in which such training expenses are incurred. The amount of such expenses shall not exceed one thousand (1,000) € per employee in any tax period. Any training expenses incurred above that amount will not be allowable in that tax period.

4. If a taxpayer, other than a taxpayer engaged in the business of renting movable or immovable property, opts to not maintain records of actual expenses paid or incurred in the rental activity, such taxpayer shall be allowed a deduction from gross rental income in an amount equal to ten percent (10%) of the rents received in order to account for depreciation allowances and cover the costs of repairs, collection charges, and other expenses paid or incurred in generating the rental income.

5. No deduction shall be allowed for any accrued expense based on a withholding obligation unless such expense is paid on or before 31 March of the subsequent tax

period. Any expense not allowed by this sub-paragraph shall be deductible in the tax period in which it is actually paid.

6. Expenses, including depreciation expenses, related to operating leasing and financial leasing shall be reported in the manner prescribed in a sub-legal act to be issued by the Minister.

7. No deduction shall be allowed for any expense unless those documented in the manner required by a sub-legal act issued by the Minister.

Article 10 **Allowable Deductions**

1. Contributions made for humanitarian, health, education, religious, scientific, cultural, environmental protection and sports purposes are allowed as a deduction under the present Law up to a maximum of five percent (5%) of taxable income computed before the charitable contributions are deducted.

2. An allowable contribution under paragraph.1 of this Article must be made to:

2.1. An organization registered under Legislation on the Registration and Operation of Non-Governmental Organizations in Kosovo that has received and maintained public benefit status;

2.2. Any other non-commercial organizations that directly perform activities in the public interest and not for profit, such as:

2.2.1. Medical institutions;

2.2.2. Educational institutions;

2.2.3. Organizations to protect the environment;

2.2.4. Religious institutions;

2.2.5. Institutions that care for disabled or elderly persons;

2.2.6. Orphanages; and

2.2.7. Institutions that promote science, culture, sports or arts

3. An allowable deduction shall not include a contribution that directly, or indirectly, benefits the donor or related persons of the donor.

4. Any taxpayer who claims an allowable deduction must file an annual tax declaration in accordance with Article 34.2 of this law and submit a receipt in respect of such deduction to the Tax Administration.

5. The Minister shall issue a sub-legal act for implementation of this Article.

Article 11 Representation Costs

Expenses incurred for representation shall be limited to fifty percent (50%) of the amount invoiced for business entertainment. The maximum amount of representation expenses shall not exceed two percent (2%) of annual gross income.

Article 12 Bad Debts

1. A bad debt shall be considered an expense if it meets these conditions:

1.1. The amount that corresponds to the debt has previously been included in income;

1.2. The debt is written off in the taxpayer's books as worthless for accounting purposes:

1.3. There is no dispute of the legal validity of the debt;

1.4. At least six months of the debt have exceeded of term; and

1.5. There is adequate evidence of substantial attempts made by the taxpayer to collect the debt, including any applicable actions to maximize collection of the debt, such as:

1.5.1. taxpayer has offset any undisputed debt owed to the debtor against the bad debt;

1.5.2. correspondence and contacts attempting to collect the debt;

1.5.3. legal action was considered to be uneconomical for documented reasons or legal action was unsuccessful, or

1.5.4. a claim was filed in a bankruptcy/liquidation proceeding, if applicable, and the amount to be received has reasonably been determined by the administrator/executor. To the extent that money has been received from the bankruptcy, it has been applied to the outstanding debt.

2. Bad debt deductions are limited to the non-recovered portion of the debt. Any bad debt deducted as an expense and then subsequently collected shall be included in income at the time of collection.
3. No bad debt deduction shall be allowed for debts between related parties.
4. The Minister shall issue a sub-legal act to describe the requirements for bad debt deductions as provided in this Article.

Article 13 **Reserve Funds**

- 1 Except as otherwise provided in this Law, contributions to reserve funds are not allowable as an expense.
2. Financial institutions licensed by Central Bank of Kosovo, other than those income is derived from insuring life, property or other risks, are entitled to an expense for the creation of a special reserve fund for the institution's doubtful assets, of an amount not to exceed the maximum amount allowable by the Central Bank of Kosovo. If a financial institution is engaged in both bank and insurance activities, the expenses for reserve fund are allowable only in relation to doubtful assets arising from bank activities.
3. Subsequent to the creation of the special reserve fund, any amount withdrawn from the fund shall be included in income and any amount placed back into the fund, to replenish it to the allowable amount that is allowed as a deduction.

Article 14 **Payments to Related Persons**

1. Compensation or emoluments paid to a related person shall be allowed as an expense in an amount equal to the lesser of the actual payment or the open market value.
2. Interest, rent, and other expenses paid to related persons shall be allowed as an expense in an amount equal to the minimum actual payment or the open market value.

Article 15 **Depreciation**

1. Expenditures on tangible property, other than expenditures for land, works of art, and other property which are not subject to wear, owned by the taxpayer and used for the taxpayer's economic activity, shall be recovered over time by depreciation deductions in the manner prescribed by the present Article.

2. Expenditures on improvements to leaseholds used for the taxpayer's economic activity shall be recovered through depreciation deductions calculated using the straight-line method with a period equal to the life of the leasehold.

3. All tangible property of the taxpayer that is subject to depreciation under this Article shall be placed in one of the following categories:

3.1. Category 1: Buildings and other constructed structures;

3.2. Category 2: Automobiles and light trucks, heavy transport vehicles, earth moving equipment, bulldozers, scrapers and other heavy vehicles, computers, peripherals and other data processing equipment, office furniture and office equipment, instruments, sundries and other accessories; and livestock used for production or breeding.

3.3. Category 3: Plant and machinery; rolling stock and locomotives used for rail transport; airplanes; ships; perennial plants and trees used for viticulture or production of fruits (such as apples, pears, walnuts, blueberries, etc.); and all other tangible assets not included in Category 1 or Category 2 of this paragraph.

4. The amount allowed as a depreciation deduction for the tax period shall be determined by applying the following percentages to the individual capital asset under the straight line method at the close of the tax period according to the category to which the asset belongs:

4.1. Category 1: five percent (5%);

4.2. Category 2: twenty percent (20%); and

4.3. Category 3: ten percent (10%)

5. According to this Article, an asset shall first be taken into account when it is first placed into service.

6. The initial amount to be depreciated shall be the purchase price or, in the absence of a purchase price, the cost price. The initial amount shall also include:

6.1. taxes duties, levies and charges, and

6.2. Incidental expenses such as commission, packing, transport, and insurance costs charged by the supplier.

7. The individual depreciation of the assets of Category 2 and Category 3 shall only apply for those assets acquired on, or after, the date of entry into force of this Law.

8. Capital goods (assets) that were purchased and their depreciation was started under the pooling method prior to the entry into force of this Law , shall continue to be depreciated under the previous legislation until the value of the pool equals zero.

9. Purchase of an asset for a price of one thousand (1,000) € or less shall be allowed as a current expense.

10. Tangible assets with a purchase price of more than one thousand (1,000) € and less than three thousand (3,000) €, acquired after the date on which this law comes into force, shall be placed in a single asset pool and depreciated at a rate of twenty percent (20%) of the value of the assets in the pool, irrespective of which category of assets it would be placed in under the provisions of paragraph 3 of this Article. As new qualifying assets are purchased, their purchase price shall be added to the value of the pool. As assets are sold from the pool, the purchase price of the asset sold shall be reported as ordinary business income in the year in which the asset is sold, but the value of the pool will not be reduced as a result of the sale.

Article 16 Depreciation of Livestock

Depreciation of livestock is allowed only if such animals are used in the course of economic activity of the agricultural entity. Animals which breed offspring used only for personal use or dairy animals used only for personal use are not subject to depreciation.

Article 17 Special Allowance for New Assets

1. If a taxpayer purchases production lines for plant and machinery, railway inventory and locomotives used for railway transportation, airplanes, ships, heavy transport vehicles, earth moving equipment, bulldozers, scrapers and other heavy vehicles for the purpose of the taxpayer's economic activity between 1 January 2010 and 31 December 2012, a special deduction of ten percent (10%) of the cost of acquisition of the asset shall be allowed in the year in which the asset has been first placed into service. This deduction shall be in addition to the normal allowable depreciation deduction. The deduction shall be allowed only if the asset is new or is placed into service in Kosovo for the first time. A deduction shall not be allowed if the asset is transferred from an existing or a former business in Kosovo.

2. This deduction shall be in addition to the normal allowable depreciation deduction.

3. The deduction shall be allowed only if the asset is new or is placed into service in Kosovo for the first time. A deduction shall not be allowed if the asset is transferred from an existing or a former business in Kosovo.

4. Other special allowances may only be granted if so provided by specific Law.

Article 18 **Repairs and Improvements**

1. In the case of any depreciable asset, amounts expended for repairs or improvements, excluding day-to-day maintenance repairs, shall be capitalized and added to the basis of the asset if the repairs or improvements extend the useful life of the asset for at least one year and the amount of repair or improvement is greater than one thousand (1,000) € for that asset. If the repair or improvement is one thousand (1,000) € or less for any asset, the amount of the repair or improvement shall be an expense in the year paid or accrued.
2. If the repairs or improvements meet the criteria for capitalization per paragraph 1 of this Article, the amount shall be capitalized and added to the remaining book value of the capital asset. The new book value of the asset will be used as the basis for depreciating the asset. The asset will be depreciated in accordance with the rules of the applicable category.
3. The Minister shall issue a sub-legal act for implementation of this Article.

Article 19 **Amortization**

1. Expenditures on intangible assets that have a limited useful life including patents, copyrights, licenses for drawings and models, contracts and franchises are deductible in the form of amortization charges.
2. The method of amortization shall be the straight-line method and the allowance shall be based on the useful life of the asset as determined by the legal agreement on the acquisition and use of the intangible asset.

Article 20 **Exploration and Development Costs**

1. Exploration and development costs in respect of a natural deposit of minerals and other natural resources and interest attributable thereto shall be added to a capital account and amortized under the present Article.
2. The amount allowed as an amortization deduction with respect to exploration and development costs referred to in paragraph 1 of this Article, for the tax period shall be determined by multiplying the balance in the capital account by a fraction of:

- 2.1. The numerator of which is the units extracted from the natural deposit during the year; and
 - 2.2. The denominator of which is the estimated total units to be extracted from the natural deposit over the life of the asset.
3. The estimated total units to be extracted referred to in sub-paragraph 2.2 of this Article, shall be determined in accordance with instructions concerning such estimates or any other method, to be set out in a sub-legal act to be issued by the Minister.

CHAPTER IV

CAPITAL GAINS AND LOSSES, BUSINESS LOSSES

Article 21

Capital Gains and Losses

1. Capital gain means income that a taxpayer realizes through the sale or other disposition of capital assets including real estate and securities.
2. The amount of capital gain is the positive difference between the sales price of the capital asset and the cost of the capital asset as determined under paragraph 5 of this Article.
3. The sales price of a capital asset shall be the sum of any amount received, plus any other compensation received, as consideration for the sale.
4. If the parties are related persons and the sales price is less than the open market value, then, for purposes of the present Article, the sales price shall be adjusted to the open market value in the manner prescribed in a sub-legal act issued by the Minister.
5. The cost of the capital asset is the amount that the taxpayer paid for the acquisition of the asset, including expenses incurred in acquiring the asset that have not been previously expensed, increased by the cost of improvements, and reduced by depreciation and other expenditures allowable under this Law.
6. Capital gains shall be recognized as business income and capital losses as business losses, if not provided otherwise in this Law.
7. Capital gains and losses shall not be recognized for pooled assets (assets in Category 2 and Category 3 acquired prior to the date of entry into force of this Law) referred to in paragraph 8 of Article 15 of this Law.
8. Capital loss means a loss that a taxpayer realizes through the sale or other disposition of capital assets including real estate and securities.

9. The amount of capital loss is the negative difference between the sales price of the capital asset per paragraph 3 or 4 of this Article and the cost of the capital asset as determined under paragraph 5 of this Article.

10. Capital losses shall be treated as ordinary losses from economic activities that may be deducted from income in the current year. If the amount of the capital loss for the taxable year exceeds the taxpayer's income for that year, the amount of the excess of such loss over income in the current year may be carried forward for up to seven (7) successive tax periods and shall be available as a deduction against any income in those years. The provisions of Article 23 of this Law shall apply to the losses described in this paragraph.

11. Gross income from capital gains does not include capital gains realized from the sale of the assets of the Kosovo Pension Savings Trust or any other pension fund defined under legislation on pensions in Kosovo.

12. A capital gain shall not be recognized on the involuntary conversion of assets to the extent that the consideration received from the conversion consists of either property of the same character or nature or money that is invested in property of the same character or nature within a replacement period of two (2) years,

13. If a sale of a capital asset involves an installment agreement that lasts more than the tax period in which the sale is finalized (all applicable documents are signed by all parties and the sales agreement is legally enforceable) any gain must be reported on a straight-line basis over the life of the installment agreement and the amount of gain attributable to any tax period must be reported on the tax declaration as income in that tax period. Further provisions related to installment sales shall be described in a sub-legal act.

Article 22

Involuntary Conversions

A capital gain shall not be recognized on the involuntary conversion of property to the extent that the consideration received from the conversion consists of either property of the same character or nature or money that is invested in property of the same character or nature within a replacement period of two (2) years.

Article 23

Tax Losses

1. A tax loss as defined by this Law is the negative difference between the taxpayer's income and expenses and allowances determined in accordance with this law.

2. The amount of the tax loss determined under the present Article may be carried forward for up to seven (7) successive tax periods and shall be available as a deduction against any income in those years.
3. The amount of the carry forward taken into account for any tax period after the year of the tax loss shall be the entire amount of the loss, reduced by the aggregate amount previously allowed as a deduction.
4. If a taxpayer has a tax loss in more than one (1) year, the present Article shall be applied to the losses in the order in which they arose.
5. Except as provided in Article 26, the provisions of this Article shall be allowable only to the business which incurred the loss. If the business changes its type of business organization or has an ownership change of more than fifty percent (50%), the carry forward will no longer be applicable. The Minister may issue a sub-legal act to regulate loss carry forward provisions related to changes in types of business organizations or ownership change, as well as any other loss carryforward provisions necessary for implementation of this Article.

CHAPTER V LIQUIDATION AND REORGANIZATION

Article 24 Distribution of Property

1. A company that distributes property other than shares to a shareholder with respect to the shareholder's interest shall recognize a gain or a loss as if such property had been sold to such shareholder at its open market value.
2. The property distributed to the shareholder shall be valued at the open market value of the property.
3. In the case of a distribution of shares dividends that does not change the share of participation of the recipient, the company shall not recognize a gain or a loss and the shareholder shall not realize income.

Article 25 Liquidation

1. In case a company is liquidated in accordance with applicable Laws of Kosovo, the company shall take into account any gain or loss as if it had sold the property distributed in the liquidation at its open market value.

2. Except as otherwise provided in this Law, the recipients of property distributed in a liquidation shall be treated as if they exchanged their equity interest in the liquidated company for an amount equal to the open market value of such property.

3. In the case of a liquidation of a subsidiary where the property of the subsidiary is distributed to a parent, the parent shall not recognize any gain or loss.

Article 26 Reorganization

1. Transfers of property pursuant to a written plan for a reorganization of a taxpayer, whether due to bankruptcy, merger, acquisition, division, exchange of shares or otherwise, which is approved by the Tax Administration, shall not be taxed under this Law.

2. In the case of a reorganization, the value of the property held by the reorganized taxpayer shall be determined by reference to the acquisition value of such property immediately before the reorganization.

3. In the course of a reorganization, a distribution to a shareholder in respect of the shareholder's equity interest shall not constitute taxable income to the shareholder.

4. Except as otherwise established in a sub-legal act issued by the Minister, the acquiring taxpayer shall succeed to and take the place of the acquired taxpayer with respect to inventories, loss carry forwards, dividend accounts, and all other such items. Loss carry forwards are allowable to the acquiring taxpayer only if provided in the plan of reorganization and approved by the Tax Administration according to the provisions established in the sub-legal referred to in this sub-paragraph.

CHAPTER VI TRANSFER PRICES, AVOIDANCE OF DOUBLE TAXATION

Article 27 Transfer Prices

1. The price used in conjunction with asset transactions or contract obligations between related persons shall be considered the transfer price.

2. The price expected to be received in conjunction with asset transactions or contract obligations between parties that had been dealing according to market dominance shall be considered the open market value.

3. The open market value shall be determined under the comparable uncontrolled price method and, when this is not possible, the resale price method or the cost-plus method or any other method as defined by sub-legal act .
4. The difference between the open market value and the transfer price shall be included in taxable income.
5. A sub-legal act shall be issued by the Minister for implementation of this Article.

Article 28

Avoidance of Double Taxation

1. A taxpayer resident in Kosovo who receives income from business activities outside of Kosovo and who pays income tax on that income to any other State, shall be allowed a tax credit under this Law for the amount of income tax paid to such State that is attributable to the income derived from that other state.
2. The tax credit allowed in paragraph 1 of this Article is limited to the amount of foreign tax paid on the income earned outside Kosovo, not to exceed the amount of tax due in Kosovo on that same income. To the extent that Kosovo tax on that income exceeds the foreign tax paid, the excess amount must be included in the computation of Kosovo tax due.
3. Any applicable international agreement negotiated by the Minister, and ratified by the Assembly, on the avoidance of double taxation shall supersede the provisions of the present article as they relate to the parties to that international agreement.

Article 29

Permanent Establishments

1. Permanent establishment means a fixed place of business through which the business of a non-resident person is wholly or partly carried on in Kosovo.

Permanent establishment shall include:

- 1.1. Any place of management;
- 1.2. Any branch;
- 1.3. Any office;
- 1.4. Any factory;
- 1.5. Any workshop;

1.6. Any mine; and

1.7. Any oil or gas source, quarry or other place of exploitation of natural resources.

2. Permanent establishment shall also include;

2.1. Any building site, construction, assembly or installation project, or supervisory activity in connection therewith, but only if such site, project or activity lasts longer than one hundred and eighty-three (183) days. Where the site, project, or activity lasts longer than one hundred and eighty-three (183) days, including any preparatory activity, the site, project, or activity shall be deemed to have been or created a permanent establishment from the day such work was commenced;

2.2. The furnishing of any service, including any consultancy service but excluding any supervisory activity referred to in sub-paragraph 2.1 of this Article, carried out in Kosovo by a non-resident person through employees or other personnel, but only if such activities continue within Kosovo for a period or periods totaling ninety (90) days or more within any twelve -month period. Where the activities do continue within Kosovo for a period or periods totaling ninety (90) days or more within a twelve –month period, the activities shall be deemed to have created a permanent establishment from the day such activities commenced;

2.3. Any site used for the search for natural resources within Kosovo, where such activities within Kosovo continue for a period or periods totaling one hundred and eighty-three (183) days or more within any twelve – month period. Where the activities do continue for a period or periods totaling one hundred and eighty-three (183) days or more within a twelve -month period, the activities shall be deemed to have created a permanent establishment from the day such activities commenced; and

2.4. Any immovable property situated in Kosovo and owned by a nonresident person.

3. Notwithstanding paragraph 1 of this Article, where a person, other than an agent of an independent status to whom Article 29.6 applies, acts in Kosovo on behalf of a non-resident person, the non-resident person shall be deemed to have a permanent establishment in Kosovo in respect of the activities which that person undertakes for the non-resident person, if such a person:

3.1. Has and habitually exercises in Kosovo an authority to conclude contracts in the name of the non-resident person, unless the activities of such person are limited to those mentioned in paragraph 5 of this Article which, if exercised

through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that Article; or

3.2. Has no such authority, but habitually maintains in Kosovo a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the taxpayer.

4. A non-resident person who provides insurance shall, except in regard to reinsurance, be deemed to have a permanent establishment in Kosovo if it collects premiums in Kosovo or insures risks situated in Kosovo through a person other than an agent of an independent status to whom paragraph 6 of this Article applies.

5. Notwithstanding paragraphs 1 and 2 of this Article, “permanent establishment” shall be deemed not to include:

5.1. The use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the non-resident person;

5.2. The maintenance of a stock of goods or merchandise belonging to the non-resident person solely for the purpose of storage or display;

5.3. The maintenance of a stock of goods or merchandise belonging to the non-resident person solely for the purpose of processing by another taxpayer;

5.4. The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information for the non-resident person;

5.5. The maintenance of a fixed place of business solely for the purpose of carrying on, for the non-resident person, any other activity of a preparatory or auxiliary character; and

5.6. The maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs 1 to 5 of this paragraph, provided that the overall activity of the fixed place of business resulting from this combination is only of a preparatory or auxiliary character.

6. A non-resident person shall not be deemed to have a permanent establishment in Kosovo merely because it carries on business in Kosovo through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that taxpayer, and conditions are made or imposed between that taxpayer and the agent in their commercial and financial relations which differ from those which would have been made between independent taxpayers, he will not be considered an agent of an independent status within the meaning of this Article.

7. The fact that a non-resident person controls or is controlled by a company which is a resident of Kosovo, or which carries on business in Kosovo (whether through a permanent establishment or otherwise), shall not of itself deem either company a permanent establishment of the other.

CHAPTER VII WITHHOLDING TAX

Article 30

Withholding Tax on Interest, Royalties, Rents, Lottery Winnings, and Games of Chance

1. Each taxpayer who pays interest, except as provided in paragraph 4 of this Article, or royalties to resident or non-resident persons shall withhold tax at the rate of ten percent (10%) at the time of payment or credit and remit the tax withheld to an account designated by TAK in a bank or financial institution licensed by the Central Bank of Kosovo. The withheld tax must be paid to the bank, or financial institution by the 15th day of the month following the month in which the account is credited or the payment is made.
2. Each taxpayer who pays rent to resident or non-resident persons shall withhold tax at the rate of nine percent (9%) at the time of payment or credit and remit the tax withheld to an account designated by the Tax Administration in a bank, or financial institution, licensed by the Central Bank of Kosovo. The withheld tax must be paid to the bank, or financial institution by the 15th day of the month following the month in which the payment is made or credited.
3. Each organizer of a lottery, or game of chance subject to the provisions of Article 38 of this Law, who pays lottery, or game of chance, winnings to resident and non-resident persons shall withhold tax at the rate of ten percent (10%) at the time of payment or credit and remit the tax withheld to an account designated by the Tax Administration in a bank, or financial institution, licensed by the Central Bank of Kosovo. The withheld tax must be paid to the bank, or financial institution by the 15th day of the month following the month in which the payment is made, or the recipient is credited with the winnings.
4. Interest on loans provided by financial institutions licensed by CBK to their customers in the ordinary course of their business and interest on financial instruments which are issued or guaranteed by a public authority shall not be subject to withholding.
5. Each taxpayer, or organizer of a lottery, or organizer of a game of chance subject to the provisions of Article 38 of this Law, who pays interest, royalties, rent, lottery winnings, or game of chance winnings during a tax period shall provide a certificate of

tax withholding in the form specified by the Tax Administration to the recipient by 1 March of the year following the tax period.

6. Each taxpayer, organizer of a lottery, or organizer of a game of chance subject to Article 38 of this Law, who pays interest, royalties, rent, lottery winnings, or game of chance winnings, and who withholds tax under this article during a tax period shall submit to the tax administration an annual reconciliation statement in the form and format specified by the Tax Administration no later than 1 March of the year following the tax period. Each taxpayer must include a copy of all withholding certificates, required by paragraph 4 of this article, with the annual reconciliation statement submitted to the tax administration.

Article 31

Withholding on certain payments to non-residents

1. In accordance with a sub-legal act to be issued by the Minister, income attributable to a non-resident of Kosovo as an entertainer, such as a theatre, motion picture, radio or television artiste, or a singer or musician, or as a sportsman, from his or her personal activities exercised in Kosovo shall be subject to withholding by the payor of that income, whether paid directly or indirectly to the non-resident.

2. Income, other than income described in paragraph 1 of this Article, earned from agreements or contracts, whether written or verbal, with Kosovo persons or entities by a non-resident person or entity from services performed in Kosovo shall be subject to withholding by the payor of that income, so long as the non-resident person or entity has no permanent establishment in Kosovo and the gross compensation paid to the non-resident is more than five thousand (5,000) € in any tax period.

3. Notwithstanding any other provisions in this Law, the amount of withholding under in paragraph 1 and 2 of this Article, shall be five percent (5%) of the gross compensation. Each payor shall submit a statement of withholding and remit the amount of tax withheld to an account designated by the Tax Administration in a bank licensed by the Central Bank of Kosovo within fifteen (15) days after the last day of each calendar month, in accordance with a sub-legal act issued by the Minister.

4. Withholding under this article shall be considered to be a final tax and the recipients of such income subject to the withholding shall not submit a declaration to the tax administration, notwithstanding the provisions of Article 34 of this Law.

5. Each payor who withholds under this article during a tax period shall provide a certificate of tax withholding to the recipient of the income, by March 1 of the year following the tax period in the form specified in a sub-legal act issued by the Minister.

6. Each taxpayer who withholds tax under this article during a tax period shall submit to the tax administration an annual reconciliation statement in the form and format specified

by the Tax Administration no later than 1 March of the year following the tax period. Each taxpayer must include a copy of all withholding certificates, required by paragraph 5 of this Article, with the annual reconciliation statement submitted to the tax administration

7. The Minister shall issue a sub-legal act which will specify those persons or entities who will be considered as ‘payors’ under this article and all other activities required for implementation of this article.

CHAPTER VIII SPECIAL PROVISIONS

Article 32 Treatment of Insurance Activity

1. In the case of any person that is licensed by CBK to insure or reinsure life, property, or other risks, the tax imposed by this Law shall be an amount equal to five percent (5%) of the gross premiums accrued during the tax period.
2. If an insurance company has income, other than income generated by the insurance or reinsurance of life, property, or other risks, such other income shall be subject to taxation at the established corporate tax rate and taxable income shall be determined according to the income and expense rules established under this Law.
3. Any business that engages in insurance activity and other economic activity shall maintain separate accounts and records for the insurance activity and other economic activity.

Article 33 Treatment of Commercial Income of Non-Governmental Organizations

1. A non-governmental organization that conducts any commercial or other activity that is not exclusively related to its public purpose shall be charged income tax at the rate of ten percent (10%) on income derived from such unrelated business activity, reduced by any deductions that are directly related to the carrying on of such business and which are allowed by this Law.
2. The Tax Administration shall have the authority to audit any NGO to determine its compliance with the income rules that govern NGO’s. In cases that NGO profits are deemed to exceed a reasonable level of profits for an organization that is established as a non-profit organization, the tax administration shall have the authority to treat such excessive profits in accordance with the provisions of paragraph 1 of this Article.

3. Any NGO that engages in activities exempt from tax under sub-paragraph 1.1 of Article 7 of this law and other commercial activity, shall maintain separate accounts and records for the public benefit activity and other commercial activity.

4. The Minister shall issue a sub-legal act which will describe the meaning of “excessive profits” under this Article.

CHAPTER IX ADMINISTRATIVE PROVISIONS

Article 34 Tax Declarations

1. A taxpayer that is required or opts to calculate taxable income by adjusting for tax purposes the income and expenses reported in its financial statements is required to submit to the Tax Administration an annual tax declaration on or before 31 March of the year following the tax period. The declaration shall be made on the forms prescribed by the Tax Administration and shall include, among other things, gross income, allowable deductions, taxable income and the tax due under this Law. Such taxpayers are also required to submit, together with the tax declaration, the financial statements prepared in accordance with Kosovo Accounting Standards and applicable legislation.

2. A taxpayer that claims an allowable deduction pursuant to Article 10 of this Law, is required to submit to the Tax Administration an annual tax declaration on or before 31 March of the year following the tax period. The declaration shall be made on the forms prescribed by the Tax Administration and shall include, among other things, gross income, allowable deductions, taxable income and the tax due under this Law.

Article 35 Tax Payments

1. Each taxpayer under the present Law shall make quarterly advance payments of tax to an account designated by the Tax Administration in a bank, or financial institution, licensed by the Central Bank of Kosovo on or before 15 April, 15 July, 15 October, and 15 January with respect to the calendar quarter immediately preceding these dates.

2. The amount of each quarterly advance payment shall be as follows:

2.1. Taxpayers with annual gross income of fifty thousand (50.000) € or less who are not required to, or do not opt to, submit an annual tax declaration as per Article 34 of this Law shall make the following payments per quarter:

2.1.1. Three percent (3%) of each quarter's gross income from trade, transport, agricultural and similar commercial activities, but not less than thirty seven euros and fifty cents (€37.50) per quarter.

2.1.2. Five percent (5%) of each quarter's gross income from services, professional, vocational, entertainment and similar activities. but not less than thirty seven euros and fifty cents (€37.50) per quarter.

2.1.3. Ten percent (10%) of net rental income for the quarter (gross rental income less the ten percent (10%) allowance provided in paragraph 2 of Article 9 of this Law), reduced by any amount withheld during that quarter pursuant to paragraph 2 of Article 30 of this Law;

2.2. Taxpayers with annual gross income in excess of fifty thousand (50.000) € and taxpayers who are required to, or opt to, prepare financial statements shall make the following payments per quarter:

2.2.1. One-fourth (1/4) of the total tax liability for the current tax period based on estimated taxable income reduced by any amount withheld during the quarter pursuant to Article 30 of this Law or Article 40 of the Law on Personal Income Tax; or

2.2.2. For the second and subsequent tax periods that a taxpayer makes payment under this subArticle, of at least one-fourth (1/4) of one hundred and ten percent (110%) of the total tax liability for the tax period immediately preceding the current tax period reduced by any amount withheld during the quarter pursuant to Article 30 of this law or Article 40 of the Law on Personal Income Tax; .

3. A taxpayer who has opted to prepare financial statements and report on the real basis must continue on that basis for the year in which the option is made plus at least the three succeeding tax periods as noted in sub-paragraph 3.2 of Article 5 of this law.

4. A taxpayer who has exceeded gross turnover of fifty thousand (50.000) € in any one year is required to report income and make payments in accordance with paragraph 2 of Article 5 of this law and sub-paragraph 2.2 of this Article for the tax period in which gross turnover exceeded fifty thousand (50.000) € and, at least, the three succeeding tax periods. If, after that time, the taxpayer wishes to return to reporting income and making payments in accordance with sub-paragraph 3.1 of Article 5 and sub-paragraph 2.1 of this Article, such taxpayer shall submit a request for ruling to the tax administration in accordance with Article 10 of the Law on Tax Administration Procedures prior to 1 March of the year in which the change is being requested.

5. A taxpayer who makes quarterly advance payments pursuant to sub-paragraph 2.2 of this Article shall perform a final settlement of tax and pay the final amount due on or before 31 March of the year following the tax period.

6. The amount due for the final settlement shall be the total tax due for the tax period determined in accordance with this Law, minus:

6.1. The amounts withheld and paid to the Tax Administration pursuant to Article 30 of this law and Article 40 of the Law on Personal Income Tax;

6.2. The amounts paid in the quarterly instalments;

6.3. The foreign tax credit allowable under this Law.

7. If the amounts paid or credited according to Article 6 of this Law are greater than the total tax due determined in accordance with this Law, the taxpayer shall be entitled to a refund of the excess tax paid.

8. If an advance payment is not made timely, or in an amount that is less than that required, the tax administration may impose a penalty in an amount equal to the rate of interest in effect at the time the advance payment was due to be made. There shall be no other additions to tax, for late or inadequate advance payments. If payments, or corrected payments, for the quarterly instalments have been made on or before the due dates and a final settlement, or final corrected settlement, has been made as required by paragraph 5 of this Article, no penalty shall be charged for late, or insufficient advance payments, if:

8.1. The difference between the amount due in each instalment and the amount paid in each instalment is not greater than ten percent (10%) of the amount due; or

8.2. After the taxpayer's first tax period, the amount paid in each instalment is at least ten percent (10%) more than one-fourth (1/4) of the tax liability on the tax declaration for the preceding tax period.

8.2.1. If the tax administration performs an audit of any year and makes an adjustment to the tax of that year of more than twenty percent (20%), the relief from penalty provided in sub-paragraph 8.2 will not apply to the advance payment requirements for the succeeding tax period.

8.3. For the first tax period during which a taxpayer has been in business (the tax period in which the taxpayer requested a fiscal number, or if taxpayer conducted business prior to that time, the tax period in which economic activity started), there shall be no penalty charged if, including the fourth quarterly installment due on 15 January, the taxpayer has made quarterly advance payments equal to at least ninety percent (90%) of the final tax obligatory for that tax period.

8.4. A taxpayer that had a loss on the previous year Personal Income Tax declaration is not eligible to use the provisions of sub-paragraph 2.2. of this Article in making advance payments for the current year. Such taxpayer must

make advance payments in accordance with the provisions of sub-paragraph 2.1. of this Article.

8.5. The penalty to be charged under this Article shall be applied only to the underpaid amount from the date of the underpayment until the date prescribed in paragraph 5 of this Article for making the final settlement for the tax period, or, if earlier, the payment date on which the taxpayer's advance payment includes an amount sufficient to pay the advance payment for that quarter plus the underpaid amount..

9. The Minister shall issue a sub - legal act for implementation of this Article.

Article 36 Requirement for Books and Records

1. A taxpayer with annual gross income from business activities for the tax period in excess of fifty thousand (50.000) €, shall keep the books and records identified in paragraph 4 of this Article.

2. A taxpayer with annual gross income from business activities for the tax period of fifty thousand (50.000) €, or less may opt to prepare the books and records identified in paragraph 4 of this Article in accordance with sub-paragraph 3.2 of Article 5 of this Law.

3. A taxpayer who opts to prepare books and records identified in paragraph 4 of this Article for any tax period shall be required to prepare such books and records for the tax period in which the option is made plus at least three succeeding tax periods as provided in sub-paragraph 3.2 of Article 5 of this law.

4. The books and records required under this Article, maintained in accordance with the accounting standards of Kosovo, are as follows:

4.1. A sales book in which all sales and returns must be recorded;

4.2. A purchase book in which all purchases and returns must be recorded;

4.3. A Cash receipts journal and a cash payments journal that relate to the sales book and purchase book.

4.4. A capital account, if applicable, that includes the opening balance, additions to capital, expenses to be capitalized, depreciation rate, amount of depreciation, dispositions, and closing balance; and

4.5. Financial statements and balance sheets as required for establishing the starting point for computation of the annual corporate income tax declaration.

4.6. The content of books and records required by this paragraph and any other books or records required, including those maintained in an electronic format, shall be defined in a sub-legal act issued by the Minister.

Article 37

Requirements for Books and Records for Small Businesses

1. A taxpayer with annual gross income of fifty thousand (50.000) €, or less, who does not opt to prepare the books and records required under paragraph 4 of Article 36, must maintain the following minimal books and records:

1.1. A sales book in which all sales and returns must be recorded;

1.2. A purchase book in which all purchases and returns must be recorded;

1.3. A Cash receipts journal and a cash payments journal that relate to the sales book and purchase book.

1.4. The content of books and records required by this paragraph and any other books or records required, including those maintained in an electronic format, shall be defined in a sub-legal act issued by the Minister.

Article 38

Temporary Provisions

1. The provisions relative to Games of Chance in sub-paragraphs 1, 3, 5, and 6 of Article 30 of this Law shall become obsolete and superseded by provisions in the Law on Games of Chance and Lottery (or similar law related to the regulation and taxation of games of chance and lottery) relative to fixed quotes upon the date of its coming into force.

2. In accordance with the Law on VAT, a taxpayer must register for VAT when reaching the threshold of fifty thousand (50.000) €, of gross turnover in a twelve (12) consecutive month period. The Law on VAT includes provisions under which the registration threshold may be changed with the approval of the Assembly. If the VAT registration threshold is increased or decreased, the threshold for determining corporate income tax liability based on an accounting for income and expenses (currently more than fifty thousand (50.000) €, annual turnover) shall be increased or decreased accordingly.

2.1. An increase or decrease in the threshold for determining corporate income tax liability based on accounting for income and expenses shall be reflected in the applicable provisions of Articles 5, 35, 36, and 37 of this Law.

2.2. Any increase or decrease in the corporate income tax threshold shall be effective for the tax period beginning on 1 January of the year following the

revision of the VAT threshold and each successive tax period thereafter. If the increase in VAT threshold is effective as of 1 January of a tax period, revision of the corporate income tax threshold shall be effective beginning with 1 January of that same tax period.

2.3. Upon an increase or decrease in the threshold having been approved by the Assembly, the Minister shall issue a sub-legal act to implement the revised threshold level, which will reflect the necessary revisions to Articles 5, 35, 36, and 37 of this Law.

CHAPTER X

FINAL PROVISIONS

Article 39 Implementation

1. The Minister of Economy and Finance shall have the authority to promulgate, in writing, implementing regulations of general applicability as may be necessary to further the proper, reasonable and uniform interpretation and application of the present law. Such implementing regulations shall be administered and applied by the TAK. No such implementing regulation shall have any legal effect until properly published in the Official Gazette of Kosovo and otherwise made publicly available by the TAK in accordance with the Law on Access to Official Documents.

2. Without limitation or prejudice of the above paragraph, the Minister shall issue sub-legal acts for implementation and interpretation of Articles 5, 7, 9, 10, 12, 18, 20, 23, 26, 27, 31, 33, 36, and 37 within one hundred and twenty (120) days after the promulgation of this law. Article 15 of the Law no. 03/L-113 applies for the period 1 January 2009 to 31 December 2009.

Article 40 Appeals

1. Any person unsatisfied with the decision taken according to the provisions of this Law by the Kosovo Tax Administration has the Right of submitting the request for review in the department of Appeals of the Tax Administration.

2. Taxpayers who do not accord with the decision of Department of Complaints may submit the complaint in the Independent Board for Reviews.

3. If a Taxpayer is not satisfied with the decision taken by Independent Board for Reviews, may submit a complaint in the competent Court.

Article 41
Applicable Law

This Law shall abrogate Law on Corporate Income Tax, No. 03/L- 113 of 18 December, 2008

Article 42
Entry into Force

1. This law shall enter into force fifteen (15) days after being published in the Official Gazette of the Republic of Kosovo.
2. With the entry into force of this Law, its effects will be from 1 January 2010.

Law No.03/L- 162
29 December 2009

The President of the Assembly of Republic of Kosova

Jakup Krasniqi