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[Unofficial translation of Tax Code as enacted December 2004]

## **TAX CODE OF THE REPUBLIC OF TAJIKISTAN**

### **PART I. GENERAL PART**

#### **SECTION I. GENERAL PROVISIONS**

##### **CHAPTER 1. TAX SYSTEM OF THE REPUBLIC OF TAJIKISTAN**

###### **Article 1. Relations Regulated by this Code**

1. This Code shall regulate legal relations establishing the principles for the design and functioning of the tax system of the Republic of Tajikistan and the procedure for the establishment, modification, repeal, and collection of taxes; it shall define the legal status of tax authorities, tax police units, taxpayers, tax agents, and other participants in relations regulated by the tax legislation; and it shall establish provisions regarding the identification of objects of taxation, the fulfillment of tax obligations and the adoption of measures to ensure their fulfillment, the maintenance of a registry of taxpayers, objects of taxation, and tax accounting records, the filing of charges for tax offenses, and the appeal of actions (inaction) of tax authorities and their officials.

2. The concepts and norms established by this Code and other acts of tax legislation shall apply (except as otherwise provided by the legislation) only in the regulation of relations involving taxation.

3. The collection of customs duties and other customs payments shall be regulated by the tax legislation, this Code, and other regulatory legal acts, and the collection of stamp duty shall be regulated by the Republic of Tajikistan Law "On the Stamp Duty." The collection of other compulsory payments to the budget not specified by this Code shall be regulated by the legislation on other compulsory payments.

###### **Article 2. The Tax Legislation of the Republic of Tajikistan and its Force**

1. The tax legislation of the Republic of Tajikistan shall be based on the Constitution of the Republic of Tajikistan and it shall consist of this Code, regulatory legal acts adopted on the basis of and in accordance with this Code, and international treaties recognized by the Republic of Tajikistan.

2. With regard to taxation, officially published acts of tax legislation in force on the day circumstances arise (exist) which are related to the fulfillment of a tax obligation shall apply.

Acts of tax legislation officially published in the first and/or second months of a quarter shall enter into force on the first day of the quarter immediately following the quarter in which they were published.

If acts of tax legislation are officially published in the third month of a quarter, they shall enter into force on the first day of the second month of the quarter immediately following the quarter of their official publication.

The provisions of the second and third paragraphs of this item shall apply unless another time period for entry into force is stated explicitly in the act of tax legislation itself.

3. The interpretation of the norms and provisions of this Code, based on a representation by the Republic of Tajikistan government, shall be provided by the Majlisi Namoyandagon of the Majlisi Oli [Parliament] of the Republic of Tajikistan in the form of a relevant resolution of the Majlisi Namoyandagon, and the interpretation of other acts of tax legislation in the form of a relevant regulatory legal act shall be provided by the body that adopted the given act, except as otherwise provided by said act. Such interpretations shall be subject to official publication. The publication of acts of tax legislation, including interpretations thereof, shall be considered official if they are published in official print publications of the Majlisi Oli of the Republic of Tajikistan, the Republic of Tajikistan government, and the authorized government body.

4. The provisions of regulatory legal acts adopted on the basis of and in accordance with this Code may not conflict with the provisions of this Code. In the event of such a conflict, the provisions of this Code shall apply.

A regulatory legal act on taxes shall be considered inconsistent with this Code if said act conflicts to a certain extent with the general principles (elements) and/or the literal sense of specific provisions of this Code.

5. The institutions, concepts, and terms of civil, family, and other types of legislation of the Republic of Tajikistan used in this Code shall be applied in the sense in which they are used in those types of legislation, except as provided by this Code. In the event of a conflict between the provisions of this Code and regulatory legal acts that pertain to another type of legislation, for purposes of taxation the provisions of this Code shall apply.

6. Acts of tax legislation may be retroactive in cases corresponding to Article 45 of the Constitution of the Republic of Tajikistan.

Acts of tax legislation that establish new taxes, raise tax rates, establish or increase liability for violation of the tax legislation, and establish new obligations for taxpayers, as well as for other participants in relations governed by the tax legislation, shall not be retroactive.

Acts of tax legislation that eliminate or reduce liability for violation of the tax legislation or establish additional guarantees to protect the rights of taxpayers, tax agents, and their representatives shall be retroactive except as otherwise explicitly provided in the act of tax legislation itself.

The provisions set forth under this item shall also extend to regulatory legal acts governing the procedure for the collection of taxes payable in connection with the movement of goods across the customs frontier of the Republic of Tajikistan.

7. It shall be prohibited to include matters related to taxation in nontax legislation, with the exception of:

- 1) provisions concerning administrative offenses included in administrative legislation;
- 2) provisions concerning tax crimes included in criminal legislation;
- 3) provisions concerning the priority of tax obligations included in bankruptcy legislation;
- 4) provisions included in customs legislation;
- 5) provisions included in legislation on the stamp duty;
- 6) provisions included in legislation on state social insurance governing the earmarked use of social tax funds by taxpayers;
- 7) provisions included in legislation on the state budget for the relevant financial year;
- 8) provisions concerning taxes adopted in accordance with legislation on the establishment of free economic zones;
- 9) provisions included in legislation on other compulsory payments not established by the Tax Code of the Republic of Tajikistan;
- 10) provisions concerning taxes included in international legal acts recognized by the Republic of Tajikistan.

8. If an international treaty, recognized by the Republic of Tajikistan and containing provisions concerning taxation, establishes regulations and norms that differ from those specified by this Code and by regulatory legal acts adopted on the basis of and in accordance with this Code, the regulations and norms of the international treaties recognized by the Republic of Tajikistan shall apply.

9. Privileges specified by an international treaty on the prevention of dual taxation shall not apply to a resident of a state that is a party to the treaty if the resident in question uses another person who is not a resident of that state for the purposes of obtaining privileges.

10. For foreign states and governments, international organizations, diplomatic and consular representative offices of foreign states and governments, and diplomatic and consular personnel, as well as representative offices of international organizations and their employees, and family members of the aforementioned persons, exemption from taxes and other tax concession granted in accordance with this Code or specified by international treaties recognized by the Republic of Tajikistan shall be provided in accordance with the procedures established by the Republic of Tajikistan government. Exemption from taxes and other tax concessions must be granted within the limits and under the conditions prescribed by this Code and international treaties recognized by the Republic of Tajikistan.

11. The authorized government body, acting in consultation with the Republic of Tajikistan Ministry of Finance, and when necessary with other government bodies of the Republic of Tajikistan, shall draft, approve, and officially publish instructions on the procedure for the calculation and payment of the following taxes and payments:

- 1) the personal income tax (tax on income of individuals);
- 2) the corporate profit tax;
- 3) the value-added tax;
- 4) excise taxes;
- 5) the land tax;
- 6) the tax on users of mineral resources;
- 7) the highway user tax;
- 8) the tax paid under the simplified system;
- 9) the uniform tax for producers of agricultural products;
- 10) the sales tax (cotton and primary aluminum);
- 11) the minimum business income tax;
- 12) the customs duty and other customs payments;
- 13) the social tax;
- 14) the stamp duty;
- 15) other compulsory payments.

No provisions of instructions that conflict with this Code and the aforementioned international treaties recognized by the Republic of Tajikistan shall have any legal force.

### **Article 3. The Tax System of the Republic of Tajikistan**

The tax system of the Republic of Tajikistan shall be comprised of a set of taxes; principles, forms, and methods for their establishment, modification, repeal, and payment, and the application of measures to ensure their payment; as well as forms and methods of tax control and liability for the violation of tax legislation, as provided by this Code.

### **Article 4. Legal Basis of Taxation**

1. All individuals and legal entities shall be required to pay all taxes of which they are payers in accordance with this Code.
2. No one may be required to pay taxes not established by this Code.
3. A tax that is assessed in accordance with this Code shall constitute an obligation to the state and shall be payable to the state budget.

### **Article 5. Tax**

A tax shall be a payment to the state budget (referred to hereinafter as “the budget”) established by this Code that is compulsory and has no individual equivalent.

### **Article 6. Taxes of the Republic of Tajikistan**

1. Taxes of the Republic of Tajikistan shall consist of national taxes and local taxes.

National taxes shall include:

- 1) the personal income tax (tax on income of individuals);
- 2) the corporate profit tax;

- 3) the value-added tax;
- 4) excise taxes;
- 5) the social tax;
- 6) the land tax;
- 7) the tax on users of mineral resources;
- 8) the highway user tax;
- 9) the tax paid under the simplified system;
- 10) the uniform tax for producers of agricultural products;
- 11) the customs duty and other customs payments;
- 12) the stamp duty;
- 13) the sales tax (cotton and primary aluminum);
- 14) the minimum business income tax;
- 15) other compulsory republic-wide payments.

Local taxes shall include:

- 1) the real estate tax;
- 2) the tax on owners of motor vehicles;
- 3) the retail sales tax;
- 4) other compulsory local payments.

3. Proceeds from national taxes shall be distributed between the republican budget and local budgets in accordance with the budget legislation of the Republic of Tajikistan. Local tax payments shall be applied to the respective local budgets.

4. Taxes shall be calculated in monetary terms and shall be paid in the domestic currency of the Republic of Tajikistan, except as provided by the legislation of the Republic of Tajikistan.

5. Tax authorities shall be responsible for the collection of taxes specified in the special section of this Code, with the exception of the tax on owners of motor vehicles. The State Automobile Inspectorate under the Republic of Tajikistan Ministry of Internal Affairs shall be responsible for the collection of the tax on owners of motor vehicles.

6. In consideration of item 7 of Article 2 of this Code, exemption from any national tax or a change in a tax rate provided for by this Code may be effected through the introduction of amendments and additions to this Code, and with respect to local taxes, on the basis of decisions of the respective local Councils of People's Deputies.

## **Article 7. Procedure for the Establishment, Modification, and Repeal of Taxes**

1. The establishment of new taxes, in addition to those provided for by this Code, as well as the modification or repeal of existing taxes, shall be carried out exclusively through the adoption of a Law of the Republic of Tajikistan on amendments to this Code based on a representation from the Republic of Tajikistan government.

When taxes are established, all the elements of taxation must be identified, namely: the taxpayers; the object of taxation; the tax base; the tax period; the procedure for calculation of the tax; the procedure and deadlines for payment of the tax; and in those cases provided for by this Code, tax concessions and the grounds on which they may be obtained (utilized) by the taxpayer.

2. Proposals regarding amendments and additions to the Tax Code of the Republic of Tajikistan shall be accompanied by economic and other grounds for their introduction.

## **CHAPTER 2. DEFINITION OF TERMS USED IN THIS CODE**

### **Article 8. Taxpayers (General Definition)**

Taxpayers shall be individuals and/or legal entities who have an obligation to pay taxes in accordance with this Code.

Following the procedure provided for by this Code, separate subdivisions of legal entities shall meet the tax obligations of these legal entities (shall be recognized as taxpayers) based on the (physical, actual) location of these separate subdivisions.

### **Article 9. Object of Taxation and/or Object Related to Taxation**

An object of taxation and/or an object related to taxation shall be an object that has value, quantitative, or physical characteristics, the existence of which (the object) imposes obligations on the part of a taxpayer (the subject) to pay tax in accordance with the tax legislation.

An object of taxation and/or an object related to taxation may consist of property, income, profit, transactions involving the delivery of goods (work, services), the value of goods delivered (work performed, services provided), the import (export) of goods onto (from) the territory of the Republic of Tajikistan, and/or other objects established by this Code.

Each tax shall have a respective independent object.

### **Article 10. Tax Base**

The tax base shall consist of the value, physical, or other characteristics of an object of taxation and/or an object related to taxation, on the basis of which the amount of tax payable to the budget is determined.

### **Article 11. Tax Rate**

The tax rate shall consist of the amount of tax assessed per unit of the tax base.

The tax rate shall be established as a percentage and/or as an absolute amount per unit of the tax base.

### **Article 12. Tax Period**

The tax period shall be understood to mean the period of time (calendar year, quarter, month, 10-day period, or other period of time) established with respect to individual taxes by this Code, upon the expiration of which (at the end of which) the tax base is determined and the amount of tax payable to the budget is calculated. The tax period may consist of one or several reporting periods (quarters, months, 10-day periods, or other periods of time) upon the expiration of which (based on the results of which) advance (current) payments are made.

### **Article 13. Payment Deadline**

The tax payment deadline shall be a calendar date determined in accordance with this Code, before or on which the assessed amount of tax must be paid to the budget, that is, a tax obligation must be met.

### **Article 14. Tax Concessions**

Concessions on taxes shall refer to advantages compared to other taxpayers which are granted to individual categories of taxpayers as provided for by this Code or international treaties recognized by the Republic of Tajikistan that contain provisions concerning taxation, including the possibility of not paying a tax, paying a smaller amount of tax, or paying the tax at a later date without any negative consequences for the taxpayer that has the concession.

### **Article 15. Commercial and Noncommercial Activity**

1. Except as otherwise provided by this article, commercial activity shall refer to any activity the purpose of which is to earn a profit, income, or compensation, regardless of the results of such activity, which is not noncommercial activity as defined by this article.

2. Activity related to the acquisition, sale, transfer, or leasing of property shall be considered commercial activity if at least one of the following conditions is met:

1) this activity is carried out on a systematic basis and is an ordinary activity for the person performing the aforementioned transactions;

2) goods (work, services) produced (performed, provided) by the seller are offered;

3) these transactions are carried out within the context of trading, trading- intermediary (including dealer-related), or intermediary activity.

3. Noncommercial activity shall include activity in the form of the transfer of property (including cash) by one person to any other person for a fee, for the temporary possession, use, or disposition by said person without the transfer of ownership rights to the property or a part thereof, and without the right of subsequent alienation of the property, provided that the transfer does not entail financial services and does not impose additional obligations on the person receiving the given property, other than obligations related to the designated use of the property being transferred or to the payment of remuneration for the aforementioned possession, use, or disposition of the property, except as otherwise provided by this article.

4. Noncommercial activity shall include:

1) the placement of cash in banks or other financial and lending institutions;

2) the leasing out of property, except as otherwise provided in item 2 of this article;

3) the placement of property in trust;



4) the acquisition (sale or transfer) of a stake in the authorized capital of an enterprise or its securities; the acquisition (sale or transfer) of bonds or other bills of exchange; the acquisition (sale or transfer) of a stake in a mutual investment fund or copyrights and other similar rights belonging to the seller, which is the equivalent of noncommercial activity, except as otherwise provided in item 2 of this article;

5) the performance of work for hire by an individual.

5. The following types of activity shall be considered noncommercial activity:

1) the activity of bodies that are part of the system of government authorities in all branches and at all levels, and self-government bodies, which is directly related to the performance of the government functions assigned to them, with the exception of the performance of services paid for on a contractual basis and other commercial activity;

2) charitable activity;

3) religious activity.

#### **Article 16. Work for Hire**

1. For the purposes of this Code “work for hire” shall mean:

1) the performance of duties by an individual within the context of relations regulated by the Civil Code of the Republic of Tajikistan or the legislation on labor or on the civil service;

2) the performance of duties by an individual that are directly related to service in the ranks of the armed forces or law enforcement authorities or equivalent agencies (institutions);

3) work in a management position at an enterprise or organization.

2. An individual who has worked, is working, or will work for hire shall be referred to as an “employee” in this Code. A person who pays for services performed by such an individual in the capacity of an employee shall be referred to as an “employer,” and the payment shall be referred to as “wages.”

#### **Article 17. Charitable Activity**

1. Charitable activity shall be activity performed by legal entities which consists of providing direct financial or other assistance (support), including in the form of unrequited transfers, to individuals in need of such assistance, or to nonprofit organizations directly providing such assistance, including nonprofit charitable organizations (Article 26), or scientific, educational, public information, library, medical, or other activities performed in the public interest, except as otherwise provided by this article.

2. Except as otherwise provided under item 3 of this article, charitable activity shall be defined in accordance with the Republic of Tajikistan Law “On Charitable Activity.”

3. The provision of assistance (support) to persons shall not be considered charitable activity if any of the following conditions is present:

1) the person receiving such assistance (support) assumes an obligation of a tangible or intangible nature to the person providing such assistance (other than the obligation to use the funds or property received for their designated purpose);

2) the person accepting such assistance (support) and the person providing such assistance (support) are considered related persons (Article 29 of this Code);

3) such assistance (support) is provided to any individual or legal entity for participation in an election campaign at any level.

### **Article 18. Religious Activity**

Religious activity shall consist of the activities of religious organizations and faith-based associations for the dissemination of religious beliefs, which have been registered following the established procedure, including through:

1) the organization and performance of religious rituals, ceremonies, and worship services;

2) providing believers with the opportunity to have and/or use houses of worship or religious facilities for joint or individual fulfillment of religious requirements;

3) the receiving and dispatching of pilgrims, religious delegations, representatives of various faiths; the holding of national or international religious meetings, congresses, and seminars; and providing participants in such activities with accommodations, transportation, meals, and cultural services;

4) the maintenance of religious buildings, facilities, religious educational institutions and adjacent grounds; the training of students or persons attending such educational institutions; as well as other similar chartered religious activities.

### **Article 19. Enterprises**

For the purposes of this Code enterprises (commercial organizations) shall refer to the following organizations engaged in commercial activity or established for the performance of such activity:

1) legal entities and separate subdivisions established by them in accordance with the legislation of the Republic of Tajikistan, which have a separate balance sheet or budget;

2) corporations, companies, firms, and other similar entities established in accordance with the legislation of a foreign state.

### **Article 20. Resident and Foreign Enterprise**

1. A resident enterprise shall be an enterprise founded or with headquarters in the Republic of Tajikistan (Articles 21 and 22 of this Code).

2. A foreign enterprise shall be an enterprise that is not considered a resident enterprise in accordance with this article.

### **Article 21. Place Where an Enterprise Is Founded**

The place where an enterprise is founded shall be the place where it obtained state registration, on in the absence thereof, the enterprise's legal address as shown in documents pertaining to the establishment of the enterprise (charter, contract, statute).

### **Article 22. Headquarters of an Enterprise**

The headquarters of an enterprise shall be the actual place where the enterprise is managed, that is, the place where its executive administrative body performs its everyday administrative functions.

### **Article 23. Permanent Establishment of a Nonresident (Foreign Enterprise or Nonresident Individual)**

1. A permanent establishment of a nonresident (foreign enterprise or nonresident individual) in the Republic of Tajikistan (referred to hereinafter as a "permanent establishment"), except as otherwise provided in this article, shall be understood to mean a permanent location through which the nonresident performs all or part of its commercial activity, including activity carried out through an authorized person.

2. Specifically, the following shall be considered permanent establishments:

1) any place where activities are performed that are related to the production, processing, assembly, packing, packaging, or delivery of goods, regardless of the time period such activity is performed;

2) any administrative location (specifically, a subsidiary, branch, representative office, bureau, office, agency, factory, workshop, shop, laboratory, store, warehouse) of a nonresident, regardless of the time period such activity is performed;

3) any place where operations are performed, including installations and platforms, drilling rigs or ships, used in prospecting for natural resources, underground and open-pit mines, oil and/or gas wells, quarries, land-based or floating derricks and/or wells, regardless of the time period such activity is performed;

4) any place where operations are performed (including the performance of control, supervisory, or monitoring activity) that are related to a pipeline, gas pipeline, prospecting for and/or development of natural resources, and the installation, erection, assembly, adjustment, set-up, and/or servicing of equipment, regardless of the time period such activity is performed;

5) any other place where operations are performed that are related to the operation of computerized gambling machines (including accessories), computer networks and communications channels, amusement parks, transportation or other infrastructure, regardless of the time period they are in operation;

6) a permanent base that a nonresident individual uses for commercial activity.

3. A construction site, erection or assembly project, the performance of supervisory activity related to such projects, and the performance of planning and design work constitute a permanent establishment, regardless of the time period such work is performed.

In this context a construction site (project) shall be understood to mean, specifically, a place where activities are performed that are related to the erection and/or reconstruction of real estate properties, including the construction of buildings and structures and/or the performance of installation work; the construction and/or reconstruction of bridges, roads, and canals; the laying of pipelines; the installation of electrical, technological, or other equipment; and/or the performance of other similar work.

A construction site (project) shall cease to exist as of the second day following the day on which the certificate of occupancy (the acceptance certificate for the work performed) is signed and payment is made in full for the construction work.

4. A nonresident shall also be considered to have a permanent establishment in the Republic of Tajikistan if the nonresident:

1) collects insurance premiums and/or provides for the insurance or reinsurance of risks in the Republic of Tajikistan through an authorized agent;

2) performs services on the territory of the Republic of Tajikistan continuously for more than 90 calendar days in any consecutive 12-month period ending in the given tax period, through employees or personnel hired for this purpose;

3) is a participant in a simple partnership (joint operating agreement) formed in accordance with the legislation of the Republic of Tajikistan and operating on the territory of the Republic of Tajikistan;

4) holds exhibitions in the Republic of Tajikistan for a fee and/or at which goods are delivered (sold);

5) on the basis of a contractual relationship grants a resident or nonresident the right to represent its interests in the Republic of Tajikistan, and to act and/or conclude contracts (agreements, accords) on its behalf.

5. Temporary or seasonal interruptions in the performance of activities referred to in this article shall not result in the liquidation of a permanent establishment.

6. A nonresident engaged in commercial activity in the Republic of Tajikistan through an independent intermediary (a broker and/or other independent agent acting on the basis of an agency, commission, consignment, or other similar agreement) who is not authorized to sign contracts (agreements) on behalf of the nonresident, shall not be considered to have formed a permanent establishment.

An independent intermediary shall be understood to mean a person who performs intermediary duties as part of his usual (principal) activities for the purpose of cooperation between the parties and who is both legally and economically independent of the given nonresident.

7. A subsidiary of a nonresident legal entity established in accordance with the legislation of the Republic of Tajikistan shall not be considered a permanent establishment of the parent nonresident enterprise if relations consistent with the provisions of subitem 5 of item 4 of this article do not arise between the subsidiary and parent enterprise.

8. A site used in the Republic of Tajikistan for the following purposes shall not be considered a permanent establishment of a foreign enterprise in the Republic of Tajikistan (regardless of who uses it):

- 1) the storage of goods or articles belonging to the foreign enterprise;
- 2) the purchase of goods or articles, the collection of information for the foreign enterprise;
- 3) the performance of any other activities of a preparatory or ancillary nature in the interests of the foreign enterprise;
- 4) the preparation of contracts for signing or the simple signing of contracts on behalf of a foreign enterprise pertaining to credits (loans), the delivery of goods or articles, or the performance of work (provision of services);
- 5) the performance of any activities referred to in subitems 1) through 4) of this item.

9. A registered representative office of a foreign enterprise that is not a separate legal entity shall be considered a permanent establishment of the foreign enterprise.

10. Dependent personal services (work for hire) performed by a nonresident individual shall not result in the formation of a permanent establishment of said person.

11. The activities of a nonresident shall result in the formation of a permanent establishment in accordance with the provisions of this article regardless of whether or not it has been registered with a tax authority.

## **Article 24. Nonprofit Organizations**

1. Nonprofit organizations shall be government bodies in the legislative, executive, and judicial branches, social and/or religious organizations (associations), foundations, institutions, associations (unions), interstate, intergovernmental, and other organizations engaged in noncommercial activity, that is, subject legal entities that are not pursuing the goal of earning a profit, income, or compensation and do not distribute profit (if profit is earned), income, or compensation among their partners (founders).

2. The place where a nonprofit organization is founded and the headquarters of a nonprofit organization shall be determined following the procedure established for enterprises under Articles 21 and 22 of this Code.

3. A nonprofit organization shall be recognized as a resident or foreign nonprofit organization following the procedure established for enterprises (Article 20 of this Code).

4. To the extent that a nonprofit organization engages in commercial activity, its assets and activities directly related to the performance of commercial activity shall also be treated as an enterprise and shall be subject to separate accounting (separate from its principal activity).

### **Article 25. Budgetary Organization**

A budgetary organization shall be a nonprofit organization that receives funding from the budget for at least 70 percent of its operations, based on a budgetary income and expenditure estimate.

### **Article 26. Charitable Organization**

1. A charitable organization shall be a nonprofit organization that:

1) is established for the purpose of performing charitable activities;

2) is registered as such following the procedure established by the legislation of the Republic of Tajikistan and meets the requirements set forth in the Republic of Tajikistan Law “On Charitable Activity.”

2. A nonprofit organization shall not be considered a charitable organization (regardless of its legal and organizational status or name), if:

1) the nonprofit organization is participating directly or indirectly in an election campaign at any level by any political party, social organization (movement), or individual; or

2) the receipts or assets of the nonprofit organization are benefiting or could benefit any person, with the exception of benefits resulting from the performance of its charitable activity or reasonable payment for property or services.

### **Article 27. Religious Organization**

A religious organization shall be a nonprofit organization established for the purpose of performing religious activities and registered as such following the procedure established by the legislation.

### **Article 28. Tax Agent**

1. A tax agent shall be any person (an individual or legal entity) who is not an employee of a tax authority, who in accordance with this Code or another act of tax legislation has been assigned duties related the calculation of tax, the withholding of tax from a taxpayer (or at the source of payment), and the transfer of the tax to the appropriate budget.

2. In terms of his rights and responsibilities, a tax agent shall have the same status as a taxpayer, except as otherwise provided by this Code.

3. A tax agent shall be required:

1) to calculate the relevant taxes, withhold them from the taxpayer (or at the source of payment), and transfer them to the appropriate budgets properly and in a timely manner;

2) to maintain a record of income paid to taxpayers and taxes withheld from them (or at the source of payment) and transferred to the appropriate budgets, including the maintenance of a separate record for each taxpayer;

3) to submit to tax authorities documents that are required for verification of the proper calculation, withholding, and payment of taxes; and

4) to perform other duties as assigned by the tax legislation.

4. A tax agent shall bear liability following the procedure established by this Code or other legislative acts of the Republic of Tajikistan for failure to fulfill or improper fulfillment of the duties assigned to the agent by the tax legislation.

### **Article 29. Related Persons**

1. Related persons shall be persons who have special relationships that could have a direct influence on the conditions or economic outcome of transactions between them.

2. Such special relationships shall include, specifically, relationships in which:

1) the persons are founders (partners) of the same enterprise, if each person's stake is equal to at least 20 percent;

2) one person directly or indirectly participates in the other person, which is an enterprise, if the first person's stake is equal to at least 20 percent;

3) one person is subordinate to the other person in an employment relationship or one person is under the (direct or indirect) control of the other person;

4) the persons are subsidiaries of the same legal entity or are under the direct or indirect control of a third party;

5) the persons directly or indirectly control a third party, if the voting rights of each person account for at least 20 percent of the total;

6) the persons are married to one another or have a family relationship (item 48 of Article 34 of this Code).

### **Article 30. Resident Individuals**

1. Individuals shall be considered residents for the entire current calendar year if they were actually in the Republic of Tajikistan for more than 182 days during any consecutive 12-month period ending in the current calendar year, or if they were employed in the civil service of the

Republic of Tajikistan outside the country during the current calendar year, regardless of the duration of said service in the current calendar year.

2. The following individuals who are citizens of the Republic of Tajikistan, individuals who have applied for Republic of Tajikistan citizenship or for a permanent residence permit without becoming a citizen of the Republic of Tajikistan, shall be recognized as resident individuals, regardless of the time they have spent in the Republic of Tajikistan and any other criteria specified by this article:

1) those who have been sent abroad on official business by government authorities of the Republic of Tajikistan, including employees of diplomatic and consular institutions and representative offices with equivalent status, trade missions of the Republic of Tajikistan, international or intergovernmental organizations, as well as family members of said individuals;

2) crew members of means of transport belonging to legal entities or citizens of the Republic of Tajikistan that are engaged in international shipping;

3) military and civilian personnel of military bases, military units, groups, contingents, or formations deployed outside the Republic of Tajikistan;

4) persons working at facilities that are located outside the Republic of Tajikistan and are the property of the Republic of Tajikistan or residents or subjects of the Republic of Tajikistan (including on the basis of concession contracts);

5) students, trainees, and interns who are outside the Republic of Tajikistan for the purpose of instruction or practical training, for the entire period of their education or practical training;

6) teachers and scientific workers who are outside the Republic of Tajikistan for the purpose of providing instruction or consultation, or performing scientific work, for the entire period they are teaching or performing said work.

3. For the purposes of item 1 of this article, the time spent by a foreign individual in the Republic of Tajikistan shall not be considered the time the person was actually located on the territory of the Republic of Tajikistan if the person was in the country:

1) in the capacity of a person with diplomatic or consular status (or as a family member of such a person);

2) in the capacity of an employee of an international organization or in the capacity of a person employed by the civil service of a foreign state (or as a family member of such a person);

3) exclusively for the purpose of traveling from one foreign state to another foreign state across the territory of the Republic of Tajikistan.

4. A day spent in the Republic of Tajikistan shall be considered any day during which an individual was actually located on the territory of the Republic of Tajikistan, regardless of the length of time spent.



5. An individual who is not a resident of the Republic of Tajikistan in accordance with this article shall be considered a nonresident of the Republic of Tajikistan.

6. An individual shall be considered a nonresident of the Republic of Tajikistan for the period from the last day the person was in the Republic of Tajikistan in the given tax year until the end of the given tax year, if said person is a nonresident of the Republic of Tajikistan in the tax year immediately following.

### **Article 31. Individual Entrepreneur**

1. A resident or nonresident individual shall be considered an individual entrepreneur if he is engaged in commercial activity (Article 15 of this Code) on his own behalf, at his own risk, and assuming his own liability as to property, without the establishment of a legal entity.

2. The performance of commercial activity by an individual in violation of the established procedure for registration and obtaining a license or other document may not serve as grounds for recognizing such a person as an individual entrepreneur for the purposes of taxation.

### **Article 32. Market Prices**

1. A market price shall be the price in the free market for goods (work, services) formed as a result of supply and demand, as well as the interests of the parties to a transaction who are not related persons in accordance with Article 29 of this Code, under comparable economic (commercial) conditions.

2. Except as otherwise provided by this Code, for the purposes of taxation the actual price specified by the parties to a transaction (indicated in valid documents) shall be treated as the price of goods (work, services). Unless a tax authority proves otherwise, it shall be assumed that this price is consistent with the market price.

3. When verifying that taxes have been calculated in full, tax authorities shall have the right to check that the prices used are consistent with market conditions only in the following cases involving transactions:

- 1) between related persons;
- 2) in which there is an exchange of goods, work, or services (barter transactions);
- 3) in which foreign trade (foreign economic) transactions are performed;
- 4) in which the prices applied by the taxpayer for goods (work, services) within a limited period of time (not more than 30 calendar days before or after the delivery of the goods, work, or services) deviate by more than 30 percent in either direction from the market price for identical (similar) goods (work, services).

In those cases described in subitems 3) and 4) of this item, a transaction shall be considered to have been actually effected at market prices if the taxpayer cannot prove that the transaction was in fact carried out at prices indicated in valid documents.

4. Only in those cases specified in item 3 of this article shall a tax authority have the right to issue a decision to assess additional taxes, accompanied by the reasons for doing so, taking into account the market prices for the relevant goods (work, services) as determined in accordance with this article.

5. The market price for goods (work, services) shall be determined on the basis of information about transactions performed with identical (similar) goods (work, services) that have been concluded as of the moment the goods (work, services) are delivered, including on the basis of prices on international and other exchanges.

6. Identical goods shall include goods that have the same basic features, which are characteristic for them.

When determining whether goods are identical, one shall take into account, among other things, their physical characteristics, quality and market reputation, country of origin, and the producer. Insignificant differences in outward appearance may or may not be taken into account when determining whether goods are identical.

7. Similar goods shall include goods which are not identical but do have similar characteristics and are comprised of similar components, which enables them to perform the same functions and/or to be commercially interchangeable.

When determining whether goods are similar, one shall take into account, among other things, their quality, the existence of a trademark, their market reputation, and their country of origin.

8. When determining the market price for goods (work, services), transactions between related persons may be taken into account only in the event that their relationship did not influence the outcome of the transactions in question.

9. The market for goods (work, services) shall be comprised of the sphere of circulation of the given goods (work, services) as determined by the seller's (purchaser's) ability realistically to offer (purchase) the goods (work, services) in an area in close proximity to the seller (purchaser) within the Republic of Tajikistan or outside its borders, without significant additional costs.

10. When determining the market price for goods, work, or services, one shall take into account information on prices at the time of delivery of the given goods, work, or services in operations (transactions) performed with identical (similar) goods, work, or services under comparable conditions. Specifically, one shall take into account transaction conditions such as the quantity (volume) of goods delivered, the time frame for the fulfillment of obligations, payment conditions normally applied in transactions of the given type, as well as other reasonable conditions that may have an influence on the price.

Transaction conditions in the market for identical goods (work or services) (or similar goods, work, or services, in the absence of identical ones) shall be considered comparable if the difference between these conditions either does not have a significant influence on the price of these goods (work or services) or may be taken into account after making certain adjustments.

11. If no transactions have been performed with identical (similar) goods (work or services) in the respective market for the goods (work, services) or if there is no supply of the given goods (work, services) in the market, the market price shall be determined on the basis of prices in effect in relevant transactions with identical (similar) goods (work, services) on the date closest to the delivery date of the aforementioned goods (work, services), but not more than 30 calendar days before or after the delivery of the goods (work, services). The market price for securities shall be determined on the basis of stock exchange quotations for identical securities of the same issuer as of the date closest to the sale or transfer of said securities, provided that the quotations are announced in accordance with the procedure indicated above.

12. If the provisions of items 1 through 11 of this article cannot be applied, the market price for goods (work, services) shall be determined in accordance with the procedure established by the Republic of Tajikistan government based on a representation by the Republic of Tajikistan Ministry of Finance that has been approved by the authorized government body, and when necessary, by other government bodies of the Republic of Tajikistan. The following methods may be used to determine the market price in this case: the expenditure method, the subsequent sale price method, and other methods.

13. Transactions involving the exchange of goods, work, and services (barter transactions) shall be transactions in accordance with which each of the parties to the exchange delivers goods (work, services) and acquires goods (work, services). In this case the market prices for the goods (work, services) delivered (acquired) in the course of these transactions shall be determined in accordance with the provisions of this article.

14. Official information sources on market prices for goods (work, services) and exchange quotations, data bases of national and local government authorities, information reported to tax authorities by taxpayers, as well as other relevant information, shall be used when determining and recognizing the market price for goods (work, services).

### **Article 33. Financial Leasing**

1. If a lessor leases out depreciable tangible property under a financial leasing agreement, for the purposes of this Code the lessee shall be considered the owner of the property, and lease payments shall be considered payments on loans (consisting of the payment of principal and interest) made to the lessee.

2. The leasing of depreciable tangible property shall constitute financial leasing if it meets the following conditions:

1) the lease provides for the transfer of ownership upon expiration of the lease period or the lessee has the right to purchase the property upon expiration of the lease period at a fixed price or at a price determined in accordance with the lease agreement; or

2) the lease period exceeds 75 percent of the service life of the leased property;

3) the estimated residual value of the property upon expiration of the lease period represents less than 20 percent of its market value at the beginning of the lease;

4) the present discounted value of the minimum payment for the entire lease period is equal to 90 percent of the market price of the property at the beginning of the lease or exceeds it; or

5) the leased property has been manufactured to order for the lessee and upon expiration of the lease the property cannot be used by anyone other than the lessee.

3. Subitem 4 of item 2 of this article shall not apply to a lease which begins during the last 25 percent of the property's service life.

4. For the purposes of this article, the discount rate used to determine the present discounted value of lease payments shall be equal to the interest rate indicated in item 3 of Article 93 of this Code.

5. For the purposes of this article, the lease period shall include an additional period by which the lessee has the right to renew the lease in accordance with the lease agreement.

#### **Article 34. Definition of Other Terms Used for the Purposes of this Code**

1. Assets – property, other tangible assets, cash or property rights comprising the total fixed and working assets (capital) of an enterprise (person); any valuable belonging to a person; an accounting category that includes the value of a subject's own property, as well as funds and reserves intend for the payment (repayment) of debt (liabilities).

2. Arrears – taxes, interest, and penalties payable to the budget that have been assessed and have not been paid by a deadline, including an extended deadline.

3. Winnings – any type of income in cash and in kind received by taxpayers from contests, competitions (Olympiads), festivals, lotteries, and drawings, including drawings on deposits and debt securities.

4. Import of goods – the importation of goods onto the customs territory of the Republic of Tajikistan based on the release for free circulation customs regime in accordance with the customs legislation of the Republic of Tajikistan.

5. Fixed assets – tangible assets with a service life of more than one year, which are subject to depreciation in accordance with Article 153 of this Code.

6. Grant – property provided on an unrequited basis: by states and governments of states; international and governmental organizations, foreign nongovernmental social organizations and foundations whose activities are charitable and international in nature and are not in conflict with the Constitution of the Republic of Tajikistan; by foreigners and stateless persons, to the Republic of Tajikistan, the Republic of Tajikistan government, legal entities as well as individuals of the Republic of Tajikistan for the achievement of certain goals (tasks) that are not in conflict with the Constitution of the Republic of Tajikistan.

7. Nonresident – a person who is not a resident.

8. Income from sources in the Republic of Tajikistan – this refers to the following types of income in cash and/or in kind received by a person (without taking any deductions):

- 1) income from work for hire in the Republic of Tajikistan;
- 2) income from the delivery by the producer of goods produced in the Republic of Tajikistan, and also from the performance of work and provision of services in the Republic of Tajikistan;
- 3) income from commercial activity that may be applied to a permanent establishment of a nonresident located on the territory of the Republic of Tajikistan, including:
  - income that may be applied to the sale of goods of the same or similar type as goods sold through such a permanent establishment in the Republic of Tajikistan;
  - income earned from commercial activity in the Republic of Tajikistan, which is of the same or a similar nature as activity performed through such a permanent establishment;
- 4) income related to the performance of commercial activity in the Republic of Tajikistan through a permanent establishment: from writing off a taxpayer's bad debts to creditors; from the sale of fixed assets included as income in accordance with item 7 of Article 153 of this Code; from reimbursement for expenses in accordance with Article 193 of this Code;
- 5) income in the form of dividends received from a resident legal entity, as well as income received as a result of the sale or transfer of a stake in such a legal entity;
- 6) income in the form of interest received from residents;
- 7) income in the form of interest received from a nonresident person with a permanent establishment or property located on the territory of the Republic of Tajikistan, if the person's debt is related to this permanent establishment or property;
- 8) a pension, if it is paid by a resident;
- 9) income in the form of royalties received for property located or being used in the Republic of Tajikistan, or income from the sale or transfer of property referred to in item 38 of this article, which is located or being used in the Republic of Tajikistan;
- 10) income received from the leasing of movable property being used in the Republic of Tajikistan;
- 11) income received from real estate located in the Republic of Tajikistan, including income from the sale or transfer of a stake in such property;
- 12) income from the sale or transfer of shares or a stake in an enterprise, the value of whose assets is formed for the most part directly or indirectly from the value of property located in the Republic of Tajikistan;
- 13) other income from the sale or transfer of property by a resident, not related to the performance of commercial activity;

14) income received from the performance of management, financial, or insurance services, including reinsurance services, if it is paid by a resident enterprise or a permanent establishment of a nonresident located on the territory of the Republic of Tajikistan, or if it is received on the basis of an agreement with such an enterprise or permanent establishment;

15) income paid in the form of insurance premiums under a risk insurance or reinsurance agreement in the Republic of Tajikistan;

16) income from telecommunications or transportation services involving international communications or shipments between the Republic of Tajikistan and other states;

17) income from activity in the Republic of Tajikistan under individual labor agreements (contracts) or under other agreements of a civil-legal nature;

18) honoraria for managers and/or other payments received by members of an executive management body (board of directors, board, or other similar body) of a resident legal entity, regardless of where the administrative duties assigned to such persons are actually performed;

19) supplemental payments provided in connection with residing in the Republic of Tajikistan;

20) income received by nonresident individuals working in the Republic of Tajikistan, in the form of reimbursement paid to them (to said persons) on the part of (at the expense of) employers or persons hiring them for costs incurred by these nonresident individuals for material and social goods or other material benefits, including expenditures on meals, housing, enrollment of children at educational institutions, and expenditures on leisure activities, including vacation travel for family members;

21) pension payments provided by resident pension savings funds;

22) income paid to theater and film actors, radio and television employees, musicians, artists, and athletes in connection with activity in the Republic of Tajikistan, regardless of the person to whom the payment of such income is made;

23) winnings paid by residents;

24) income earned from providing independent personal (professional) services in the Republic of Tajikistan;

25) income in the form of property located in the Republic of Tajikistan that is received free of charge, including income on such property;

26) other income not covered by the preceding subitems earned on the basis of activity in the Republic of Tajikistan.

When determining the source of income in accordance with this item, the place where the income is paid shall not be taken into consideration.

9. In-kind income – income in the form of the delivery of goods, the performance of work, or the provision of services.

10. Dividends – any distribution of funds or property by a legal entity among its partners (shareholders), including: income received by a shareholder (partner) from a legal entity-issuer in the distribution of annual after-tax profits in proportion to the number of the shareholder's shares (the partner's stake) in the authorized (share, statutory) capital of the legal entity; dividends (income) received by a shareholder (partner) that are disguised by other payments; income received by a shareholder (partner) from the distribution of funds or property through the buy-out by the legal entity-issuer of its shares; and income received by a shareholder (partner) from the distribution of property in the event of the liquidation of a legal entity, less (in both cases) the value of property (shares) invested by a founder (partner) as a contribution to authorized capital (share capital). Income received by a shareholder (partner) in the form of a legal entity-issuer's distribution of its own shares among shareholders, which (distribution) does not alter the percentage (stake) of shareholders' shares in the share (statutory) capital of the legal entity-issuer, shall not be considered a dividend.

11. Land for housing construction – this shall refer to land in cities and urban-type settlements allotted to individuals in accordance with the Land Code of the Republic of Tajikistan for housing construction.

12. Electronic signature of a taxpayer – a specially encoded means of ensuring the authenticity, integrity, and authorship of electronic documents.

13. Performance of work – any performance of work for remuneration.

14. Partner – a shareholder, part owner, or other participant in an enterprise's assets and profits.

15. Work – activity the results of which have a tangible form, including construction, installation, and repair work, scientific research, and research and development, shall be considered work.

16. Subsidiary – an enterprise shall be considered a subsidiary if another (parent) enterprise holds a stake equal to 50 percent or more of the equity (shares) with voting rights in this enterprise.

17. Humanitarian assistance – property provided free of charge to the Republic of Tajikistan in the person of its subjects in the form of food, consumer goods, hardware, tools, equipment, medical supplies and medicines, and other items sent from foreign countries and international organizations to improve the living conditions and daily life of the population, and also for the prevention and clean-up of emergencies of a military, environmental, natural, industrial, or other nature, distributed following the procedure established by the Republic of Tajikistan government.

18. Charitable assistance – property given free of charge to individuals for the purpose of providing them with social support and to nonprofit organizations for the purpose of supporting their chartered activities.

19. Territory of the Republic of Tajikistan – this shall refer to the customs territory of the Republic of Tajikistan in accordance with the definition in the customs legislation.

20. Bad (problem) debt – this shall refer to an amount owed to a taxpayer which the taxpayer is not able to recover in full due to the insolvency or liquidation of the debtor, or when the reality of receiving it from the debtor or a third party is unlikely. In any case, a debt on which not a single payment has been made for three years from the date a payment was supposed to be made shall be considered a bad (problem) debt.

21. Household plots – this shall refer to agricultural land allotted to individuals in accordance with norms established by the Land Code of the Republic of Tajikistan, including the land area occupied by structures and courtyards. Household plots shall not include parcels of land allotted following the established procedure for the establishment of peasant (owner-operated) farms, and they shall not include parcels of land provided to individuals under a lease arrangement.

22. Source of payment of income – a legal entity or individual from whom (at whose expense) a subject (another person) receives income.

23. Authorized government body – a central executive body of the Republic of Tajikistan that provides for tax control to ensure the fulfillment of tax obligations to the state, as determined by the Republic of Tajikistan government.

24. Authorized bodies – government bodies of the Republic of Tajikistan, with the exception of tax authorities, which are authorized by the Republic of Tajikistan government to perform the calculation and/or collection of other compulsory payments to the budget.

25. Individual's place of residence – the place where a given individual maintains his permanent or primary residence. This place may be different from the given individual's registered address.

26. Location of a separate subdivision of a legal entity – the place where a given legal entity does business through a separate subdivision; the place where the separate subdivision is actually located.

27. Agricultural products – this shall refer to the initial result (product) of the cultivation of agricultural crops and livestock (including the live animals themselves) that has not undergone further processing.

28. Goods – any tangible or intangible property, including electricity and thermal power, gas, and water. For purposes of the value-added tax, goods shall not include intangible property, cash, and land.

29. Insurance premium (insurance contribution) – the amount paid by an insured person to an insurance institution for assumption by the latter of the obligation to provide restitution for losses sustained by the insured person or to make an insurance payment (insurance compensation) to the insured person should certain events occur (insured event).

30. Tax regime – the set of norms established by the tax legislation and applied by a taxpayer in the calculation and payment of all taxes payable to the budget as established by this Code.



31. Foreign Economic Activity Commodity Nomenclature – a system of commodity classification codes adopted in accordance with the International Convention on the Harmonized Commodity Description and Coding System (the Foreign Economic Activity Commodity Nomenclature of the Eurasian Economic Community).

32. Notification – any written message prepared in consideration of the requirements of Chapter 5 and other provisions of this Code, sent by tax authorities to taxpayers, tax agents, or other persons.

33. Family – spouses, children, and parents residing together and maintaining a common household.

34. Taxpayer Identification Number (TIN) – a number assigned by tax authorities to a legal entity or individual.

35. Resident – a resident individual, resident enterprise, or resident nonprofit organization.

36. Re-import of goods – the importation of goods by the person who exported the given goods, without their further delivery or alteration after export.

37. Re-export of goods – the exportation of goods by the person who imported the given goods, without their further delivery or alteration after import.

38. Royalties – payment for the right to use minerals in the process of the extraction of minerals and processing of industrial by-products; for the use or the right to use copyrights, software, patents, sketches and models, trademarks, and other rights associated with them; for the use or the right to use industrial, commercial, or scientific research equipment; for the use of technological knowledge; for the use or the right to use motion pictures, video films, audio recordings, or other recorded media; for providing technical assistance in connection with the above; or for denial of the use of any of the aforementioned rights.

39. Export of goods – the exportation of goods from the territory of the Republic of Tajikistan in accordance with the customs legislation of the Republic of Tajikistan.

40. International organization – this shall refer to a subject of international law established on the basis of an agreement among states or governments of states.

41. Separate subdivision of a legal entity – any geographically separate subdivision of a legal entity whose location is equipped with fixed workplaces and that performs some of the functions of the legal entity. A workplace shall be considered fixed if it is established for a period of more than one month.

42. Delivery of goods – transfer of ownership rights to goods, including their sale, exchange, or presentation as a gift, transfer free of charge or with partial payment, payment of wages in kind, and other payments in kind, as well as transfer of ownership of mortgaged goods to the mortgage holder.

43. Transit across the territory of the Republic of Tajikistan – the shipment of goods under the control of customs authorities across the territory of the Republic of Tajikistan between two points on the customs frontier of the Republic of Tajikistan.

44. Accrual method – tax accounting method under which income and expenditures are recorded at the time work is performed, services are provided, or goods are shipped (delivered) for the purpose of their sale and the receipt of property, regardless of the time of payment.

45. Net profit (net income) – profit (income) remaining after the deduction of the profit tax (income tax) from taxable profit (taxable income).

46. Interest – any payment related to a debt obligation, including a tax obligation, including payments for credits (loans) granted and for funds held on deposits (accounts).

47. Hospitality expenses – this shall refer to expenses related to hosting and providing services for any persons, including those effected for the purpose of establishing or maintaining mutual cooperation, as well as participants arriving to attend meetings of a board of directors or auditing commission, or shareholders' meetings. Hospitality expenses shall include expenses related to holding official receptions for said persons, and providing refreshments (meal services) for them during negotiations.

48. Relatives –

1) persons recognized as such in accordance with the family legislation of the Republic of Tajikistan;

2) persons who as a result of long-term guardianship or serving as foster parents have established a relationship similar to that of relatives.

Guardianship or foster-parent relationships between persons residing together shall be equivalent to family relationships. The fact that such persons may no longer reside together shall not be taken into consideration when determining that a relationship similar to that of relatives remains in place.

49. Provision of services – any activity for remuneration that does not entail the delivery of goods or the performance of work, including:

1) transportation and freight forwarding services, including the transport of gas, oil, and petroleum products and the delivery of electricity or thermal power;

2) leasing of movable property or real estate;

3) communications services, consumer services, housing and municipal services;

4) services in the area of physical education and sports, educational and medical services;

5) advertising services;

6) services related to the updating of technology, data processing services, and data base management services;

7) services related to the pre-sale preparation of goods;

8) services related to the storage of goods or other property or security services;

9) other services, but excluding for purposes of the value-added tax the transfer of ownership rights to cash and leasing arrangements associated with land, as well as services provided to an employer in the capacity of an employee.

#### 50. Financial services –

1) the granting, sale, or transfer of credits, credit guarantees and any other security for money lending transactions, including the management of credits and credit guarantees by a person who has granted the credit or guarantee;

2) the granting, sale, or transfer of loans (including micro-loans), guarantees on loans (micro-loans) and any other security for money-lending transactions, including the management of loans (micro-loans) and guarantees on loans (micro-loans) by a person who has granted the loans (micro-loans) or guarantees;

3) operations related to the management of deposits and accounts, payments, money transfers, debt obligations, means of payment, and instruments of customers;

4) operations related to the circulation of currency, cash, and banknotes that are legal tender (other than numismatic items);

5) operations related to the circulation of stocks, bonds, certificates, bills of exchange, checks, and other securities (other than services related to their safekeeping);

6) operations involving transactions with derivative instruments, forward contracts, options, and similar agreements;

7) services related to the management of investment funds;

8) insurance and reinsurance operations;

9) financial leasing. For the purposes of this Code financial leasing shall be treated as a single operation consisting of the acquisition (delivery and/or import) of depreciable tangible property (depreciable fixed assets) and/or its leasing in accordance with Articles 33 and 192 of this Code.

A specific list of operations defined by the term “financial services” in accordance with this item shall be established by the Republic of Tajikistan Ministry of Finance in consultation with the National Bank of Tajikistan and the authorized government body.

51. Share interest – the contribution of property by individuals and legal entities to the establishment of enterprises, with the exception of joint-stock companies.

52. Electronic taxpayer document – a document compiled and transmitted following an established electronic format, which has been encoded and certified by an electronic signature, and which serves as an official reporting document after it has been accepted and its authenticity has been verified.

53. Insurance payment (insurance compensation, insured amount) – the amount paid by an insurance organization to an insured person under property and liability insurance to cover losses sustained as a result of insured events.

54. Leasing company – a legal entity that earns more than 50 percent of its income from leasing operations.

55. Person – an individual or legal entity in accordance with the Civil Code of the Republic of Tajikistan. Except as otherwise provided by this Code, a corporation, company, firm, foundation, institution, or other entity established in accordance with the legislation of a foreign state, as well as their separate subdivisions (subsidiaries, representative offices, permanent establishments, etc.) established in accordance with the legislation of a foreign state or the Republic of Tajikistan, international organizations, their branch offices and representative offices, established and/or functioning on the territory of the Republic of Tajikistan, for the purposes of this Code shall be treated as independent legal entities regardless of whether they have the status of a legal entity in the foreign state in which they were established.

## **SECTION II. GENERAL ADMINISTRATIVE PROVISIONS**

### **CHAPTER 3. GENERAL PROVISIONS**

#### **Article 35. Procedure for the Application of Administrative Provisions**

The administrative provisions established in this section and in Section III shall apply to all types of taxes except as otherwise provided by this Code.

The rules set forth under this chapter shall extend to tax agents.

#### **Article 36. Tax Control to Ensure that Payments to the Budget Are Made in Full and in a Timely Manner**

1. Tax authorities shall bear full and exclusive responsibility for performing tax control activities related to the monitoring of individuals and legal entities and verification that taxes are calculated correctly and paid in a timely manner, and for all other aspects of taxation and the collection of taxes, with the exception of cases in which this Code assigns such responsibility to other bodies.

2. Tax control shall be performed by tax authorities by means of:

- 1) the registration of taxpayers and the assignment of a taxpayer identification number;
- 2) the recording of objects of taxation and objects related to taxation;

- 3) the recording of budget receipts;
- 4) the recording of payers of the value-added tax;
- 5) tax audits;
- 6) in-house control activities;
- 7) monitoring of the regulations for the use of cash registers with fiscal memory;
- 8) monitoring of the correct stamping of certain types of excisable goods and the establishment of excise posts;
- 9) monitoring authorized bodies responsible for the collection of taxes, fees, and other compulsory payments to the budget.

3. Customs authorities shall perform tax control activities within the scope of their authority with regard to the collection of taxes and other compulsory payments to the budget that are payable in connection with the movement of goods across the customs frontier of the Republic of Tajikistan, in accordance with this Code and the customs legislation of the Republic of Tajikistan.

### **Article 37. Rights of Taxpayers, Assurance and Protection Thereof**

1. A taxpayer shall have the right:

- 1) to obtain information from tax authorities on taxes and other compulsory payments to the budget, on changes in the tax legislation, and written explanations of issues pertaining to application of the tax legislation;
- 2) to represent his interests in tax matters personally or through a representative;
- 3) to be present when tax control measures are being carried out, and to obtain copies of documents concerning the results of tax control measures;
- 4) to provide explanations to tax authorities regarding the calculation and payment of taxes and other compulsory payments to the budget in response to the results of tax control measures;
- 5) to obtain statements from his personal account on the status of settlements with the budget relating to the fulfillment of tax obligations;
- 6) to appeal tax audit reports and notifications based on tax audit reports, and actions (inaction) of tax authority officials, following the procedure established by this Code and other legislative acts of the Republic of Tajikistan;
- 7) to request the observance of tax secrecy;
- 8) not to provide information and documents that do not pertain to taxation;

9) to take advantage of tax concessions given the grounds and following the procedure established by the tax legislation;

10) to obtain a deferment of the deadline for the payment of taxes (extension) following the procedure and under the conditions established by this Code;

11) to a timely credit or refund of taxes paid or collected in excess of the required amount (taxes applied to the budget in excess of the required amount);

12) to request that tax authority officials comply with the tax legislation in their performance of actions with respect to taxpayers;

13) not to comply with acts (decisions) and requests of tax authorities and their officials which are not consistent with the tax legislation, other regulatory legal acts pertaining to taxation, and the legislation of the Republic of Tajikistan.

2. A taxpayer shall have other rights provided for under the tax legislation of the Republic of Tajikistan.

3. Taxpayers shall be guaranteed legal protection of their rights and lawful interests.

The procedure for protection of the rights and lawful interests of taxpayers shall be determined by this Code and other legislation of the Republic of Tajikistan.

4. The rights of taxpayers shall be ensured by the corresponding obligations of tax authority officials.

Failure to fulfill or improper fulfillment of duties related to ensuring the rights of taxpayers shall result in liability as provided for by the legislation of the Republic of Tajikistan.

### **Article 38. Responsibilities of a Taxpayer**

1. A taxpayer shall be required:

1) to register as a taxpayer and as a payer of the value-added tax in a timely manner;

2) to meet tax obligations in full in accordance with this Code;

3) to fulfill lawful requests by tax authorities to eliminate violations of the tax legislation that are discovered, and also not to interfere with lawful activities carried out in the performance of their official duties;

4) to allow tax authority officials to examine property that is an object of taxation and/or an object related to taxation on the basis of an official order;

5) to submit tax returns, other tax reporting forms, and documents to the appropriate tax authorities, following the procedure provided for by this Code;

6) to effect settlements with consumers, which are performed in the process of commercial transactions or in the provision of services, using cash, bank payment cards, and checks accompanied by the mandatory application of cash registers with fiscal memory and the issuance of a receipt directly to the consumer in accordance with this Code;

7) to maintain a record of his own income (expenditures), objects of taxation and/or objects related to taxation in accordance with the tax legislation, following the established procedure;

8) to preserve accounting data, other records and documents required for the calculation and payment of taxes for a given calendar, as well as documents confirming income received, expenditures made, and taxes paid (withheld) for at least three years following the end of that calendar year.

2. A taxpayer shall fulfill other obligations as provided for by this Code.

3. In addition to the obligations provided for under item 1 of this article, legal entities and individual entrepreneurs shall be required to provide written notice to the tax authority with which they are registered:

1) regarding all separate subdivisions in existence on the territory of the Republic of Tajikistan no later than 30 calendar days from the date they are established, reorganized, or liquidated;

2) regarding a declaration of insolvency (bankruptcy), liquidation, or reorganization no later than 10 calendar days from the date such a decision is made;

3) regarding a change in their location or place of residence no later than 10 calendar days from the date such a change occurs.

4. A taxpayer shall bear liability in accordance with this Code and other legislation of the Republic of Tajikistan for failure to fulfill or for improper fulfillment of the obligations assigned to him.

### **Article 39. Right to Representation in Relations Governed by the Legislation on Taxes**

1. A taxpayer may participate in relations governed by the legislation on taxes through a legal or authorized representative, except as otherwise provided by this Code.

2. Personal participation by a taxpayer in relations governed by the legislation on taxes shall not deprive him of the right to have a representative, just as participation by a representative shall not deprive a taxpayer of the right to participate personally in said legal relations.

3. The authorities of a representative must be documented in accordance with this Code and other laws of the Republic of Tajikistan.

### **Article 40. Taxpayer's Legal Representative**

1. Persons who are authorized to represent a given legal entity on the basis of the law or its charter documents shall be recognized as legal representatives of a taxpayer that is a legal entity.

2. Persons who are acting in the capacity of a given individual's representatives in accordance with the civil legislation of the Republic of Tajikistan shall be recognized as legal representatives of a taxpayer that is an individual.

#### **Article 41. Actions (Inaction) of a Legal Entity's Legal Representatives**

The actions (inaction) of a legal entity's legal representatives which are carried out in connection with the participation of said person in relations governed by the legislation on taxes shall be recognized as the actions (inaction) of the given legal entity.

#### **Article 42. Taxpayer's Authorized Representative**

1. An individual or legal entity who has been authorized by a taxpayer to represent his interests in relations with tax authorities and other participants in relations governed by the legislation on taxes shall be recognized as the taxpayer's authorized representative.

2. Officials of tax authorities and tax police units, judges, investigators and prosecutors, as well as other employees of law enforcement and judicial authorities, customs authorities, and military personnel may not serve as a taxpayer's authorized representatives.

3. An authorized representative of a taxpayer that is a legal entity shall exercise his authorities on the basis of a power of attorney issued in accordance with the procedure established by the civil legislation of the Republic of Tajikistan.

An authorized representative of a taxpayer who is an individual shall exercise his authorities on the basis of a notarized power of attorney or a power of attorney that is equivalent to a notarized one in accordance with the procedure established by the civil legislation of the Republic of Tajikistan.

#### **Article 43. Currency Used for Purposes of Taxation**

For purposes of taxation, any transaction in foreign currency shall be converted into the domestic currency of the Republic of Tajikistan at the official exchange rate of the National Bank of Tajikistan on the day the transaction is performed.

Foreign currency for which there is no official exchange rate of the National Bank of Tajikistan shall be determined and converted at the exchange rate of a different currency based on the exchange rate of the respective currencies to the U.S. dollar.

#### **Article 44. Measures to Combat Tax Evasion and Alternative Methods of Taxation**

1. Any amount of money used in the interests of any person shall be considered to have been paid to the given person for purposes of taxation.

Income (profit) earned shall be subject to taxation in accordance with this Code regardless of the basis on which it was received.



If it is determined, following the procedure established by law, that any income or an element (part) thereof has been earned illegally and is subject to forfeiture to the state, an amount equal to the difference between the unlawful income or an element (part) thereof and the taxes previously withheld (paid) in favor of the state from said unlawful income or an element (part) thereof shall be subject to transfer to the state budget.

2. For the purposes of determining tax obligations, tax authorities shall have the right:

1) not to take into account transactions that are of negligible economic significance (with the exception of significance for tax obligations); or

2) to reclassify a transaction in accordance with the actual situation if the form of the transaction is not consistent with its content.

3. Tax authorities shall have the right to establish (assess) the amount of tax owed using direct or indirect valuation methods (on the basis of assets, turnover, production costs, comparison with similar taxpayers, etc.) in the following cases:

1) when it has reliably (in fact) been established that a taxpayer is not reporting his transactions accurately or is not reporting them following the established form and procedure;

2) when accounting documents required for the determination of tax obligations have been lost or destroyed;

3) tax returns are not filed;

4) a taxpayer refuses to allow tax authority officials to examine (inspect) production, warehouse, commercial, and other premises and grounds that are used by the taxpayer to earn income or that are related to the maintenance of objects of taxation;

5) the documents required for the calculation (assessment) of taxes are not submitted to a tax authority within 30 calendar days following the established deadline.

4. In the case of any transaction between related persons, tax authorities may distribute income or deductions between these persons for the purposes of calculating the taxable income that would have been earned had the transaction been effected between unrelated persons. If a taxpayer applies prices in commercial or financial transactions with a related party that are different from those applied between unrelated persons, for purposes of taxation tax authorities shall adjust the taxpayer's income by the resulting price difference.

5. In the event that an individual declares income that is not consistent with expenditures actually effected on personal consumption, including the purchase of property, tax authorities may determine income for purposes of taxation on the basis of an estimate of the expenditures effected by said person, taking into account income in previous periods.

6. With respect to any taxes, barter and/or other transactions referred to under item 3 of Article 32 of this Code, including income earned and expenditures effected in kind, shall be treated by tax authorities as the sale of goods (the result of work, services) at market prices with the

mandatory presentation of invoices for the relevant transactions following the same procedure as that used in cash sales. If the value of a barter or other transaction referred to under item 3 of Article 32 of this Code is under-reported in an invoice, a tax authority shall adjust the taxable objects in light of market prices in accordance with the provisions of Article 32 of this Code, it shall recalculate the tax amount, and impose sanctions in accordance with this Code.

7. The procedure for the application of measures to combat tax evasion and alternative taxation methods shall be established by the Republic of Tajikistan government, based on a representation from the authorized government body that has been approved by the Republic of Tajikistan Ministry of Finance.

#### **Article 45. Registration of Taxpayers. Procedure for Registration, Re-Registration, and Removal from Registration. Taxpayer Identification Number**

1. For tax control purposes, taxpayers and tax agents, as well as all legal entities, including separate subdivisions established by them (subsidiaries, representative offices, permanent establishments, etc.), and citizens of the Republic of Tajikistan over 16 years of age (referred to hereinafter in this article as “taxpayer” or “taxpayers”) shall be required to register with tax authorities serving the area where the legal entity is located, where its separate subdivisions are located, where the individual maintains his place of residence, and also where real estate and means of transport belonging to him that are subject to taxation are located, respectively, following the procedure determined by the authorized government body in accordance with this article.

A legal entity that has separate subdivisions located on the territory of the Republic of Tajikistan, and also a legal entity that has real estate and means of transport which are subject to taxation, shall be required to register as a taxpayer both with the tax authority serving the area where the legal entity itself is located, and with the ones serving the areas in which each of its separate subdivisions are located and the area where the real estate and means of transport belonging to it are located.

The authorized government body, taking into account the provisions of this article, shall have the right to establish specific requirements for the registration of large taxpayers.

2. Individuals and legal entities shall be registered with a tax authority as taxpayers regardless of the existence of circumstances which give rise to an obligation to pay one type of tax or another in accordance with this Code.

3. The registration of individuals with tax authorities shall be performed by the tax authority serving the area where an individual maintains his place of residence on the basis of information furnished by bodies referred to in Article 47 of this Code and/or an application submitted by an individual to tax authorities within the deadline established by the legislation of the Republic of Tajikistan.

4. A legal entity’s application for registration shall be submitted to the tax authority serving the area in which the given legal entity is located within 30 calendar days of its state registration.

5. In the case of a legal entity doing business in the Republic of Tajikistan through a separate subdivision, a legal entity’s application for registration shall be submitted based on the location of the separate subdivision within 30 calendar days of the establishment of the separate subdivision.

6. A legal entity's application for registration based on the location of real estate or means of transport belonging to it shall be submitted to the tax authority serving the area where this property is located within 30 calendar days of its state registration.

The registration of an individual with tax authorities based on the location of real estate belonging to him that is an object of taxation shall be performed on the basis of information furnished by bodies referred to in Article 47 of this Code.

For the purposes of this article, the following shall be recognized as the location of property:

1) for marine and river vessels and aircraft– the location (place of residence) of the property owner;

2) for means of transport not referred to in subitem 1) of this item – the place (port) of registry or place of state registration, and in the absence of such – the location (place of residence) of the property owner;

3) for real estate – the actual location of the property.

7. In those cases referred to under item 3 and the second paragraph of item 6 of this article, a tax authority shall be required to provide immediate notification to an individual regarding his registration.

8. In the event that a taxpayer has difficulties determining the place of registration, the relevant decision shall be made by the tax authority serving the area in which an individual maintains his place of residence or a legal entity is located, on the basis of data furnished by the taxpayer.

9. Tax authorities shall have the right, on the basis of data and information furnished to them by bodies referred to in Article 47 of this Code, as well as any information available to them that is necessary and sufficient for registration purposes, to independently effect the registration of taxpayers with tax authorities (prior to the filing of an application by a taxpayer).

10. The form of an application for registration of an individual and/or legal entity shall be established by the authorized government body. When filing a registration application, a legal entity shall simultaneously submit copies of the following documents, which have been certified following the established procedure: a certificate of state registration, and charter and other documents confirming the establishment of the legal entity in accordance with the legislation of the Republic of Tajikistan.

When filing a registration application, an individual shall simultaneously submit the passport issued to him as a citizen of the Republic of Tajikistan (referred to hereinafter as a "passport"), which serves to confirm the taxpayer's identity. It shall be prohibited to request other documents that are not specified under this article.

When performing the registration of taxpayers, the following personal data shall also be included as part of the information on individuals:

- 1) last name, first name, patronymic;
- 2) date of birth;
- 3) gender;
- 4) home address;
- 5) passport data (number, series, date of issue, issuing agency);
- 6) citizenship.

11. A tax authority shall be required to register a taxpayer within 10 calendar days of the date the taxpayer submits all of the necessary documents and shall be required within the same time period to issue the relevant registration certificate, the form of which shall be established by the authorized government body; and in those cases established by this Code, a tax authority shall also be required to assign a taxpayer identification number to the taxpayer and to issue a Taxpayer Identification Number Certificate.

12. Legal entities shall be required to notify the tax authority with which they are registered of changes to their charter and other founding documents, including those related to the establishment of new separate subdivisions or their liquidation, a change in location, as well as permits to engage in licensed activities, within 30 calendar days of the registration of changes to charter documents or the granting of a permit to engage in licensed activities. Individuals shall be required to notify the tax authority with which they are registered of a change in their place of residence within 30 calendar days of such a change.

13. If a registered taxpayer has changed location or place of residence, the taxpayer shall be removed from registration by the tax authority with which the taxpayer was registered prior to the change in location or residence within 10 calendar days of the taxpayer's submission of a notice of change of location or residence.

14. In the event of the liquidation or reorganization of a legal entity, a decision by a legal entity to close a subsidiary or other separate subdivision or to terminate operations through a permanent establishment, the incapacitation of an individual or the death of an individual, the removal from registration shall be performed by the tax authority with which the taxpayer was registered, at the request of the taxpayer or other person authorized by the legislation within 10 calendar days of the submission of such a request.

15. Registration and removal from registration shall be performed free of charge.

16. When registering a legal entity based on its location or the location of its separate subdivisions (subsidiaries, representative offices, permanent establishments, etc.), and when registering an individual based on his place of residence, each of these persons, including the aforementioned separate subdivisions, shall be assigned a taxpayer identification number (referred to hereinafter as a TIN), which must be used for purposes of collecting all taxes, including customs payments, the social tax, and stamp duty.

A TIN that has been assigned to a given taxpayer shall not be changed under any circumstances (with the exception of those cases referred to in this article) and may not be assigned to another taxpayer (any other individual or legal entity), even in the event of the liquidation of a given taxpayer that is a legal entity (or a separate subdivision thereof) or the death of a given taxpayer who is an individual.

A taxpayer identification number that has been assigned to a specific taxpayer may be changed only in the event that the Republic of Tajikistan government adopts a special decision regarding the complete re-registration of all taxpayers or one of the two taxpayer groups (individuals and legal entities), and also if tax authorities have made errors in assigning a TIN (incorrect assignment of a TIN, assignment of the same TIN to different taxpayers, or the assignment of more than one TIN to the same taxpayer).

Legal entities and their separate subdivisions shall be issued a Taxpayer Identification Number Certificate by the relevant tax authority following the form established by the Republic of Tajikistan government.

A notation shall be made by the relevant tax authority regarding the assignment of a taxpayer identification number to an individual who is a citizen of the Republic of Tajikistan in said person's passport under the "Special Notes" section, by imprinting a stamp and entering the TIN. The procedure for preparing stamp designs and recording the TIN in a passport shall be established by the Republic of Tajikistan government based on a representation from the authorized government body as approved by the Republic of Tajikistan Ministry of Internal Affairs.

The procedure and conditions for the assignment, application, and also the change and correction of a taxpayer identification number in accordance with this Code shall be determined by the Republic of Tajikistan government.

17. Individuals and legal entities shall be required to indicate their taxpayer identification numbers in tax returns, invoices, correspondence with tax, customs, or financial authorities, in customs declarations, in relations with the Social Protection Fund under the Republic of Tajikistan government, in business documents (contracts, agreements), and in other documents as specified by this Code. The TIN must be indicated on letterhead and stamps of legal entities and individual entrepreneurs following the procedure established by the authorized government body in consultation with the Republic of Tajikistan Ministry of Internal Affairs.

18. The authorized government body shall maintain a Uniform State Register of Taxpayers on the basis of registration data, following the procedure established by the Republic of Tajikistan government.

19. An instruction on the procedure for the registration, re-registration, and removal from registration of taxpayers shall be adopted by the authorized government body in consultation with the Republic of Tajikistan Ministry of Internal Affairs, the Republic of Tajikistan Ministry of Finance, and the Social Protection Fund under the Republic of Tajikistan government.

#### **Article 46. Provisions Specific to the Registration of Nonresident Individuals and Legal Entities**

1. In consideration of the provisions of Article 45 of this Code, the following shall be subject to registration in the Republic of Tajikistan as taxpayers, accompanied by the assignment of a taxpayer identification number.

1) nonresident individuals engaged in individual entrepreneurial activity in the Republic of Tajikistan through a permanent establishment – with the tax authority serving the area where they are staying (residing);

2) nonresident legal entities doing business in the Republic of Tajikistan accompanied by the formation of a permanent establishment – with the tax authority serving the area in which the permanent establishment is located.

2. A nonresident individual who is engaged in individual entrepreneurial activity in the Republic of Tajikistan through a permanent establishment shall be required to register with a tax authority within 30 calendar days of the date such entrepreneurial activity begins.

3. A nonresident legal entity that is doing business in the Republic of Tajikistan through a permanent establishment shall be required to go through the registration process with a tax authority within 30 calendar days of the date such business begins.

4. An individual or legal entity, including nonresidents, whose activities are treated as a permanent establishment of a nonresident legal entity in accordance with subitem 5 of item 4 of Article 23 of this Code, shall be required to file an application with a tax authority for registration of its nonresident legal entity partner within 10 calendar days of the date a relevant agreement (contract) is concluded with the partner or within 10 calendar days of the date such activities actually begin, for the purpose of the assignment of a taxpayer identification number to the nonresident legal entity.

5. The date on which a nonresident's activities in the Republic of Tajikistan begin shall be one of the following dates:

1) the date on which a contract (agreement) is concluded:

- for the performance of work (provision of services) in the Republic of Tajikistan;
- granting authorities to perform actions in the Republic of Tajikistan on its (the nonresident's) behalf;
- for the purchase of goods in the Republic of Tajikistan for the purpose of their onward delivery;
- as a joint operating agreement (participation in a simple partnership) in the Republic of Tajikistan;
- for the purchase of work (services) for the purpose of doing business in the Republic of Tajikistan;

2) the date on which an individual labor contract or other contract of a civil-legal nature is concluded with an individual in the Republic of Tajikistan;

3) the date on which an agreement (purchase and sale agreement, property leasing agreement) is concluded indicating the opening of an office.

In the event that several of the conditions referred to under this item are present, the date on which activities begin in the Republic of Tajikistan shall be the date on which the first (earliest) of said contracts (agreements) is concluded.

6. Nonresidents not referred to under item 1 of this article who arrive in the Republic of Tajikistan for the purpose of earning income from sources in the Republic of Tajikistan shall be required to submit to the appropriate tax authority a notice that they have started operating in the Republic of Tajikistan within 10 calendar days of the date of their arrival in the Republic of Tajikistan.

7. The Republic of Tajikistan government may establish other special requirements for the registration of nonresident individuals and legal entities.

**Article 47. Responsibilities of Bodies Performing the State Registration of Legal Entities, Individuals' Place of Residence, and Civil Status Documents; Issuing Passports to Citizens; and Recording and Registering Property and Property Transactions**

1. Bodies that perform the state registration of legal entities shall be required to notify the tax authority serving the area in which they are located of legal entities that have been registered (re-registered) or liquidated (reorganized) during the reporting month before the 15<sup>th</sup> of the month following the reporting month.

2. Bodies that issue licenses, certificates, and other similar documents to individuals and legal entities shall be required to notify the appropriate tax authorities serving the area in which they are located of persons to whom they have issued such documents, who have had such documents revoked, or whose documents have expired, before the 15<sup>th</sup> of the month following the month in which said documents were issued or withdrawn or in which the documents expired.

3. Bodies that perform the registration of individuals based on their place of residence or the registration of civil status documents for individuals, or that issue passports to citizens of the Republic of Tajikistan, shall be required before the end of the reporting month to notify tax authorities serving the area in which they are located of the registration or death of individuals, or of passports issued to citizens of the Republic of Tajikistan, respectively, during the first 15 days of the reporting month, and such notification must be provided before the 15<sup>th</sup> of the month following the reporting month for events that occurred during the second half of the reporting month.

4. Bodies that perform the recording and/or registration (re-registration) of real estate and means of transport that are an object of taxation shall be required to notify tax authorities serving the area in which they are located of real estate and means of transport located on the territory under their jurisdiction and registered with these bodies, and they shall also be required on an annual basis to provide information regarding their owners as of December 31 of the reporting year, before January 31 of the year following the reporting year.

5. Guardianship and foster care bodies, childcare and medical institutions, social protection institutions, and other similar institutions which in accordance with the legislation of the Republic of Tajikistan provide for guardianship, foster care, or management of the property of a ward, shall be required to provide notification of the establishment of a guardianship for individuals who have been found to be incompetent by the courts, of guardianship, foster care, and management of the property of young children, other minors, individuals who have been found by the courts to be of limited competence, competent individuals who have been placed in the care of foster parents, individuals who have been declared missing by the courts, as well as subsequent changes related to

such guardianship, foster care, or property management, to tax authorities serving the area in which they are located before the 15<sup>th</sup> of the month following the month in which the relevant decision was made.

6. Bodies (institutions) that are authorized to perform notary services and notaries shall be required to provide notification of the notarization of real estate titles, inheritance rights, and gift agreements to the tax authority serving the area in which they are located on a quarterly basis before the 15<sup>th</sup> of the month following the reporting quarter.

7. Bodies that perform the recording and/or registration of users of natural resources, including state registration of land use rights, as well as the licensing of activities related to the use of these resources, shall be required to notify the tax authority serving the area in which they are located of the granting of such rights before the 15<sup>th</sup> of the month following the month of registration (issuance of the relevant license or mineral use permit).

8. Tax authorities that receive the relevant information from bodies referred to in items 1–7 of this article shall be required within 30 calendar days of the receipt of the information to forward the information to the tax authorities with which the individuals or legal entities in question are registered.

9. The procedure for and form of relations among bodies referred to in this article shall be determined in instructions issued by the authorized government body and the relevant government authorities whose functions include those referred to under items 1–7 of this article.

## **CHAPTER 4. TAX AUDITS AND OTHER FORMS OF CONTROL**

### **Article 48. The Concept and Types of Tax Audits**

1. A tax audit shall refer to an inspection by tax authorities of compliance with the tax legislation of the Republic of Tajikistan. Participants in tax audits shall be tax authority officials referred to in an official order and the taxpayer.

2. Tax audits shall be performed exclusively by tax authorities in accordance with this Code.

3. Tax audits shall be broken down into the following types:

- 1) documentary audit;
- 2) field audit;
- 3) time-study survey.

4. Documentary audits shall be broken down into the following types:

1) comprehensive audit – an audit of compliance with the tax legislation for all types of taxes;

2) targeted audit – an audit of compliance with the tax legislation for one type of tax;



3) counter audit – an audit performed with respect to third parties in the event that in the course of performing tax audits a tax authority needs to obtain additional information regarding the proper tax accounting of transactions by a taxpayer.

5. A field audit shall be performed by tax authorities with respect to individual taxpayers to determine their observance of individual requirements of the tax legislation of the Republic of Tajikistan, namely:

- 1) the registration of taxpayers with tax authorities;
- 2) the proper application of cash registers with fiscal memory;
- 3) the existence of licenses and other permits;
- 4) observance of regulations concerning the production, bottling (packaging), storage, and sale of excisable goods.

6. Time-study surveys shall be performed by tax authorities with the aim of determining a taxpayer's actual income and actual expenses related to earning said income. Time-study surveys shall be performed following the procedure established by the authorized government body.

7. Documentary tax audits, including unscheduled ones, shall be performed by tax authorities on the basis of requests from law enforcement authorities exclusively with respect to taxpayers about whom written information has been received confirming that a criminal case has been filed in connection with evidence of tax-related crimes, in accordance with the legislation of the Republic of Tajikistan.

8. The performance of a tax audit must not suspend the taxpayer's activities, except in those cases established by legislative acts of the Republic of Tajikistan.

9. A tax authority shall have the right to audit separate subdivisions of a legal entity regardless of whether an audit of the parent legal entity itself is performed.

#### **Article 49. Frequency of Tax Audits**

1. Tax audits shall be performed with the following frequency:

- 1) comprehensive audits shall be performed no more than once a year;
- 2) targeted audits shall be performed no more than once every six months with regard to the same type of tax.

If a comprehensive audit of a taxpayer has been performed in a tax year, targeted audits shall not be performed with respect to the same taxpayer for 12 months from the date the comprehensive audit was completed.

Payers of the tax paid under the simplified system and payers of the uniform tax for producers of agricultural products in accordance with Chapters 41 and 42 of this Code shall be

subject to comprehensive tax audits no more than once every two years, and to targeted audits no more than once a year.

2. Tax audits focused on specific taxes shall be performed on the basis of tax periods that have ended.

3. The restrictions provided for under item 1 of this article shall not apply to the following cases:

1) when documentary tax audits are conducted in connection with the reorganization or liquidation of a legal entity and the termination of operation of an individual entrepreneur, and also in the event of removal from registration for the value-added tax on the basis of a taxpayer's request. In this case an audit must be initiated no later than 30 calendar days after the receipt of the taxpayer's request;

2) when documentary audits are conducted in connection with the expiration of a contract for the use of mineral resources;

3) when counter audits are performed;

4) when targeted audits are conducted on the basis of a taxpayer's request to verify the correct amount of value-added tax for which a refund has been requested;

5) when supplemental audits are conducted on the basis of a decision by a body reviewing a taxpayer's appeal regarding notification of a tax audit report;

6) when unscheduled documentary audits are conducted in accordance with an order issued by the first director of the authorized government body (or an authorized official acting in his place) with respect to an individual taxpayer, and also on those grounds provided for under item 7 of Article 48 of this Code.

Tax authorities may conduct counter audits only on the basis of a separate order issued by the first director (or an official acting in his place) permitting the performance of the principal audit.

4. Tax authorities shall be prohibited from performing repeat documentary tax audits of a tax period that has already been audited, with the exception of cases in which such an audit (within the statute of limitations established under Article 86 of this Code) is performed in connection with the reorganization or liquidation of a legal entity-taxpayer or by a higher-level tax authority (the authorized government body) provided there are sufficient grounds for doing so, for the purpose of monitoring the activities of the tax authority that performed the audit, and also on the basis of subitem 5) of item 3 of this article or on the basis of a written request from the taxpayer.

In the event that additional taxes are assessed in the course of a repeat documentary audit of a tax period that has already been audited, the taxpayer shall be exempt from liability in the form of penalties and interest established by this Code with respect to these tax obligations, for the period from the moment such tax obligations are incurred until the additional assessment takes place during the repeat documentary tax audit. A taxpayer shall not be exempt from the requirement to transfer the additional tax payments to the appropriate budget in a timely manner (within the established deadline).

## **Article 50. Deadlines for the Performance of Tax Audits**

1. The deadline for the performance of tax audits specified in orders that are issued must not exceed 30 business days from the date the order is presented, except as otherwise provided by this article.

2. When a tax audit is performed of a legal entity that has a separate subdivision, as well as taxpayers that are registered with the Tax Inspectorate for Large Taxpayers, the deadline for the performance of a tax audit may be set by a tax authority at up to 60 business days.

3. The time counted toward the deadline for performance of a tax audit shall be suspended by the period of time between the moment that a taxpayer receives requests from the tax authority to provide documents and the taxpayer's presentation of the documents requested in process of the tax audit, and also by the period of time required to obtain information and documents from third parties at a tax authority's request.

4. The deadlines for the performance of time-study surveys shall be established in accordance with the procedure for the performance of time-study surveys established by the authorized government body.

## **Article 51. Grounds for the Performance of a Tax Audit**

1. An order containing the following details shall serve as the grounds for the performance of a tax audit:

- 1) the date and registration number of the order at a tax authority;
- 2) the name of the tax authority that issued the order;
- 3) the full name of the taxpayer;
- 4) the taxpayer identification number;
- 5) the type of audit;
- 6) the titles, last names, first names, and patronymics of the persons performing the audit;
- 7) the deadline for performance of the audit;
- 8) the tax period being audited in the case of documentary audits.

2. When field audits are called for, the order must indicate the physical area that is to be inspected, issues that are to be clarified in the course of the audit, as well as information specified under item 1 of this article, with the exception of subitems 3), 4), and 7).

3. When targeted and counter audits are called for, the order shall specify the type of tax being audited.

4. An order must be signed by the first director of a tax authority or an authorized official acting in his place and it must be certified by the official stamp and recorded in a special ledger in accordance with the procedure established by the authorized government body.

5. Only one audit may be performed on the basis of a single order.

#### **Article 52. Beginning of a Tax Audit**

1. The moment that a taxpayer (tax agent) is presented with an order shall be considered the beginning of a tax audit.

2. Tax authority officials performing a tax audit shall be required to present a taxpayer (tax agent) with their official identification and to make an entry to this effect in the Registration Book of Audits of Economic Entities.

3. A tax authority official performing a tax audit, with the exception of field audits, shall present the taxpayer with the original copy of the order. A notation shall be made by the taxpayer (tax agent) in a copy of the order indicating that he has read the order and received a copy.

4. When field audits are performed, the taxpayer shall be presented with the original copy of the order for review and a copy thereof shall be given to the taxpayer, which has been signed by the tax authority official performing the audit. A notation shall be made by the taxpayer, along with his signature, indicating that he has read the order and received a copy.

5. A refusal by a taxpayer (tax agent) to accept an order shall not serve as grounds for cancellation of a tax audit.

#### **Article 53. Access by Tax Authority Officials to Grounds or Premises for the Performance of a Tax Audit**

1. A taxpayer shall be required to grant access to tax authority officials performing a tax audit to grounds or premises (other than residential premises) used to earn income, or to objects of taxation and objects related to taxation, for inspection purposes.

2. A protocol shall be drawn up in the event that tax authority officials performing a tax audit are hindered from gaining access to said grounds or objects of taxation or objects related to taxation, or to premises (other than residential premises).

3. A protocol shall be signed by the tax authority officials performing a tax audit and by the taxpayer (tax agent). In the event of a refusal to sign said protocol, the taxpayer (tax agent) shall be required to provide a written explanation of the reasons for the refusal. If a taxpayer refuses to provide a written explanation of the reasons for not signing a protocol, the tax authority officials performing a tax audit shall draw up a report on the taxpayer's refusal to sign the protocol in the presence of two witnesses, and the report shall be signed by these officials and the witnesses and measures shall be undertaken as provided for by this Code.

4. Tax authority officials must carry with them special passes if such passes are required for access to the grounds or premises of a taxpayer in accordance with legislative acts of the Republic of Tajikistan.

5. A taxpayer shall have the right not to allow access to grounds or premises by tax authority officials for the performance of a tax audit if:

1) there is no order or an order has not been presented or has not been drawn up following the established procedure;

2) the time period for performing the audit as indicated in the order has not yet arrived or has expired;

3) the given persons are not mentioned in the order;

4) the documents requested do not pertain to the tax period being audited;

5) the tax authority officials have refused to make an appropriate entry regarding the tax audit in the Registration Book of Audits of Economic Entities.

6) there are no special passes as referred to under item 4 of this article.

#### **Article 54. Seizure of Documents**

The seizure of documents shall be carried out in accordance with this Code and legislative acts of the Republic of Tajikistan.

#### **Article 55. Completion of a Tax Audit**

1. Upon completion of a tax audit tax authority officials shall draw up a tax audit report indicating:

1) the location of the tax audit and the date the report was drawn up;

2) the type of audit;

3) the titles, last names, first names, and patronymics of the tax authority officials performing the audit;

4) the last name, first name, and patronymic or the full name of the taxpayer (tax agent);

5) the location and bank details of the taxpayer (tax agent), as well as the taxpayer identification number;

6) the last names, first names, and patronymics of the manager and officials of the taxpayer (tax agent) who are responsible for maintaining tax records and accounting and for the payment of taxes to the budget;

7) information about previous audits and measures taken to remedy violations of the tax legislation of the Republic of Tajikistan previously identified;

8) the tax period being audited and general information about documents presented by the taxpayer (tax agent) for performance of the audit;

9) a detailed description of the tax violation with a reference to the relevant provision of the tax legislation of the Republic of Tajikistan;

10) the results of the tax audit.

2. A tax audit shall be considered completed on the date on which the taxpayer is presented with a tax audit report or the date on which a tax audit report is sent to him by registered letter with a return receipt in the event that the taxpayer (tax agent) refuses to accept the tax audit report, but not later than five business days from the deadline specified in the order.

3. In the event that no violations of the tax legislation are identified upon completion of a tax audit, a notation to this effect shall be made in the tax audit report.

4. The required copies of documents, calculations performed by a tax authority official, and other materials obtained in the course of a tax audit shall be attached to a tax audit report.

5. At least two copies of a tax audit report shall be prepared and signed by the tax authority officials who performed the tax audit and by the taxpayer.

6. One copy of a tax audit report shall be presented to the taxpayer (tax agent). Upon receipt of a tax audit report a taxpayer (tax agent) shall be required to make a notation on and sign the other copy of the report indicating that he has received a copy.

If a taxpayer (tax agent) has refused to accept a tax audit report, a note to this effect shall be made on the copy of the tax audit report kept by the tax authority, which shall be confirmed by the signatures of the tax authority officials who performed the tax audit. In this case the tax audit report shall be sent to the taxpayer (tax agent) by registered letter with a return receipt.

7. A tax audit report shall be recorded in a special ledger for the recording of tax audit reports and orders, which is maintained at each tax authority and must be numbered, bound, and sealed with the official stamp of the tax authority. The form and procedure for maintaining this special ledger, as well as the procedure for the storage of tax audit reports, shall be determined by the authorized government body.

## **Article 56. Decision Based on Tax Audit Results**

1. Upon completion of a tax audit, based on the results reflected in the tax audit report, a tax authority shall issue a notification under the signature of the first director of the tax authority or a person serving in his place, indicating the amount of taxes, penalties, and interest assessed, which shall be sent to the taxpayer (tax agent) within 10 business days of the date on which the tax audit is completed.

2. A tax authority shall register the notification of the amount of taxes, penalties, and interest assessed and the tax audit report under the same number.

3. A notification of the amount of taxes, penalties, and interest assessed must contain the following information:

- 1) the date and registration number of the notification and the tax audit report;
- 2) the last name, first name, and patronymic or full name of the taxpayer;
- 3) the taxpayer identification number;
- 4) the amount of taxes assessed, including interest and penalties;
- 5) a request for payment and the payment deadlines;
- 6) details regarding the taxes in question (account numbers to which the assessed amounts should be posted);
- 7) the deadlines and place for filing an appeal.

4. A taxpayer who has received a notification of the amount of taxes, penalties, and interest assessed must comply with the notification by the deadlines specified therein, unless the taxpayer has filed an appeal of the results of a tax audit.

5. In the event that no violations of the tax legislation are identified upon completion of a tax audit, the taxpayer shall also receive a notification to this effect.

#### **Article 57. The Concept of In-House Control**

In-house control shall refer to control performed directly by a tax authority based on a study and analysis of tax returns submitted by a taxpayer and other documents. In-house control shall be performed directly at a tax authority's offices.

#### **Article 58. Results of In-House Control**

1. In-house control shall be performed by authorized officials of a tax authority in accordance with their official duties, without any special decision (order) from the director of the tax authority.

2. In the event that a tax authority identifies errors in tax returns, discovers inconsistencies in the information contained in tax returns, and also if the indicators specified for payers of the tax paid under the simplified system are exceeded, a notification shall be sent to the taxpayer to allow for the independent correction of the errors that have been made, as well as notification of conversion to the generally established taxation procedure. The additional assessment of taxes arising from errors identified in the course of in-house control shall be performed only by the tax authority with which the taxpayer is registered.

#### **Article 59. Application of Cash Registers with Fiscal Memory**

1. On the territory of the Republic of Tajikistan monetary settlements effected with consumers involving the sale of goods or performance of services by means of cash, bank payment

cards, and checks shall be performed with the mandatory application of cash registers with fiscal memory, and a receipt must be issued to the consumer.

The provision of this item shall not apply to monetary settlements:

1) by individual entrepreneurs (with the exception of those selling excisable goods):

- doing business on the basis of a patent;

- if six months have not passed since the date of the taxpayer's state registration as an individual entrepreneur (with the exception of one doing business on the basis of a patent)

2) by taxpayers that are related to performing services for the public in which receipts, tickets, coupons, postal payment stamps, or other registered high-security documents equivalent to checks are issued following forms established by the Republic of Tajikistan Ministry of Finance;

3) attorneys, physicians, and other persons in free professions as determined by the Republic of Tajikistan government;

4) individuals who are exempt from the income tax in accordance with subitems 12) and 13) of Article 141 of this Code and who are engaged in the sale of agricultural goods of their own production at public markets and at other specially designated sites outside permanent premises.

2. The procedure for the application of cash registers with fiscal memory shall be established by the Republic of Tajikistan government.

3. Cash registers with fiscal memory shall refer to electronic devices with a fiscal memory unit and/or bank computer systems used for the recording of cash settlements with consumers involving the sale of goods and performance of services, which provide unalterable monthly recording and long-term storage of information that is not dependent on power. The authorized government body, in consultation with the Republic of Tajikistan Ministry of the Economy and Trade, shall establish a State Registry of Cash Registers with Fiscal Memory that are approved for use on the territory of the Republic of Tajikistan.

4. In the event of a technical malfunction of a cash register with fiscal memory or an electric power failure, it shall be permitted to use and issue to buyers receipts for goods following the procedure provided for under subitem 2 of item 1 of this article.

## **Article 60. Requirements for the Application of Cash Registers with Fiscal Memory**

The following requirements shall be established for the application of cash registers with fiscal memory:

1) prior to being put into operation, cash registers with fiscal memory must be registered with the tax authority serving the area in which business is to be conducted;

2) a receipt must be provided from a cash register with fiscal memory;

3) tax authorities must have access to a cash register with fiscal memory.



## **Article 61. Tax Control to Ensure Compliance with the Procedure for the Application and Use of Cash Registers with Fiscal Memory**

Tax authorities:

- 1) shall monitor compliance with the procedure for the application and use of cash registers with fiscal memory;
- 2) shall use data stored in the fiscal memory units of cash registers with fiscal memory when conducting tax audits.

## **Article 62. Control of Excisable Goods**

1. Excisable goods shall be subject to sealing with excise stamps following the procedure and under the conditions determined by the authorized government body.
2. The manufacturers and importers of excisable goods shall be responsible for applying excise stamps to excisable goods.
3. Following the procedure established by the authorized government body, a tax authority shall monitor compliance by the manufacturer of excisable goods with the regulations for the stamping of certain types of excisable goods.
4. A tax authority shall establish excise posts on the grounds of a taxpayer engaged in the production of excisable goods, following the procedure established by the Republic of Tajikistan government.
5. If imported excisable goods are supposed to be sealed with excise stamps, customs authorities of the Republic of Tajikistan shall be prohibited from processing these goods under the release of goods for free circulation, the duty-free shop, the free customs zone, and the free warehouse customs regimes without the prior application of the appropriate excise stamps.

## **Article 63. Monitoring of Authorized Bodies**

Tax authorities shall monitor authorized bodies to ensure the proper calculation, full collection, and timely transfer of taxes and other compulsory payments to the budget.

## **CHAPTER 5. CONTACT WITH TAXPAYERS**

### **Article 64. Correspondence with Taxpayers**

Any notification or any other document sent by a tax authority to a taxpayer must be executed in writing, signed by the director or an authorized official of a tax authority, indicating his last name and initials, and it must be certified by an official stamp and sent or presented to taxpayer in person. Documents shall be considered to have been properly presented if they are delivered to the taxpayer's address by registered mail with return receipt or presented in person to the taxpayer or his authorized representative.

## **Article 65. Validity of Notifications and Other Documents**

No notification of a tax assessment or other document prepared in accordance with the tax legislation shall be considered invalid if:

- 1) they are consistent with this Code in terms of their content and nature;
- 2) the person who is being assessed the tax or to whom the documents pertain is indicated in a manner that is intelligible to all.

## **Article 66. Procedure for the Establishment of Obligations**

In consideration of Articles 64 and 65 of this Code, no notification of a taxpayer by tax authorities shall be legally binding for the tax authorities or the taxpayer if it has not been executed in writing and has not been presented to the taxpayer as required.

## **Article 67. Written Interpretations Regarding Application of the Tax Legislation**

1. A specific taxpayer shall be provided with a written interpretation of the application of the tax legislation by the Majlisi Namoyandagon of the Majlisi Oli of the Republic of Tajikistan and/or the Republic of Tajikistan government, and written interpretations of the application of regulatory legal acts adopted in accordance with this Code shall be provided by the first director (or an authorized official acting in his place) of the authorized government body.

2. If a taxpayer has completely and truthfully indicated the nature of all aspects of an operation pertaining to a given written interpretation, and the operation is performed in all significant respects in accordance with the description provided in the specific taxpayer's statement, a written interpretation that does not contradict the legislation of the Republic of Tajikistan shall be legally binding upon the tax authorities and the taxpayer with regard to the application of the tax legislation in force at the time the written interpretation was sent.

## **CHAPTER 6. PRESENTATION AND COLLECTION OF INFORMATION**

### **Article 68. Compilation and Storage of Accounting Documentation**

1. Any person shall be required to maintain accounting documentation of operations that:
  - 1) could result in tax obligations for the given person;
  - 2) could result in obligations for the given person to withhold taxes; or
  - 3) could result in obligations for the given person to provide information in connection with taxation.
2. Accounting documentation shall consist of primary documents, accounting records, and other documents that are the basis for the identification of objects of taxation and objects related to taxation, and also for the calculation of tax obligations.

3. Taxpayers shall be required to maintain accounting documentation in accordance with regulatory acts of the Republic of Tajikistan Ministry of Finance and the authorized government body, and when necessary those of the National Bank of Tajikistan and other authorized government bodies in accordance with the legislation of the Republic of Tajikistan.

Any primary accounting document must contain the following details, at a minimum:

- 1) the name of the document;
- 2) the date the document was prepared;
- 3) the name of the person (official name of a legal entity or last name and initials of an individual) for whom (to whom) the document was prepared and issued;
- 4) the name of the person (official name of a legal entity or last name and initials of an individual) on whose behalf (by whom) the document was prepared and issued;
- 5) the taxpayer identification number of the person who has prepared and issued the document and the taxpayer identification number of the person for whom the given document was compiled and to whom it was issued;
- 6) the content of the economic operation;
- 7) units of measure of the economic operation in kind and in monetary terms;
- 8) the titles of the persons responsible for performance of the economic operation and its proper documentation and their personal signatures and stamps (if available).

Any primary accounting document must be prepared, at a minimum, in two identical copies, one of which shall remain in the possession of the person who prepared and issued the given document, and the other of which shall be transmitted to and retained by the person for whom the given document is intended.

4. If certain accounting and other documents of a taxpayer have been prepared in a foreign language and they are not intelligible to tax authorities, these documents must be translated by the taxpayer into the official language at the request of tax authorities.

5. When preparing accounting documentation in electronic form, a taxpayer shall be required to furnish hard copies of the given documents in the course of a tax audit at the request of tax authorities.

6. Persons referred to in item 1 of this article shall be required to retain accounting documentation for at least three years following the end of the calendar year to which they apply.

#### **Article 69. Separate Accounting and Rules for Maintaining Separate Accounting Records**

1. Taxpayers who are engaged in activities for which this Code establishes different taxation conditions shall be required to maintain separate accounting records of the objects of taxation and objects related to taxation in connection with these activities.

2. Taxpayers shall maintain separate accounting records by performing calculations on the basis of accounting data taking into consideration the provisions of this Code. These calculations shall be effected separately for each type of activity.

3. All income and expenditures relating to a certain type of activity must be supported by the relevant accounting documentation.

## **Article 70. Tax Reporting**

1. Tax reporting shall consist of documentation containing information on the calculation of tax obligations which is submitted by a taxpayer (tax agent) to tax authorities.

2. Tax reporting shall consist of:

1) tax returns and statements that are to be prepared by a taxpayer for each type of tax;

2) applications for a patent or for permission to apply other tax regimes;

3) applications for a certificate to operate as an individual entrepreneur;

4) applications for registration as a payer of the value-added tax;

5) applications for a value-added tax refund;

6) applications for permission to apply the provisions of agreements on avoidance of dual taxation and other international treaties concerning taxation issues recognized by the Republic of Tajikistan;

7) other documentation that is to be prepared and submitted to tax authorities in accordance with the provisions of this Code.

3. A tax return or tax statement shall be a written declaration and/or electronic document of a taxpayer or tax agent submitted to tax authorities following the procedure established by this Code, which must contain information about objects of taxation and objects related to taxation, and also about the calculation of tax obligations and other data related to the calculation and payment of taxes to the budget.

4. In the event of the actual absence of certain data that are supposed to be provided in a tax return and/or statements, the corresponding attachments to them as established by the authorized government body shall not be submitted.

## **Article 71. Procedure for the Preparation and Submission of Tax Reporting**

1. Tax reporting shall be prepared independently by a taxpayer or his representative, or by a tax agent, following the procedure and forms established by the authorized government body in accordance with this Code.

2. Tax reporting shall be prepared in hard copy or in electronic form in the official language. When preparing tax reporting in electronic form a taxpayer or tax agent shall be required to provide hard copies of such documents at the request of tax authorities.

3. Tax reporting must be signed by the taxpayer or tax agent (manager and chief accountant), and must also be certified by the official stamp of the taxpayer or tax agent. When tax reporting is prepared in electronic form, the electronic document must be certified by the electronic signature of the manager and chief accountant and the electronic stamp of the legal entity. In the event that an individual taxpayer is absent or incompetent, tax reporting shall be signed and certified by his representative.

4. A representative of a taxpayer or tax agent who provides services related to the preparation of tax reporting shall be required to sign the documents, affix an official stamp to them, and provide his own taxpayer identification number. If tax reporting is prepared by more than one taxpayer representative, it shall be signed only by the main representative.

5. When a taxpayer or tax agent prepares tax reporting, including cases in which such reporting is prepared by a representative of a taxpayer, the taxpayer or tax agent shall bear liability for the accuracy of the data provided in the tax reporting.

6. Tax reporting shall be submitted by a taxpayer or tax agent to the appropriate tax authorities following the procedure and deadlines established by this Code.

7. In the event of the reorganization or liquidation of a taxpayer (legal entity), separate tax reporting shall be prepared for each reorganized or liquidated taxpayer from the beginning of the tax period until the date on which the reorganization or liquidation is completed on the basis of a transfer deed, separation balance sheet, or liquidation balance sheet. These reporting materials shall be submitted to tax authorities before the relevant information is entered in the state register of legal entities.

8. Taxpayers and tax agents shall have the right to submit tax reporting at their own discretion:

1) in person;

2) by mail, by registered letter with a return receipt;

3) in electronic form, which allows for computer processing of the information, in those cases established by the authorized government body.

9. The date on which tax reporting is submitted to a tax authority shall be the date on which the documents are received by the tax authority or the date of notification of delivery of reporting materials sent by electronic mail.

Tax reporting presented to a post office or other communications organization before midnight on the last day of the deadline established by this Code shall be considered to have been submitted on time provided that a notation is made indicating the time and date of acceptance by the post office or other communications organization.

10. Tax reporting shall be accepted without prior in-house control.

#### **Article 72. Time Period for Storage of Tax Reporting**

1. Taxpayers and tax agents shall retain tax reporting materials for at least three years following the end of the calendar year to which they apply.

2. In the event of the reorganization of a taxpayer or tax agent that is a legal entity, obligations related to retaining tax reporting materials for the period the reorganized entity was in operation (within the time limits established under item 1 of this article) shall be assigned to its legal successor.

#### **Article 73. Submission of Tax Returns**

1. Taxpayers shall be required to submit tax returns to tax authorities in accordance with the provisions of this Code within the deadlines specified by this Code, and following the form and procedure established by the authorized government body.

2. Changes and additions to a tax return (tax statements) may be made during the three-year statute of limits provided for by this Code.

3. Changes and additions to a tax return and/or statement shall be made by a taxpayer by means of the preparation of a supplemental tax return and/or statement for the tax period to which the given changes and additions apply.

4. Only the amount of the difference that has been identified compared to a previously submitted tax return and/or statement shall be indicated on the appropriate lines in a supplemental tax return and/or statement.

5. When a supplemental return and/or statement is submitted prior to the beginning of a tax audit, taxes identified by the taxpayer shall be paid to the budget without the assessment of any fines.

#### **Article 74. Submission of Information on Payments or Other Transactions**

In those cases and following the procedure established by the instruction on the submission of information on payments and other transactions to tax authorities, adopted by the authorized government body in consultation with the Republic of Tajikistan Ministry of Finance and the National Bank of Tajikistan, a person who effects a payment or other transaction shall be required to submit the relevant information to tax authorities.

#### **Article 75. Extension of the Deadline for the Submission of Tax Returns**

If a taxpayer requests an extension of the deadline for the submission of an income tax or profit tax return before the expiration of the deadline for its submission, and pays the estimated amount of tax owed, the deadline for the submission of the return shall be automatically extended by two months. Extension of the deadline in accordance with this article shall not alter the tax payment deadline and shall not result in a suspension of the accrual of interest in accordance with Article 93 of this Code.

#### **Article 76. Bank Accounts**

Banks and other financial and lending institutions that perform certain banking operations shall be required:

1) to open settlement or other accounts (other than deposit savings accounts for individuals) for individuals and legal entities only upon presentation of documents confirming the assignment of a taxpayer identification number by tax authorities, to notify tax authorities within five days of the opening of said accounts for taxpayers, and not to perform transactions on the accounts without indicating the taxpayer identification number in the banking documents;

2) to debit funds from a taxpayer's settlement or other accounts, including foreign currency accounts, for the payment of taxes in accordance with the order of priority established by the Civil Code of the Republic of Tajikistan;

3) on instructions from a taxpayer, to post (transfer) taxes payable to the respective budget to an account held by the Treasury of the Republic of Tajikistan Ministry of Finance at a bank or other financial and lending institution performing cash servicing of the budget, no later than the day following the performance of a transaction debiting the funds from the taxpayer's settlement or other account;

4) to furnish information to tax authorities in accordance with Article 32 of the Republic of Tajikistan Law "On Banks and Banking" and provided there is an official order for the performance of a tax audit, to allow tax authority employees to audit transactions effected on the bank accounts of the legal entity or individual being audited, and to verify the availability of funds on these accounts.

#### **Article 77. Submission of Information to Tax Authorities**

1. For tax control purposes and to achieve its lawful objectives, a tax authority shall have the right to demand, by sending a written notification, that any person do the following within 10 days of the date such notification is sent:

1) furnish information indicated in the notification, including information about another person, or

2) appear at the place and time indicated in the notification for questioning or to present documents or other data in the possession of said person and indicated in the notification.

2. To achieve a lawful objective related to the performance of tax control, an authorized official of a tax authority shall have the right, following the procedure established by the legislation of the Republic of Tajikistan, and in those cases specified under Article 53 of this Code, to enter any

premises without prior notice provided that an official order has been issued, and residential premises in accordance with authorization granted by a prosecutor.

3. An authorized official of a tax authority who is in office or residential premises on a lawful basis in accordance with item 2 of this article, shall have the right, following the procedure established by law:

- 1) to make a copy of any accounting and other documentation related to taxation;
- 2) to seize accounting and other documentation that appears to relate to the achievement of the permitted objective, on the basis of a written confirmation of the seizure;
- 3) to install meters or take readings from meters;
- 4) to seal accounting and other documentation.

If an authorized official of a tax authority uses equipment and materials belonging to another person for the purposes of obtaining copied passages from accounting and other documentation or copies of such documentation in accordance with this item, the tax authority must reimburse said person for the cost of using the equipment and materials, and the amount of compensation must be based on market prices for the use of such equipment and materials. If an authorized official seizes accounting and other documentation pursuant to the authorities provided for under this item, the tax authority may make a copy of the accounting and other documentation and must return the originals as quickly as possible, but no later than 10 days from the date on which they were seized.

In the event of the seizure of accounting or other documents, an authorized official must prepare an official report and present a copy thereof to the taxpayer.

4. This article shall not grant the right of access without official consent to the premises of diplomatic, consular, or other representative offices of foreign states, as well as international organizations, which enjoy immunity from such investigations in accordance with international law.

5. Access to documents or other objects containing any sort of secret shall be carried out in accordance with the legislation of the Republic of Tajikistan.

6. In the context of this article “lawful objective” shall mean the collection of information for the purpose of determining a taxpayer’s obligations to pay a tax, or for the purpose of collecting tax from a specific person.

7. In the context of this article “authorized official” shall mean a tax authority employee who has been appointed by the first director of the respective tax authority or his deputy to exercise the rights specified under this article.

## **CHAPTER 7. TAX OBLIGATION**

### **Article 78. Tax Obligation**



1. A tax obligation shall be a responsibility of a taxpayer to pay a certain tax, as well as penalties and interest that have been assessed, to the budget given circumstances referred to in this Code or another act of tax legislation.

2. The grounds on which a tax obligation is incurred, changed, or terminated, as well as the procedure and conditions for the fulfillment of a tax obligation, may be determined only by this Code or other acts of tax legislation.

3. A tax obligation shall be incurred by a taxpayer from the moment circumstances arise which require the payment of tax and penalties and interest assessed in accordance with the requirements of the tax legislation.

#### **Article 79. Fulfillment of Tax Obligations**

1. The fulfillment of tax obligations shall consist of the payment of the amount of taxes owed and penalties and interest assessed within the established deadlines, regardless of the availability of funds on accounts and other property held by a taxpayer.

2. The fulfillment of tax obligations shall be performed directly by a taxpayer, except as otherwise established by this Code or other acts of tax legislation. In those cases specified by this Code or other acts of tax legislation, liability for the fulfillment of tax obligations shall be assigned to another responsible person.

3. A unilateral refusal to fulfill tax obligations or a unilateral change in the procedure for their fulfillment by taxpayers or another responsible person shall not be permitted, except as otherwise provided in the tax legislation.

4. The fulfillment of tax obligations in the event of the bankruptcy of a taxpayer shall be effected in accordance with the Civil Code of the Republic of Tajikistan and bankruptcy legislation.

#### **Article 80. Fulfillment of Tax Obligations in the Event of the Liquidation of an Enterprise (Organization)**

1. The tax obligations of an enterprise (organization) undergoing liquidation shall be fulfilled by the enterprise's (organization's) liquidation commission at the expense of the enterprise's (organization's) funds, including proceeds from the sale of its property. In this process the enterprise's liquidation commission must also fulfill the tax obligations of its separate subdivisions recognized as enterprises in accordance with Article 19 of this Code, except as otherwise established by this article. The tax obligations of a separate subdivision of an enterprise (organization) that is being liquidated shall be fulfilled directly by the enterprise (organization), and in the event of the liquidation of the enterprise (organization) as well, by the liquidation commission of the enterprise (organization).

2. If the funds of an enterprise (organization) undergoing liquidation are insufficient to fulfill all of its tax obligations, including through the sale of its property to fulfill tax obligations, the remaining debt owed on tax obligations must be paid by the partners (founders) of the enterprise (organization) if in accordance with the law, charter, or other founding documents they bear joint and several liability for the enterprise's (organization's) obligations.

## **Article 81. Fulfillment of Tax Obligations in the Event of the Reorganization of a Legal Entity**

1. The tax obligations of a reorganized legal entity shall be fulfilled by its legal successor (successors) following the procedure established by this article.
2. The legal successor (successors) of a reorganized legal entity shall be responsible for fulfilling its tax obligations, regardless of whether facts or circumstances related to a failure to fulfill or improper fulfillment of tax obligations by the reorganized legal entity were known to the legal successor (successors) before the reorganization is completed. The legal successor (successors) shall be assigned responsibility for payment of all interest and penalties owed in connection with the tax obligations of the reorganized legal entity.
3. The reorganization of a legal entity shall not alter the deadlines for the fulfillment of the legal entity's tax obligations by its legal successor (successors).
4. In the event of the merger of several legal entities, the legal entity that is created as a result of the merger shall be recognized as their legal successor with respect to the fulfillment of tax obligations.
5. In the event that one legal entity is taken over by another legal entity, the legal entity that effected the takeover shall be recognized as the legal successor of the legal entity that was taken over with respect to the fulfillment of tax obligations.
6. In the event that a legal entity is broken up into several legal entities, the legal entities created as a result of the breakup shall be recognized as the legal successors of the reorganized legal entity.
7. If there are several legal successors, the responsibility held by each of them for the fulfillment of the tax obligations of the reorganized legal entity shall be determined in accordance with the separation balance sheet or other transfer deed. If the separation balance sheet or transfer deed does not allow for determination of the responsibility held by each legal successor of the legal entity or makes it impossible for one of the legal successors to fulfill the tax obligations in full, the newly created legal entities shall bear joint and several liability for the fulfillment of the tax obligations of the reorganized legal entity or for the relevant proportion of said tax obligations.
8. In the event that one legal entity is converted into another legal entity by means of a change in its organizational-legal form, the newly created legal entity shall be recognized as the legal successor of the reorganized legal entity with respect to the fulfillment of tax obligations.
9. In the event that one or several legal entities are spun off from a legal entity, the new legal entities resulting from the spin-off shall not become legal successors of the reorganized legal entity with respect to the fulfillment of tax obligations, unless the purpose of the reorganization was to avoid fulfillment of tax obligations by the reorganized legal entity. If as a result of the spin-off of one or several legal entities from a legal entity the original legal entity-taxpayer is not able to fulfill its tax obligations in their entirety, the legal entities that have been spun off shall fulfill the tax obligations of the reorganized legal entity on a joint and several basis, in accordance with a decision by the authorized government body.

**Missing**

**Article 82. Fulfillment of Tax Obligations of Deceased, Incompetent, and Individuals or Persons Who Have Been Declared Dead by the Courts**

1. The tax obligations of a deceased individual or a person who has been declared dead by the courts shall be fulfilled by his heir (heirs) up to the value of the person's estate and in proportion to the heirs' share in the estate as of the date it is received.

2. In the absence of an heir (heirs) or in the event that all of the heirs decline the inheritance, the tax obligations of a deceased individual or a person who has been declared dead by the courts shall be terminated.

3. The tax obligations of an individual who has been declared missing, incompetent, or dead by the courts shall be fulfilled by the person who has been charged with administering the property of the incompetent or missing person or person who has been declared dead by the courts, at the expense of said property.

4. If the property of an individual who has been declared missing, incompetent, or dead by the courts is insufficient to fulfill the tax obligations of the given individual, including accrued interest and penalties, those tax obligations of the missing or incompetent individual or person who has been declared dead by the courts, including interest and penalties, which have not been fulfilled due to the fact that the person's property is insufficient to do so, shall be written off following the procedure established under Article 99 of this Code.

5. When a decision is made following the established procedure to overturn a finding that an individual is missing or incompetent (in the latter case, when an individual is found to be competent) or to overturn a relevant court decision declaring a citizen (individual) dead, tax obligations previously written off in accordance with item 4 of this article shall be reinstated, but interest and penalties shall not accrue for the period from the date the individual was declared missing or incompetent, or a citizen (individual) was declared dead, until the decision is made to overturn the given ruling.

**Article 83. Procedure for the Fulfillment of Tax Obligations**

1. Except as otherwise established by the tax legislation, a taxpayer shall independently calculate the amount of tax payable for a tax reporting period, taking into account the tax base, the tax rate, and tax concessions.

2. In those cases established by this Code or another act of tax legislation, the responsibility for calculating the amount of tax payable may be assigned to a tax authority or tax agent.

3. Taxes shall be calculated following the procedure established for the relevant tax by this Code or another act of tax legislation.

4. The amount of tax payable shall be paid (transferred) within the established deadlines by the taxpayer or another responsible person in accordance with this Code or another act of tax legislation.

**CHAPTER 8. ASSESSMENT OF TAXES**

## **Article 84. Assessment of Taxes**

1. In the context of this Code the assessment of a tax (tax obligation) shall be understood to mean the calculation of tax, penalties, and interest payable for a specific tax period and the entry thereof by tax authorities in a taxpayer's personal tax statements. Assessment shall include adjusted assessment and planned assessment.

2. Tax authorities shall be authorized to perform an assessment of the tax obligation of each taxpayer in accordance with this Code on the basis of one or more of the following sources of information:

- 1) information contained in tax returns and a taxpayer's other tax reporting materials;
- 2) information on payments in accordance with Article 74 of this Code;
- 3) information on current tax payments in accordance with Article 198 and other provisions of this Code; and
- 4) tax audit materials and other information available to tax authorities.

If a taxpayer does not furnish information necessary for assessment of a tax, tax authorities shall have the right to assess the tax on the basis of any available information.

3. In cases in which the tax legislation does not require the payment of a tax to be accompanied by the filing of a tax return, and also in cases in which tax authorities believe that a previous tax assessment was performed incorrectly, a tax authority shall assess the tax and send a notification to the taxpayer of the tax assessment in accordance with Article 85 of this Code. Tax authorities may perform the assessment of tax and make changes in previously assessed tax amounts before expiration of the statute of limitations specified in Article 86 of this Code.

4. In the event that collection of a tax entails the completion of a tax return, the completion of a return indicating the obligation to pay the tax should be treated as:

- 1) assessment of the given tax; and
- 2) a notification and request to pay the given tax within the deadline established by this Code.

5. In the event that taxes are collected through withholding at the source of payment, when a taxpayer does not submit a tax return, and tax authorities do not perform the assessment of the amount of tax payable by a taxpayer on the basis of other information, it shall be considered that tax authorities have effected the assessment of the taxpayer's tax obligation for the year in the amount of tax withheld from payments received by the taxpayer for the year, if any, and that they have notified the taxpayer of the assessment of the tax.

6. The director of a tax authority shall have the right to perform the assessment of a tax and demand immediate payment of the tax assessed before the date by which the tax is ordinarily to be paid if such a measure is necessary in order to ensure collection of the tax and there is specific information indicating that the taxpayer plans to avoid taxation by leaving the country, transferring

assets to another person, or taking other measures that could interfere with collection of the tax unless the tax is assessed immediately.

The assessment of tax in accordance with this item, as with any other assessment of tax performed by tax authorities in accordance with the rights assigned to them, if the information available to them (furnished to them) and used in the assessment of the tax is insufficient or questionable, may be disputed by the taxpayer, including through the courts.

#### **Article 85. Notification of Tax Assessment and Request for Payment of Tax**

A taxpayer shall be notified of the assessment of a tax obligation. The notification of tax assessment shall indicate:

- 1) the taxpayer's last name, first name, and patronymic (or name);
- 2) the taxpayer identification number;
- 3) the date of the notification;
- 4) the object to which the notification applies, and the tax year (tax period) or tax years (tax periods) covered by the notification;
- 5) the amount of tax assessed, including interest and penalties;
- 6) a request for payment of the tax and the payment deadlines;
- 7) the place and method of payment of the tax (details in accordance with item 3 of Article 88 of this Code);
- 8) the basis on which the assessment was performed; and
- 9) the appeal procedure.

#### **Article 86. Statute of Limitations**

1. Tax authorities may assess taxes and revise the amount of assessed tax payable by an individual or legal entity up to three years following the end of a tax period, and collect the assessed (adjusted) amount of tax up to six years following the end of a tax period.

2. A taxpayer shall have the right to request a refund or crediting of tax paid up to three years following the end of a tax period, including the supplemental period provided under Chapter 11 of this Code in excess of this three-year period.

### **CHAPTER 9. PAYMENT, COLLECTION, AND REFUND OF TAXES**

#### **Article 87. Payment of Taxes**

Taxes, penalties, and interest shall be payable within the deadlines specified in this Code and other regulatory acts on taxes adopted on the basis of this Code.

## **Article 88. Place for Payment of Taxes and Budgets to Which Taxes Are Applied**

1. Taxes, penalties, and interest shall be payable:

1) at the place indicated in the notification of tax assessment and request for payment of tax;  
or

2) if a notification of tax assessment is not required, at the place indicated in the relevant act of tax legislation; or

3) if the place is not indicated in the relevant act of tax legislation, based on an individual taxpayer's place of residence or the headquarters of a legal entity-taxpayer.

2. Except as otherwise established by the legislation, regardless of the region in which a taxpayer is doing business in the Republic of Tajikistan, taxes, penalties, and interest shall be applied to the republican budget and the respective local budgets in accordance with the budget legislation of the Republic of Tajikistan.

3. A taxpayer shall provide annual updating of details (of bank and treasury accounts) to which the payment of one tax or another, penalties, and interest is to be effected for one budget or another with the tax authority with which the taxpayer is registered.

## **Article 89. Crediting or Refund of Taxes Paid in Excess of the Required Amount**

1. If the amount of tax, penalties, and interest paid exceeds the assessed amount of tax, penalties, and interest, tax authorities:

1) shall apply the excess amount against the taxpayer's obligations on other taxes, penalties, and interest payable to the same budget without the taxpayer's consent;

2) shall apply the balance remaining after the actions referred to in subitem 1) of this item have been performed against obligations on future payments of those taxes which are applied to the same budget as the remaining balance, with the taxpayer's written consent obtained in response to a relevant written inquiry from tax authorities;

3) in conjunction with the relevant financial authorities, shall refund the excess amount (balance) to the taxpayer within 30 calendar days of the date the taxpayer files a written request with the tax authority with which it is registered, following the performance of the actions referred to in subitems 1) and 2) of this item, except as otherwise established by this Code.

2. If the excess amount of tax, penalties, and interest paid by a taxpayer is applied against obligations on other taxes in accordance with subitem 1) of item 1 of this article, tax authorities must notify the taxpayer to this effect within three days of the date this crediting takes place.

3. If the amount of tax, penalties, and interest (customs payments) actually paid at the time of the movement (against the movement) of goods and vehicles across the customs frontier of the Republic of Tajikistan exceeds the amount of tax, penalties, and interest (customs payments) actually assessed at the time of the movement (against the movement) of goods and vehicles across

the customs frontier of the Republic of Tajikistan, tax authorities shall perform actions referred to under item 1 of this article after receiving confirmation of the excess payment from the respective customs authorities, upon a written request from the taxpayer, and shall notify the taxpayer and the respective customs authority of their actions within three days.

4. Excess payments referred to under this article may be earmarked for the payment of debts owed on taxes, penalties, and interest payable at the time of the movement of goods and vehicles across the customs frontier of the Republic of Tajikistan, if the excess amount and the debt apply to the same budget, by agreement between the taxpayer and the respective tax and customs authorities.

5. If the excess payment of tax, penalties, and interest applies to one budget, and there are tax obligations to another budget, the crediting or refund of the excess payment of tax, penalties, and interest shall be carried out following the procedure established by the instruction on the crediting or refund of excess payments of tax, penalties, and interest adopted by the authorized government body in consultation with the Republic of Tajikistan Ministry of Finance.

### **Article 90. Change in the Tax Payment Deadline**

1. A change in the deadline for the payment of taxes, penalties, and interest (an extension) shall be a shift in the deadline established by this Code for the payment of taxes, penalties, and interest, including prepayments, to a later date.

2. An extension shall be granted only for tax obligations whose payment deadline has passed.

3. An extension may be granted for one or several taxes.

4. The amount of taxes, penalties, and interest for which an extension has been granted shall not be considered in arrears until the extension period has expired, and measures for the compulsory collection of taxes, penalties, and interest shall not be applied to this amount, with the exception of the accrual of interest.

5. An extension shall not exempt a taxpayer from liability in the form of the accrual of interest on the taxes for which an extension has been granted up to the end of the extension period, with the exception of those cases indicated in subitems 1) and 2) of item 10 of this article.

6. An extension shall not exempt a taxpayer from the requirement to submit to tax authorities returns and other established reporting materials pertaining to the taxes for which an extension has been granted.

7. The statute of limitations provided for under this Code shall be suspended for the duration of an extension.

8. Payment of the tax obligations for which an extension has been granted shall begin in the month following the month in which the extension period ends. In this case the taxpayer shall be required to pay to the budget the entire amount of current tax obligations at the same time that the amounts for which an extension has been granted are paid off.

9. When making payments to the budget, amounts earmarked for the fulfillment of tax obligations shall be applied first against the payment of current tax obligations, and the balance shall be applied against the payment of tax obligations for which an extension has been granted.

10. An extension may be granted to a person who has interest in obtaining one (an interested person), if at least one of the following grounds is present:

1) this person suffered losses as a result of a natural disaster, an industrial accident, or other force majeure circumstances;

2) this person experienced delays in receiving financing from the budget or payment for a state order fulfilled by this person;

3) this person is engaged in scientific research or research and development work;

4) this person works in the development and introduction of innovations, including the creation of new technologies and the improvement of existing ones, and the creation of new types of raw materials and supplies.

11. It shall be prohibited to grant a second extension on the payment of taxes, penalties, and interest without the full payment of taxes, penalties, and interest for which an extension was previously granted, with the exception of cases in which the grounds referred to in subitems 1) and 2) of item 10 of this article are present.

12. The rules established under this article shall also apply when granting an extension on the payment of taxes, penalties, and interest in connection with the movement of goods and vehicles across the customs frontier of the Republic of Tajikistan, except as otherwise provided by the customs legislation of the Republic of Tajikistan.

13. A decision to grant an extension on national taxes shall be made by the Republic of Tajikistan government based on a representation from the Republic of Tajikistan Ministry of Finance, approved by the authorized government body and the Republic of Tajikistan Ministry of the Economy and Trade.

14. A decision to grant an extension on local taxes shall be made by the chairman of the respective city (region) based on a representation from the respective city (region) financial and tax authorities.

15. In consideration of the requirements of this article, a Regulation on the Procedure and Time Limits for (Duration of) an Extension on Tax Obligations shall be prepared by the Republic of Tajikistan government.

## **Article 91. Order for the Discharge of Tax Obligations**

The discharge of tax obligations shall be carried out in the following order:

- 1) assessed taxes;
- 2) assessed penalties;
- 3) accrued interest.



The discharge of debt owed on assessed penalties and assessed taxes shall be effected consecutively, starting with the earliest debt and ending with the most recent debt.

## **CHAPTER 10. COMPULSORY COLLECTION OF TAXES**

### **Article 92. Measures to Ensure Fulfillment of a Tax Obligation Not Met on Time**

1. Tax authorities shall ensure fulfillment of a taxpayer's tax obligation that has not been met on time using the following measures provided for by this Code:

- 1) accrual of interest on the amount of taxes not paid on time;
- 2) suspension of spending operations on accounts at banks and other financial and lending institutions;
- 3) attachment of the taxpayer's property and collection of the amount owed by the taxpayer.

2. In the event that a taxpayer fails to fulfill obligations to pay tax, penalties, and interest within the established deadlines, that is, if a taxpayer is in arrears, tax authorities shall notify the taxpayer of the need to pay the tax within 10 days of the taxpayer's receipt of the notification, and of the possibility that measures specified under subitems 2) and 3) of item 1 of this article may be taken against him in the event of nonpayment of tax, penalties, and interest. Except as otherwise provided by this Code, interest shall be charged in all cases in which a taxpayer is in arrears and notification of the taxpayer shall not be required in order to take this action.

3. The rules of this chapter shall apply to tax agents following the same procedure as that established for taxpayers.

4. This chapter shall be applied in compliance with the provisions of the Civil Code of the Republic of Tajikistan regarding the order of priority for debiting funds from bank accounts.

### **Article 93. Interest on Underpayment and Overpayment of Taxes**

1. With the exception of those cases established by this Code, if any tax amount, including a current payment, has not been paid by the established deadline, that is, there is an underpayment (arrears), a taxpayer shall be required to pay interest on the amount of the underpayment (arrears) for the period from the payment deadline to the date on which the amount that was underpaid (in arrears) is paid.

2. If more than 30 calendar days have passed from the date on which a taxpayer files a request for a refund of taxes paid in excess of the required amount, that is an overpayment, until the date on which the overpayment is actually refunded, interest shall be payable to the taxpayer on the amount of the tax overpayment at the expense of the respective budget for the period from the date on which a taxpayer files a request for a refund of the overpayment until the date on which the refund is actually made.

For the purposes of the previous sentence, in cases in which an overpayment is credited against another payment, a refund shall be considered to have been made on the date the crediting

was performed, or if the overpayment and arrears apply to different budgets, on the date permission for the crediting is received.

Interest shall not be payable to a taxpayer if a refund is provided within 30 days from the date the taxpayer files a request for a refund of payments made in excess of the required amount.

3. The interest rate payable in accordance with this article shall be established as simple interest equal to 150 percent of the refinancing rate of the National Bank of Tajikistan, determined for each current quarter in the form of the arithmetic average of refinancing rates for the previous quarter.

4. Interest shall not accrue on penalties and accrued interest.

5. If a taxpayer has made an overpayment on one type of tax and an underpayment on another type of tax, no interest shall be charged on the arrears for the period when the amount of the arrears was less than the amount of the overpayment, if the overpayment and arrears apply to the same budget.

6. An instruction on the accrual of interest on tax underpayments and overpayments shall be adopted by the authorized government body in consultation with the Republic of Tajikistan Ministry of Finance and the National Bank of Tajikistan.

#### **Article 94. Suspension of Spending Operations on a Taxpayer's Accounts at Banks and Other Financial and Lending Institutions**

1. The suspension of spending operations on a taxpayer's accounts at banks and other financial and lending institutions (with the exception of banks' correspondent accounts) (referred to hereinafter as "suspension of spending operations on bank accounts") with respect to a legal entity and individual entrepreneur shall be effected if at least one of the following cases applies:

1) if the taxpayer fails to submit a tax return within the established deadline and the tax authority has notified the taxpayer of the need to submit it, and the tax return has not been submitted within 30 calendar days of the date of such notification;

2) in the event of a failure to pay tax, penalties, and interest within the time period specified under item 2 of Article 92 of this Code, a tax authority shall issue another notification of the need to pay tax, penalties, and interest, and if the tax debt (arrears) is not discharged within 30 calendar days of the taxpayer's receipt of the second notification;

3) refusal to grant access to tax authority officials to perform tax audits and to inspect objects of taxation and objects related to taxation, except in cases in which they violate the procedure established by this Code for the performance of tax audits, if 10 calendar days have passed since the date on which the taxpayer received notification from the tax authority of the need to grant access to tax authority officials to perform a tax audit, and of the possibility of the application of measures provided for under this article.

2. If the grounds specified under item 1 of this article are present, the first director (or a person serving in his place) of the tax authority with which a taxpayer is registered shall petition a court with jurisdiction over the area in which the taxpayer is located, following the procedure

established by the legislation, to suspend spending operations on the taxpayer's bank accounts, accompanied by the simultaneous notification of the taxpayer of the petition filed with the court.

3. The suspension of spending operations on bank accounts shall apply to all of a taxpayer's spending operations, other than those related to the payment of accrued wages and the discharge of tax debt.

4. A court decision to suspend spending operations on a taxpayer's bank accounts shall be subject to unconditional implementation by banks and institutions performing certain types of banking operations.

5. A tax authority shall undertake the appropriate measures to implement a court decision to suspend spending operations on a taxpayer's bank accounts

6. A tax authority shall repeal the suspension of spending operations on bank accounts no later than one banking day following elimination of the grounds that served as the reason for the suspension of spending operations on bank accounts and shall provide information to this effect to the taxpayer and the interested bank within the same time period.

7. A regulation on the suspension of spending operations on a taxpayer's accounts at banks and other financial and lending institutions and on the repeal thereof shall be adopted by the Republic of Tajikistan government.

## **Article 95. Attachment of Property**

1. Attachment of property as a means of ensuring fulfillment of a tax obligation shall refer to an action by a tax authority to restrict the ownership rights of a taxpayer (or other responsible person) with respect to his property.

2. The attachment of property may be full or partial. The full attachment of property shall refer to a restriction of a taxpayer's rights with respect to his property, under which he does not have the right to determine the disposition of the attached property, and the possession and use of this property is allowed with the written permission and under the control of a tax authority. The partial attachment of property shall refer to a restriction of a taxpayer's rights with respect to his property under which the taxpayer enjoys the independent possession and use of this property, but disposition of the property is allowed only with the written permission and under the control of a tax authority.

3. A partial attachment may be applied to a taxpayer who has an outstanding tax debt 60 calendar days after expiration of the established payment deadline for at least one type of tax.

A full attachment may be applied after the application of a partial attachment and if there is an outstanding tax debt 120 days after expiration of the established tax payment deadline.

In the event of a change in the deadline for the payment of taxes in accordance with Article 90 of this Code, calculation of the aforementioned time periods shall begin on the first day after expiration of the extended tax payment deadline.

4. A preliminary condition for the attachment of property shall be the performance of actions provided for under item 2 of Article 92 of this Code. In order to effect a partial or full attachment of

property, a tax authority shall be required no earlier than 15 calendar days before the expiration of the deadlines referred to in item 3 of this article, to notify the taxpayer in writing of its intention to apply the partial or full attachment procedure against him. The attachment of property may be effected only after the expiration of this 15-day warning period and if the tax debt (arrears) has not been discharged in full during this period. The form for notification of the intention to apply the partial or full attachment procedure shall be determined by the authorized government body.

5. When a taxpayer's property is attached, in the event that the taxpayer submits a realistic financial recovery plan, the tax authority and the taxpayer may conclude an agreement on the procedure and deadlines for the repayment of arrears. The agreement may call for suspension of the attachment of certain types of property, or the replacement of full attachment with partial attachment with respect to all of the property or a portion thereof.

6. Any types of property held by a taxpayer may be attached, with the exception of property against which collection action may not be taken in accordance with the laws of the Republic of Tajikistan.

7. Only that property which is necessary and sufficient to meet a tax obligation shall be subject to attachment.

The attachment of property shall be effected in the following order:

1) cash, including foreign currency, held in the cash department or under the control of officials (employees) of a taxpayer. Foreign currency that is part of recovered property shall be transferred to the National Bank of Tajikistan for conversion into the domestic currency of the Republic of Tajikistan no later than the next banking day and for transfer to the budget, together with attached domestic currency, against payment of the taxpayer's tax obligations;

2) property that is not directly involved in the output of products (goods), specifically securities, foreign exchange assets, passenger cars, interior design elements of office (administrative) and non-manufacturing premises, other highly liquid types of property, etc.;

3) finished products (goods), as well as other tangible assets not intended for direct use in production;

4) raw materials and supplies intended for direct use in production, as well as machine tools, equipment, buildings, structures, and other fixed assets. Machine tools, equipment, buildings, structures, and other fixed assets of state-owned enterprises and organizations shall not be subject to attachment;

5) other property.

The seizure of property owned by a taxpayer that has been transferred to another person under a financial leasing arrangement or that has been mortgaged shall be prohibited, and it shall be prohibited to make changes in the terms of the agreement (lease and/or mortgage) from the moment that a decision is issued to attach such property and until such time as this decision is rescinded.

8. The attachment of a taxpayer's property shall be carried out on the basis of a petition filed with the courts by the first director of a tax authority (or his authorized deputy).

9. A court decision to attach property issued in accordance with item 8 of this article shall be transferred within two business days to the appropriate tax police unit for execution. Tax authority employees may participate in the property attachment process together with tax police employees. Prior to the attachment of property the officials carrying out the attachment shall be required to present the taxpayer (or his representative) with the court decision and documents certifying their authorities.

10. The attachment of the property of a taxpayer (other responsible person) shall be carried out in the presence of witnesses. The tax police unit carrying out the attachment of property shall not have the right to deny the taxpayer (his legal and/or authorized representative) the opportunity to be present during the attachment of property. Persons participating in the attachment of property as witnesses, as well as the taxpayer (his representative), shall receive an explanation of their rights and responsibilities.

11. The attachment of property may not be performed at night.

12. A protocol regarding the attachment of property shall be prepared as part of the attachment process. The protocol or an inventory attached to it shall contain a description and list of the property being attached, with a precise indication of the name, quantity, and individual features of the objects, and their value if possible. All objects that are subject to attachment shall be presented to the witnesses and the taxpayer (his representative). The protocol of the property attachment shall be prepared in triplicate; one copy shall be provided to the tax authority, the second copy shall be provided to the tax police unit that carried out the property attachment, and the third copy shall be provided to the taxpayer whose property has been attached.

13. The head of the tax police unit executing a decision to impose a full attachment of property, in consultation with the director of the tax authority that filed the petition with the courts to impose a full attachment of property, shall determine the place where the property that has been attached is to be located (stored).

14. A tax police unit may independently provide for the storage of attached property or may transfer it on a contractual basis to a third party for storage, or in certain cases may leave the attached property with the taxpayer for storage. In the latter case the taxpayer shall bear liability for the safekeeping of the attached property.

15. Transactions effected by a taxpayer (other responsible person) with respect to attached property in violation of the procedure established under this article shall be considered invalid.

16. On the basis of a written notification from a tax authority regarding a court decision to impose a full attachment on a taxpayer's property, customs authorities shall suspend export operations involving all of the attached property of the given taxpayer for the period specified in the written notification from the tax authority.

17. A court decision regarding the attachment of property shall be considered lifted from the moment the decision is overturned by a higher court, and fulfilled from the moment the tax obligation is met. A court decision shall be suspended from the moment a prosecutor files a protest until such a protest is heard on its merits following the procedure established by law.

18. A regulation on the procedure for the implementation of property attachment, taking into consideration the requirements of this article, shall be adopted by the Republic of Tajikistan government.

#### **Article 96. Sale of Attached Property**

1. Attached property seized from a taxpayer and property obtained from a debtor of a taxpayer in accordance with Article 97 of this Code, if it has not be provided in the form of cash, shall be sold at public auction, the procedure and conditions for which shall be determined by the Republic of Tajikistan government.

2. Proceeds from the sale of property shall be used to pay taxes, penalties, and interest in accordance with Article 91 of this Code, as well as expenses related to its storage and sale, including those incurred by the tax authority and tax police unit. The balance of funds shall be returned to the taxpayer within three banking days.

#### **Article 97. Collection of Sums Owed by a Taxpayer**

1. The collection of cash from the bank accounts of a taxpayer and its debtors shall be carried out through legal proceedings.

A tax authority shall have the right to forward to a bank or other financial and lending institution at which accounts of a taxpayer and/or its debtors have been opened and are serviced, a court decision regarding the collection of cash from the accounts of a taxpayer and/or its debtors, which requires the bank and other financial and lending institutions to effect the direct payment (bypassing the taxpayer and his accounts) of any amount available on the accounts of the taxpayer and/or its debtors to the appropriate budget within 10 days of the date of receipt of the instruction.

2. In the event of the application of item 1 of this article, the collection of a tax debt at the expense of funds on a taxpayer's accounts at a bank or other financial and lending institution shall be effected after receipt of the court decision calling for the collection of cash from a taxpayer's accounts according to the following procedure:

1) the tax authority shall forward the relevant court decision to a bank or other financial and lending institution at which a taxpayer's accounts have been opened and are serviced;

2) the collection of a tax debt at the expense of funds on a taxpayer's accounts at a bank or other financial and lending institution shall be effected on the basis of a collection order issued by the respective tax authority;

3) a collection order for the collection of a tax debt shall be forwarded to a bank or other financial and lending institution at which a taxpayer's accounts have been opened and are serviced, and it shall be executed following the procedure established under subitem 2) of Article 76 of this Code;

4) a collection order shall be presented in a form established by regulatory legal acts of the Republic of Tajikistan, and it must indicate the taxpayer's account (accounts) from which the tax debt is to be collected;

5) in the event of a lack of funds on a taxpayer's accounts in the domestic currency, the collection of a tax debt shall be effected from the taxpayer's foreign currency accounts, applying the exchange rate of the domestic currency against the foreign currencies established by the National Bank of Tajikistan as of the collection date;

6) provided that there are sufficient funds on a taxpayer's account (accounts), a collection order for the collection of a tax debt shall be executed by a bank or other financial and lending institution no later than one business day after the day on which the order is received;

7) if there are insufficient funds or no funds on a taxpayer's account (accounts), a collection order (orders) shall be executed as funds are posted to this account (these accounts).

3. In the absence of the circumstances referred to under item 2 of this article, the application of item 1 of this article with regard to the collection of a tax debt from the accounts of a taxpayer's debtors shall be carried out according to the following procedure:

1) in the absence of funds on a taxpayer's accounts, the tax authority with which the taxpayer is registered shall have the right, within the amount of the tax debt, to collect the funds owed by the taxpayer from the accounts of the taxpayer's debtors. In this case the tax authority shall forward to the debtor and the bank or other financial and lending institution the relevant court decision and a notification of collection action against funds on its (the debtor's) accounts to pay the taxpayer's tax debt. Such notification shall mean that there is a ban on payments by the debtor to discharge its debt to the taxpayer.

No later than 30 calendar days after the date on which notification is received, a debtor shall be required to submit to the tax authority that sent the notification a reconciliation statement of mutual settlements, compiled jointly with the taxpayer as of the date notification is received;

2) a reconciliation statement of mutual settlements between a taxpayer and a debtor must contain the following information:

- the name of the taxpayer and the debtor, and their taxpayer identification numbers;
- the name of the tax authority with which the taxpayer and the debtor are registered;
- the details of the accounts held by the taxpayer and the debtor;
- the amount of the debt owed by the debtor to the taxpayer;
- the legal details, official stamp, and signatures of the taxpayer and the debtor;
- the date on which the reconciliation statement was prepared;

3) on the basis of a reconciliation statement of mutual settlements, the tax authority with which a taxpayer is registered shall present a collection order to collect the taxpayer's tax debt from the debtor's account (accounts);

4) a debtor's bank or other financial and lending institution shall be required to execute a collection order presented for the collection of a taxpayer's tax debt in accordance with the requirements set forth under item 2 of this article.

**Article 98. Liability of Persons Who Have Received a Taxpayer's Assets at Below-Market Prices**

In the event that a taxpayer's tax obligation has remained unmet after the sale of attached property, a person who has obtained a taxpayer's assets in the course of a transaction that was not effected on market terms and that took place within the three years preceding the date on which the property attachment procedure was applied, shall bear liability for fulfillment of the taxpayer's tax obligation in an amount equal to the value of the assets received, less any amount paid by the given person for these assets.

#### **Article 99. Writing Off Bad Tax Debts**

Bad debts on taxes, interest, and penalties shall be written off in accordance with the procedure established by the Republic of Tajikistan government.

### **CHAPTER 11. RESOLUTION OF DISPUTES**

#### **Article 100. Right to Appeal**

1. A taxpayer who disputes a tax audit report, the assessment of tax, penalties, and interest, as well as other decisions by a tax authority, may file a petition (appeal) for a reconsideration of said decisions with the tax authority that took these decisions, a higher-level tax authority, the authorized government body, or with the courts. The petition (appeal) must outline the arguments and indicate the documents on which the taxpayer is basing his request for a reconsideration of the decisions that have been made.

The filing of a petition (appeal) with any of the aforementioned tax authorities shall not exclude the taxpayer's right to file a simultaneous or subsequent appeal with a higher-level tax authority or with the courts.

2. Appeals (petitions) by a taxpayer regarding tax audit reports, the assessment of taxes, penalties, and interest, as well as other decisions by tax authorities, which are filed with the courts shall be heard and decided following the procedure established by the civil procedural and economic procedure legislation of the Republic of Tajikistan.

#### **Article 101. Procedure and Deadlines for the Filing and Consideration of an Appeal with Tax Authorities**

1. An appeal of a tax audit report, the assessment of taxes, penalties, and fines, as well as other decisions by a tax authority may be filed within 30 calendar days of the date the taxpayer received the tax audit report, the notification of the assessment of taxes, penalties, and fines, or another decision, or the failure to take (receive) a decision on the merits of the appeal within the same time period.

In the event that the deadline for the filing of an appeal is not met for a valid reason, this deadline may be extended by a higher-level tax authority, the authorized government body, or by a court within the statute of limitations established by this Code, at the request of the person filing the appeal.

2. An appeal shall be filed in writing.



3. A taxpayer's appeal shall be reviewed, a decision regarding the appeal shall be made, and the person who filed the appeal shall be notified in writing of the decision that has been made no later than 30 calendar days from the date an appeal is received by a tax authority.

### **Article 102. Consequences of Filing a Petition (Appeal) Regarding the Assessment of Tax, Penalties, and Interest**

Only those tax obligations which are not being disputed by a taxpayer shall be payable and may be collected in accordance with the procedures established under Chapter 10 of this Code prior to completion of the review of a petition (appeal) regarding the assessment of tax, penalties, and interest, as well as other decisions, filed with tax authorities or the courts in accordance with Articles 100 and 101 of this Code. The suspension of payment of all or part of tax obligations in connection with the review of a taxpayer's appeal shall not exempt the taxpayer from payment of interest for the late transfer of taxes to the budget, including interest accrued for the period from the date the appeal is filed until a decision on the appeal is made.

At the same time, interest shall accrue only on those taxes which are payable to the budget based on the results of the review of the appeal.

## **CHAPTER 12. LIABILITY**

### **Article 103. The Concept of a Tax Offense**

A tax offense shall refer to an unlawful action or inaction (in violation of the legislation on taxes) by an individual or legal entity, the commission of which results in liability as established by law.

### **Article 104. Circumstances Excluding a Person's Liability for Commission of a Tax Offense**

In addition to those situations specified by the legislation, a person may not be held liable for the commission of a tax offense in the following cases:

- 1) a taxpayer or tax agent is carrying out written instructions and explanations issued by a tax authority or other government body or their officials within the scope of their authority;
- 2) arrears on other taxes are deducted from overpayments on any taxes, including taxes paid by tax agents;
- 3) violations of the tax legislation are eliminated by means of the submission of a supplemental tax return in accordance with item 5 of Article 73 of this Code.

### **Article 105. Statute of Limitations for Liability for Commission of a Tax Offense**

1. A person may not be held liable for the commission of a tax offense if three years have passed from the day it was committed or from the day following the end of the tax period in which the offense was committed (statute of limitations).

2. With regard to all tax offenses that are committed, with the exception of those specified under item 3 of this article, calculation of the statute of limitations shall begin on the day a tax offense is committed.

3. With respect to tax offenses specified under subitems 1) through 4) of item 1 of Article 106 of this Code, calculation of the statute of limitations for tax offenses shall begin on the day following the end of the tax period in which the offense was committed.

### **Article 106. Liability for Violation of the Tax Legislation**

1. Individuals and legal entities shall bear liability in accordance with the Republic of Tajikistan Code on Administrative Offenses in the following cases:

- 1) failure to file a tax return on time;
- 2) underreporting of the amount of tax owed;
- 3) violation of the rules for calculation of the value-added tax;
- 4) interference with the performance of a tax audit;
- 5) violation of the deadline for registration with a tax authority;
- 6) failure to indicate a taxpayer identification number or indication of an incorrect taxpayer identification number in tax returns, customs declarations, and invoices;
- 7) violation of the procedure for the withholding and non-withholding of tax at the source of payment;
- 8) opening of settlement and other accounts (other than personal savings deposit accounts in accordance with Article 76 of this Code) for individuals and legal entities without the presentation of documents confirming the account holder's taxpayer identification number;
- 9) violation of the deadline for notification of tax authorities with which one is registered regarding the opening of settlement and other accounts (other than personal savings deposit accounts in accordance with Article 76 of this Code) by an individual or legal entity;
- 10) failure to submit or failure to submit in a timely manner a reconciliation statement of mutual settlements to a tax authority;
- 11) failure to fulfill or failure to fulfill in a timely manner collection orders issued by tax authorities and presented in accordance with Article 97 of this Code, for the transfer of funds from accounts of third parties who are debtors of a taxpayer, in accordance with the sequence established by the Civil Code of the Republic of Tajikistan (including from accounts held by the taxpayer himself at a bank or other financial and lending institution servicing the given taxpayer), to be applied against a tax debt owed by the taxpayer;
- 12) unlawful action to hinder access by a tax authority official to the grounds of an enterprise or to premises;

13) failure to comply with the procedure for the possession, use, and/or disposition of property that has been attached by a tax authority;

14) violation of the procedure for the application of cash registers with fiscal memory;

15) failure to provide required information to a tax authority;

16) failure by banks and other financial and lending institutions at which taxpayers hold accounts to transfer taxes in a timely manner in response to payment orders issued by taxpayers.

2. Individuals shall bear liability in accordance with the Criminal Code of the Republic of Tajikistan for the commission of crimes in the tax legislation sphere.

### **SECTION III. STATUS AND STRUCTURE OF TAX AUTHORITIES AND TAX POLICE UNITS OF THE REPUBLIC OF TAJIKISTAN**

#### **CHAPTER 13. TAX AUTHORITIES**

##### **Article 107. Principal Functions of Tax Authorities**

The principal functions of tax authorities shall be:

1) to ensure fulfillment of and compliance with the tax legislation and to devise mechanisms for tax administration with a view to ensuring the transfer of taxes to budgets at all levels in full and in a timely manner;

2) to participate in the preparation of draft laws and other regulatory legal acts pertaining to taxation, including treaties with other states;

3) to explain to taxpayers their rights and responsibilities;

4) to notify taxpayers of changes in the tax legislation in a timely manner.

##### **Article 108. Legal Basis for the Operation of Tax Authorities and Tax Police Units**

The legal basis for the operation of tax authorities and tax police units shall be the Constitution of the Republic of Tajikistan, constitutional laws, this Code, and other laws of the Republic of Tajikistan, joint resolutions of the Majlisi Milli and the Majlisi Namoyandagon of the Majlisi Oli of the Republic of Tajikistan, resolutions of the Majlisi Namoyandagon, regulatory legal acts of the President of the Republic of Tajikistan and the Republic of Tajikistan government, and international legal acts recognized by the Republic of Tajikistan.

##### **Article 109. Principles of the Operation of Tax Authorities and Tax Police Units**

1. Tax authorities and tax police units of the Republic of Tajikistan shall operate on the basis of the following principles:

1) legality;

- 2) observance of human and civil rights and freedoms;
- 3) supervision by and accountability to higher-level authorities.

2. Political parties and other public associations pursuing political aims may not be established or operate within the system of tax authorities and tax police units. Employees of tax authorities and tax police units may not be restricted in their official activities by decisions of political parties and other public associations.

3. Tax authorities and tax police units shall work in cooperation with other government bodies, public associations, and citizens, as well as tax authorities of other states on the basis of international treaties and commitments recognized by the Republic of Tajikistan.

### **Article 110. Status and Structure of Tax Authorities of the Republic of Tajikistan**

1. Tax authorities of the Republic of Tajikistan (referred to hereinafter as “tax authorities”) shall consist of the authorized government body and its respective territorial subdivisions – tax administrations for Gorno-Badakhshan Autonomous Oblast, the oblasts and the city of Dushanbe; tax inspectorates for regions, cities, and districts within cities; the tax inspectorate for large taxpayers under the authorized government body, with offices for the oblasts and the city of Dushanbe (referred to hereinafter as “territorial tax authorities”), and they shall constitute a common centralized system of tax authorities of the Republic of Tajikistan.

2. The authorized government body shall be a central executive government body that provides for the practical performance of the functions of tax authorities in the Republic of Tajikistan, and in those cases established by regulatory legal acts, outside the Republic of Tajikistan; it shall administer the system of tax authorities in the Republic of Tajikistan and it shall be directly accountable to the Republic of Tajikistan government.

Territorial tax authorities shall be local structural subdivisions of the authorized government body and they shall be directly accountable to the respective higher-level tax authorities along a vertical chain of command.

3. The authorized government body shall be part of the system of central executive government bodies of the Republic of Tajikistan.

4. The authorized government body and territorial tax authorities shall be legal entities, they shall have independent balance sheets, special accounts at the Treasury under the Republic of Tajikistan Ministry of Finance and at its local offices, and they shall have official stamps bearing an image of the State Seal of the Republic of Tajikistan with their name indicated in the official language.

5. The directors of tax authorities for Gorno-Badakhshan Autonomous Oblast, the oblasts and the city of Dushanbe; tax inspectorates for regions, cities, and districts within cities; and the tax inspectorate for large taxpayers with offices for the oblasts and the city of Dushanbe shall provide for the performance of the tasks assigned to the tax authorities in the respective regions, and they shall organize, coordinate, and supervise the activities of the subdivisions under their authority.

6. Tax authorities shall have full powers with regard to state monitoring of the payment of taxes in full and in a timely manner, with the exception of cases in which this Code specifies the collection of taxes by other authorities.

**Article 111. Authorities of the First Director of the Authorized Government Body**

The first director of the authorized government body:

1) shall organize the activities of the authorized government body and territorial tax authorities, as well as other subdivisions that are part of the system of the authorized government body, with regard to the performance of the functions, tasks, and responsibilities assigned to these bodies and subdivisions, and he shall bear liability for the results of these activities;

2) shall present proposals to the Republic of Tajikistan government regarding the appointment and dismissal of his deputies, and the approval of personnel serving as members of the board of the authorized government body;

3) in accordance with the regulatory legal acts in force in the Republic of Tajikistan on labor compensation, shall approve staffing tables and spending budgets for the maintenance of tax authorities and other enterprises, organizations, and subdivisions under the authority of the authorized government body which are registered with financial authorities, with the exception of tax police units;

4) shall determine the functional responsibilities of his deputies; shall approve Regulations on administrations, independent departments, and other subdivisions of the authorized government body, with the exception of tax police units; and shall issue orders, directives, instructions, and methodological recommendations in accordance with the established procedure;

5) shall appoint and dismiss the first directors of territorial tax authorities;

6) shall determine a list of positions of employees of tax authorities, other enterprises and organizations under the authority of the authorized government body, with the exception of tax police units, who are appointed and dismissed by the first director of the authorized government body and directors of territorial tax authorities;

7) shall assign class ranks up through tax authority senior advisor at grade I and special ranks from major through colonel in the tax police;

8) shall present to the President of the Republic of Tajikistan a petition regarding the assignment of special ranks in the tax police senior officer corps and the class ranks of tax authority general advisor and senior advisor;

9) shall overturn orders, instructions, and directives issued by the directors of lower-level tax authorities and tax police units that contradict this Code and other legislation of the Republic of Tajikistan;

10) in accordance with the legislation in force shall present to government bodies; officials of enterprises, institutions, and organizations, regardless of their form of ownership; and to public

associations representations and proposals regarding the elimination of circumstances that contribute to tax crimes and offenses, the consideration of which shall be compulsory;

11) shall perform other functions established by regulatory legal acts that are in force.

#### **Article 112. Financing and Material and Technical Support for Tax Authorities and Tax Police Units**

1. The financing of expenditures of tax authorities and tax police units shall be provided out of the republican budget.

2. The procedure and norms for material and technical support provided to tax authorities and tax police units shall be established by the Republic of Tajikistan government.

3. The property of tax authorities and tax police units shall be under state ownership. Said property shall not be subject to privatization.

#### **Article 113. Tax Authority Employee**

1. Persons who meet the qualification requirements for holding the relevant positions, as determined by the authorized government body following the established procedure, shall be appointed to positions as employees of tax authorities at all levels.

2. A tax authority employee shall be assigned a class rank following the established procedure.

3. Class ranks of tax authority employees, a regulation on the procedure for assigning these ranks, and the amount of supplemental payments for class ranks shall be determined by the Majlisi Namoyandagon of the Majlisi Oli of the Republic of Tajikistan.

4. Tax authority employees shall be provided with uniforms, the design and standards for the issuance of which shall be established by the Republic of Tajikistan government.

5. Tax authority employees shall be issued official identification as confirmation of their authorities, the design of which shall be established by the authorized government body.

#### **Article 114. Service in Tax Authorities**

1. Service in tax authorities shall be regulated by the legislation of the Republic of Tajikistan and this Code.

2. Tax authority employees shall undergo certification following the procedure established by regulatory legal acts.

3. Tax authority employees shall be prohibited from performing other paid work at a another job in addition to their principal job (other than scientific, creative, and teaching work), and from engaging in entrepreneurial activity.

## **Article 115. Relations between Tax Authorities and Tax Police Units and Government Bodies**

1. Tax authorities and tax police units shall carry out their lawful duties independently of central and local executive government bodies and law enforcement, financial, and other government bodies, and shall cooperate with these bodies.

2. Government bodies shall be required to provide assistance and furnish information at the request of tax authorities and tax police units with the aim of ensuring fulfillment of the tax legislation and monitoring the payment of taxes. These bodies shall be prohibited from interfering in the activities of tax authorities and tax police units except as otherwise established by the legislation.

3. Customs authorities and agencies operating under the Social Protection Fund of the Republic of Tajikistan government shall be required to regularly provide tax authorities with information available to them which is necessary for fulfillment of the tax legislation, following the established procedure.

## **Article 116. Transfer of Authorities by a Director to Other Persons**

The director of a tax authority may transfer to a tax authority official authorities or responsibilities entrusted to him or assigned to him by the legislation, with the exception of authorities specified under item 2 of Article 120 of this Code.

## **Article 117. Annual Reports**

1. Within six months of the end of each financial year, the authorized government body shall provide for the publication of a report on the operation of the tax system of the Republic of Tajikistan in the public print media.

2. This report must contain the following information:

1) the amount of taxes collected by tax authorities, with a breakdown by the type of taxes collected and the region (city) tax inspectorates at which they were paid (collected);

2) the amount of tax debt (arrears), with a breakdown in accordance with subitem 1 of this item;

3) expenses incurred by tax authorities in the process of collecting taxes;

4) statistical data on tax concessions that were granted and extensions on arrears, including those granted in the course of the financial reporting year;

5) a description of achievements and deficiencies in the operation of the tax system;

6) a list of the last names and first names of individuals and the names of legal entities with tax assessed but still unpaid in an amount in excess of 5,000 times the minimum monthly wage, with the amount of the arrears indicated as well.

## **CHAPTER 14. RIGHTS AND RESPONSIBILITIES OF TAX AUTHORITIES**

## **Article 118. Rights of Tax Authorities**

1. Except as otherwise provided by this Code, tax authorities shall have the right, in accordance with the legislation of the Republic of Tajikistan:

- 1) to perform tax audits in accordance with this Code;
- 2) to seize documents from a taxpayer or a tax agent in the performance of tax audits, which are related to the commission of tax offenses, and to prepare a document regarding such actions following the established procedure;
- 3) to summon taxpayers or tax agents to appear at the offices of tax authorities on the basis of a written notification to provide explanations in connection with the payment (withholding and transfer) by them of taxes or in connection with a tax audit, and also for other purposes related to their compliance with the tax legislation;
- 4) to determine the amount of taxes payable by taxpayers to the budget on the basis of an estimate (using direct or indirect estimation methods) in those cases and following the procedure established under item 3 of Article 44 of this Code;
- 5) in the process of performing tax audits of individuals and legal entities, to inspect all financial documents, accounting books, reports, estimates, cash, securities, and other assets in hand, statements, returns, and other documents related to the calculation and payment of taxes; to obtain from officials and other employees of enterprises (organizations) and from individuals information and oral and written explanations regarding issues that may arise in the process of said audits;
- 6) in accordance with item 2 of Article 77 of this Code, to examine all manufacturing, warehouse, commercial, and other premises of enterprises and individuals, regardless of their location, which are used for the purpose of earning income or are related to the maintenance of objects of taxation, and to perform surveys using the time-study method or other methods;
- 7) to issue directives to managers and other officials of enterprises, as well as individuals, regarding the elimination of violations of the tax legislation and legislation on commercial activity that are identified, compliance with which shall be mandatory, and to monitor compliance with them;
- 8) to impose tax sanctions and penalties provided for by this Code and the legislation of the Republic of Tajikistan against enterprises, officials, and individuals for violations of the tax legislation;
- 9) to collect taxes, penalties, and interest from enterprises, their officials, and individuals in accordance with this Code, including through the filing of petitions with the courts;
- 10) to prepare protocols of violations of the tax legislation by officials of enterprises or individuals and to issue the relevant decisions;



11) in the process of a tax audit, following the procedure established by the authorized government body in consultation with the Republic of Tajikistan Ministry of Finance, to conduct an inventory of the taxpayer's property (other than residential premises);

12) to obtain information, statements, and documents pertaining to the commercial activity and operations of enterprises and individuals from legal entities and individual entrepreneurs, exclusively for official purposes;

13) to present to the Republic of Tajikistan government and local representative and executive government bodies, following the established procedure, proposals regarding the repeal of their decisions and decisions of lower-level bodies that are in conflict with the tax legislation in force;

14) to petition the courts, following the established procedure, to attach property and collect funds from accounts of individuals and legal entities;

15) provided that circumstances referred to under Article 94 of this Code are present, to suspend spending operations, with the exception of spending operations for the purposes of fulfilling a tax obligation, of individuals and legal entities on settlement and other accounts, including foreign currency accounts at banking institutions of the Republic of Tajikistan;

16) in the process of performing tax audits of banks themselves, to audit the movement of money on the accounts of bank customers only on the basis of a court decision following the procedure established by law;

17) to request from banks documents confirming the execution of payment orders presented in accordance with the procedure established by this Code and other regulatory legal acts by taxpayers and tax agents and collection orders (instructions) of tax authorities calling for the debiting of taxes from the accounts of taxpayers and tax agents, as well as documents confirming the suspension of spending operations on accounts of taxpayers and tax agents following the procedure established by this Code;

18) with regard to issues related to the taxation of a taxpayer who is being audited, to obtain from banks or other financial and lending institutions information about the existence and numbers of the taxpayer's bank accounts, and about the balances of funds and movement of funds on these accounts in compliance with the requirements established by legislative acts of the Republic of Tajikistan regarding non-disclosure of information constituting a commercial, bank, tax, or other secret protected by law;

19) to hire (bring in) specialists, experts, and translators to perform tax control activities;

20) to call as witnesses persons who may be aware of circumstances that are of significance in the performance of tax control activities;

21) to announce petitions to revoke or suspend licenses to engage in certain activities which have been issued to individuals and legal entities;

22) to set up tax warehouses and excise posts following the procedure established by this Code;

23) to file petitions with the courts on matters related to compliance (noncompliance) with the tax legislation by taxpayers and/or tax agents;

24) to draft, approve, and publish regulatory legal acts in accordance with this Code;

25) within the scope of their authority, to issue explanations regarding the incurrence, fulfillment, and termination of tax obligations;

26) to monitor the proper application of cash registers with fiscal memory;

27) tax authorities shall also have other rights provided for by this Code and other legislative acts of the Republic of Tajikistan.

2. The rights of tax authorities set forth in this article may be exercised by tax police units only on the basis of a written instruction from first directors of tax authorities or their authorized deputies.

### **Article 119. Responsibilities of Tax Authorities**

1. Tax authorities shall be required:

1) to comply with the Constitution of the Republic of Tajikistan, this Code, constitutional laws, and other laws of the Republic of Tajikistan, joint resolutions of the Majlisi Milli and the Majlisi Namoyandagon of the Majlisi Oli of the Republic of Tajikistan, resolutions of the Majlisi Namoyandagon, regulatory legal acts of the President of the Republic of Tajikistan and the Republic of Tajikistan government, and the rights and interests of enterprises, institutions, and organizations, as well as citizens, which are protected by law;

2) to provide for the implementation of state tax policy;

3) to provide for the registration of taxpayers in full and in a timely manner, including payers of the value-added tax, and objects of taxation; to provide for the recording of taxes assessed and paid, and arrears; and to monitor the proper calculation and payment of taxes to the budget in full and in a timely manner;

4) to compile reports on tax receipts applied to the budget, and to maintain a record of and compile reports on tax concessions granted, with a breakdown by groups of taxpayers, types of taxes and concessions, as well as a breakdown by region;

5) to apply and promptly collect financial and other sanctions, penalties, and interest provided for by this Code and other legislative acts of the Republic of Tajikistan;

6) to conduct audits of taxpayers in accordance with regulatory legal acts;

7) to publish methodological and instructional directives on issues that fall within the scope of their authority, as well as manuals, brochures, and posters, and to publish guidance and explanations on these issues in the mass media;

- 8) to present a notification to a taxpayer regarding the fulfillment of a tax obligation within the deadlines and in those cases provided for by this Code;
- 9) to provide a statement from a taxpayer's personal account on the status of settlements with the budget pertaining to the fulfillment of tax obligations, within 10 days of the taxpayer's request;
- 10) to apply methods to ensure the fulfillment of tax obligations and to collect a taxpayer's tax debt in accordance with this Code;
- 11) to furnish taxpayers with a copy of a tax audit report and the relevant decision by a tax authority based on the results of a tax audit;
- 12) to maintain a state register and records of cash registers with fiscal memory;
- 13) to review letters, appeals, and petitions regarding issues that fall within the jurisdiction of tax authorities following the established procedure;
- 14) to furnish information to financial authorities on a monthly basis on taxes actually received and paid to the budget;
- 15) to monitor execution of the revenue side of the budget in conjunction with financial authorities;
- 16) to collect and analyze information on the fulfillment and violations of tax legislation, to forecast trends in the development of negative processes related to the taxation of legal entities and individuals, and to keep the Republic of Tajikistan government informed in this regard;
- 17) to implement foreign exchange controls in conjunction with other bodies authorized by the legislation of the Republic of Tajikistan;
- 18) to credit and/or refund to taxpayers tax overpayments in accordance with the provisions of Article 89 of this Code;
- 19) to observe the secrecy of information about taxpayers in accordance with the provisions of Article 123 of this Code;
- 20) to perform explanatory work regarding the application of tax legislation; to furnish taxpayers with tax reporting forms and explain the procedure for filling them out; to provide explanations, including written explanations, regarding the procedure for the calculation and payment of taxes;
- 21) to retain tax reporting materials and other documents, including copies of these documents issued to taxpayers (receipts, etc.) confirming fulfillment by a taxpayer of tax obligations to pay taxes to the state budget, for six years from the end of a tax year;
- 22) in the event that facts are discovered in the course of a tax audit pointing to crimes related to tax evasion and evasion of other compulsory payments to the budget, which the legislation places under the jurisdiction of tax police units, as well as signs of other economic offenses and

crimes, to forward to tax police units the relevant materials within 10 business days of approval of the tax audit report for the implementation of measures in accordance with the legislation of the Republic of Tajikistan;

23) to monitor the activities of lower-level tax authorities and enterprises, institutions, and organizations under their jurisdiction;

24) to carry out other responsibilities provided for by the tax legislation of the Republic of Tajikistan.

2. The provisions of subitems 3), 4), 5), 6), 8), 9), 10), 11), 12), 14), 15), 17), 18), 20), 21), 22), and 23) of item 1 of this article shall not apply to tax police units.

#### **Article 120. Procedure for Exercising the Rights Granted to Tax Authorities**

1. The rights of tax authorities specified under subitems 1), 2), 5), 6), 10), 11), 12), 16), 17), 18), 20), and 26) of item 1 of Article 118 of this Code shall be granted to all tax authority employees.

2. The rights of tax authorities specified under subitems 3), 7), 8), 9), 13), 14), 15), 19), 21), 22), 23), 24), and 25) of item 1 of Article 118 of this Code shall be granted to the first director of the authorized government body, his first deputy, and authorized deputies, deputy directors of the tax department of the authorized government body, and the first directors of territorial tax authorities and their deputies.

3. The rights of tax authorities specified under item 1 of Article 118 of this Code and not listed under items 1 and 2 of this article shall be granted to all tax authority employees who hold the rank of senior tax inspector or higher.

4. An instruction on the procedure for exercising the rights granted to tax authorities shall be drafted, approved, and published by the authorized government body.

#### **Article 121. Liability of Tax Authority Officials**

1. Tax authority employees shall bear disciplinary, administrative, or criminal liability in accordance with the legislation of the Republic of Tajikistan for failure to fulfill or improper fulfillment of their duties; for failure to observe state, official, tax, and commercial secrets and the secrecy of deposits as established by the legislation; and for abuses of their official position and other unlawful actions.

2. Damages incurred by a taxpayer as a result of unlawful actions by tax authority employees shall be subject to restitution following the procedure established by the Civil Code of the Republic of Tajikistan.

#### **Article 122. Conflict of Interest**

A tax authority employee shall be prohibited from performing his official duties in the following cases:

- 1) the tax authority employee is related to a taxpayer;
- 2) a taxpayer or a relative of the taxpayer has a direct or indirect financial interest with respect to the tax authority employee.

### **Article 123. Secrecy of Information (Tax Secret)**

1. Tax authorities, tax agents, and all persons who are or have been employees thereof, shall be required to maintain the secrecy of any information about taxpayers (with the exception of information about a taxpayer identification number and other information related to the registration of taxpayers) obtained by them in the performance of their official duties. Tax authorities and tax agents shall have the right to disclose such information following the procedure established by the authorized government body, only to the following persons:

- 1) other tax authority employees in the course and for the purpose of the performance of their official duties;
  - 2) law enforcement authorities for the purpose of performing an inspection of a person who has committed a tax offense or crime, in accordance with the law;
  - 3) courts in the course of a review of a case to determine a taxpayer's tax obligations or liability for tax offenses or crimes or other criminal liability;
  - 4) tax authorities of other countries in accordance with international treaties recognized by the Republic of Tajikistan;
  - 5) financial authorities and the Social Protection Fund of the Republic of Tajikistan government, within the limits necessary for the implementation of legislation on the budget and social security;
  - 6) customs authorities for purposes related to the application of customs legislation, as well as bodies that have the right to collect taxes in accordance with this Code, for purposes of taxation.
2. Persons who have obtained information in accordance with item 1 of this article shall preserve the secrecy of information in accordance with the provisions of this article, with minimal exceptions necessary to achieve the purposes for which access to the information is allowed.
3. With the exception of cases in which information is obtained in accordance with items 1 or 4 of this article, a person who obtains information, access to which is regulated by this article, may not disclose the information and shall be required to return the documents containing information to tax authorities.
4. Information concerning a taxpayer may be provided to another person with the taxpayer's written permission.

## **CHAPTER 15. TAX POLICE UNITS**

### **Article 124. Tax Police Units**

The tax police shall be a law enforcement unit of the authorized government body and its purpose shall be to increase the effectiveness of efforts to prevent tax offenses with the aim of ensuring the payment of taxes to the budget in full and in a timely manner.

#### **Article 125. Structure of Tax Police Units**

1. Tax police units of the authorized government body shall consist of the Main Tax Police Administration of the authorized government body; tax police administrations of Gorno-Badakhshan Autonomous Oblast, the oblasts, and the city of Dushanbe; the tax police administration for the transportation sector; and tax police offices in the Republic's cities and regions.

The Main Tax Police Administration shall be subordinate to the authorized government body, and territorial tax police units shall be subordinate to higher-level tax police units.

2. The Main Tax Police Administration and its territorial units shall be legal entities, they shall have official seals bearing an image of the State Seal of the Republic of Tajikistan and stamps in the official language, and independent balance sheets, and they shall be serviced from a single treasury account of the Republic of Tajikistan Ministry of Finance.

3. The Main Tax Police Administration of the authorized government body shall be headed by a chief, who shall serve simultaneously as a deputy director of the authorized government body.

4. A certification commission shall be established within the Main Tax Police Administration, the composition of which shall be determined by the chief of the Main Tax Police Administration on the basis of a regulation approved by the Republic of Tajikistan government.

#### **Article 126. Authorities of the Chief of the Main Tax Police Administration**

The chief of the Main Tax Police Administration of the authorized government body:

1) shall organize the activities of tax police units at all levels and shall bear liability for the fulfillment of all tasks and responsibilities assigned to them;

2) shall submit proposals regarding the appointment and dismissal of his first deputy and deputies to the board of the authorized government body, and shall determine their functional responsibilities;

3) shall appoint and dismiss heads of administrations, departments, and other units, as well as other employees of the Main Tax Police Administration; heads of the tax police administrations of Gorno-Badakhshan Autonomous Oblast, the oblasts, and the city of Dushanbe, and the tax police administration for the transportation sector; and heads of tax police offices in the Republic's cities and regions;

4) in accordance with regulatory legal acts of the Republic of Tajikistan on labor compensation, shall approve staffing tables and spending budgets for the maintenance of tax police units, which shall be registered with financial authorities;

5) shall approve regulations of administrations and departments of the Main Tax Police Administration and territorial tax police units, and shall issue orders and approve instructions and methodological recommendations;

6) shall determine a list of positions of tax police employees who are to be appointed and dismissed by heads of territorial tax police units;

7) shall assign special ranks up through the rank of tax police captain;

8) shall overturn orders, instructions, and directives of heads of lower-level tax police units that contradict this Code;

9) shall exercise other authorities as established by the legislation.

#### **Article 127. Main Tasks of Tax Police Units**

1. The main tasks of tax police units shall be:

1) to identify, prevent, and suppress tax crimes and offenses that fall under the jurisdiction of tax police units, including crimes by tax authority and tax police officials;

2) to ensure the safe operation of tax authorities and tax police units and to protect their employees from unlawful interference in the performance of their official duties.

2. Tax police units shall inform the appropriate law enforcement authorities of other economic offenses and other types of violations discovered in the performance of their main tasks.

#### **Article 128. Rights of Tax Police Units**

1. Except as otherwise provided by this Code, the tax police shall be granted the right to do the following in the performance of the tasks assigned to it:

1) to participate in tax audits at the written request of the first director of a tax authority; to carry out court decisions calling for the attachment of property;

2) to inspect identification documents of citizens and officials if there are sufficient grounds to suspect them of violating the tax legislation;

3) to utilize means of communication and vehicles belonging to enterprises, institutions, and organizations, or public associations (except means of communication and vehicles of diplomatic missions, consular and other institutions of foreign states, international organizations, and private owners) in urgent situations in order to prevent tax crimes, and to pursue and detain persons who have committed tax crimes or who are suspected of doing so. In these cases tax police units shall provide restitution to the owners of means of communication and vehicles for losses and expenses incurred by them;

4) to carry out administrative detention in the event of a violation of tax legislation in accordance with the legislation of the Republic of Tajikistan;

5) if there are sufficient grounds pointing to evidence of a crime related to a tax offense, to petition the first director of a tax authority to conduct a tax audit in conjunction with specialists from the given tax authority or a higher-level tax authority. Such a joint audit shall be carried out on the basis of a written instruction from the first director of the respective tax authority. A tax audit report shall be prepared based on the results of the joint tax audit, and the appropriate decision shall be adopted by the tax authority on the basis of this report. Based on the results of this decision and the tax audit report, a tax police unit shall adopt one of the following decisions within the established time period:

- in the event that tax offenses are discovered which contain elements of a crime, the decision shall be made to take the relevant steps to initiate criminal proceedings;

- in the event that tax offenses are discovered which do not contain elements of a crime, the decision shall be made to refrain from initiating criminal proceedings and to transfer (forward) the audit materials to the tax authority with which the taxpayer is registered so that it can take measures provided for by this Code;

6) to maintain a record of persons, objects, and facts that fall within the scope of authority of the tax police;

7) to store, carry, and use service weapons, and apply special means and physical force, in accordance with the Republic of Tajikistan Law “On the Police”;

8) to carry out operational investigative measures and engage in inquiries and preliminary investigations for the purpose of identifying and investigating, preventing, and suppressing tax crimes and offenses, as well as ensuring the safe operation of tax authorities, in accordance with the legislation of the Republic of Tajikistan.

2. The procedure for exercising the rights of tax police units shall be established by the chief of the Main Tax Police Administration in accordance with the legislation of the Republic of Tajikistan.

### **Article 129. Responsibilities of Tax Police Units**

In accordance with the tasks assigned to it, the tax police:

1) shall receive and register statements, reports, and other information on tax crimes and offenses and shall carry out their verification following the established procedure;

2) shall ensure the safe operation of tax authorities, protect their employees in the performance of their official duties, and ensure the safety of its own personnel;

3) shall carry out court decisions calling for the attachment of property, other court decisions, and written instructions from prosecutors and investigators regarding the performance of actions provided for by law involving cases of violation of the tax legislation, within the scope of its authority;

4) shall provide assistance to prosecutor’s offices, agencies of the Ministry of Internal Affairs, security agencies, and other government bodies in identifying other offenses;



5) shall protect state and official secrets, including tax secrets;

6) shall carry out operational investigative measures and shall engage in inquiries and preliminary investigations for the purpose of identifying and investigating tax crimes and offenses;

7) shall identify and suppress crimes and other offenses related to nonpayment of taxes, the concealment or underreporting of profit (income), the concealment of objects of taxation by individuals and legal entities, as well as other ways of avoiding the payment of taxes, and other crimes and offenses that cause harm to the state as a result of nonpayment of taxes.

### **Article 130. Service in Tax Police Units**

1. Citizens of the Republic of Tajikistan who are no younger than 20 years of age and no older than 35 years of age, who have performed active military service and meet the qualifications requirements established by the authorized government body, shall be accepted for service in the tax police. The maximum age indicated in this item shall not apply to the appointment of persons to serve in management positions within the tax police. A person who has been convicted of a crime may not be accepted for service in the tax police.

2. A tax police employee shall be assigned a special rank following the established procedure. Tax police employees shall take an oath. The text of the oath and the procedure for taking the oath shall be established by the Republic of Tajikistan government.

3. Persons in the military reserves who are appointed to certified personnel positions in the tax police shall be removed from the reserve rolls following the established procedure and shall be entered in the special register of tax police units.

4. The procedure for serving in tax police units shall be governed by the Regulation on Service in Tax Police Units approved by the Republic of Tajikistan government.

5. A supplemental payment shall be established in addition to the regular salary for service in mountain regions and areas with harsh climatic conditions in accordance with the legislation of the Republic of Tajikistan.

6. When military personnel, members of the rank-and-file and command staff of internal affairs authorities, security, and other law enforcement authorities who have military or special ranks, or class ranks, are transferred to tax police units, their length of service at their previous place of employment shall count toward their length of service for the purpose of awarding special ranks, pensions, and supplemental payments for length of service.

7. A common number of working hours shall be established for tax police employees in accordance with the legislation of the Republic of Tajikistan. When necessary, in accordance with the legislation of the Republic of Tajikistan, tax police employees may be required to work overtime, as well as at night and on weekends and holidays.

8. Tax police employees shall be granted regular annual and additional paid leave, as well as other types of leave in accordance with the Regulation on Service in Tax Police Units.

## **CHAPTER 16. LEGAL AND SOCIAL PROTECTION FOR EMPLOYEES OF TAX AUTHORITIES AND TAX POLICE UNITS**

### **Article 131. Legal Protection for Employees of Tax Authorities and Tax Police Units**

1. Employees of tax authorities and tax police units shall be representatives of the government and shall be under the protection of the government. Lawful requests made by them within the scope of their authority shall be binding upon citizens and officials.
2. Interference in the ability of employees of a tax authority or a tax police unit to perform their official duties, insults to their honor and dignity, threats, resistance, violence, or attempts to harm their life, health, and property in connection with the performance of their official activities, shall result in liability provided for by the legislation of the Republic of Tajikistan.
3. Protection of the life, health, honor, dignity, and property of family members of employees of tax authorities and tax police units from criminal harm in connection with the performance by the latter of their official duties shall be provided for by this Code and other legislative and/or regulatory acts of the Republic of Tajikistan.

### **Article 132. Material, Social, and Personal Security for Employees of Tax Authorities and Tax Police Units and Their Family Members**

1. The state shall guarantee social protection for employees of tax authorities and tax police units.
2. Material, social, and personal security for employees of tax authorities and their family members shall be provided under the conditions and following the procedure and in the amounts established by the legislation of the Republic of Tajikistan on civil service for civil service employees.
3. The types and amount of material security, including the types and amount of monetary allowances, for employees of tax authorities and tax police units shall be established by the Republic of Tajikistan government.
4. Legal and social protection for tax police employees shall be provided under the conditions and following the procedure and in the amounts established by the legislation of the Republic of Tajikistan on the police.
5. Pension security (determination of the size of the pension paid to employees who have been discharged from service in connection with reaching retirement age, illness, or length of service) for employees of tax police units and their families shall be provided in accordance with the norms and following the procedure established by the Republic of Tajikistan Law “On Pension Security for Military Personnel.”

## **PART II. SPECIAL PART**

### **SECTION IV. PERSONAL INCOME TAX (TAX ON INCOME OF INDIVIDUALS)**

## **CHAPTER 17. GENERAL PROVISIONS**

### **Article 133. Taxpayers**

Payers of the income tax shall be resident and nonresident individuals who have objects of taxation in accordance with Article 134 of this Code.

### **Article 134. Object of Taxation**

1. The object of taxation with respect to the income tax for residents shall be their taxable income, defined as the difference between gross income for the calendar year and deductions of expenses as provided for by this Code for the given period.

2. A nonresident taxpayer who is doing business in the Republic of Tajikistan through a permanent establishment shall be subject to the income tax on taxable income related to the permanent establishment and defined as the difference between gross income for the calendar year from sources in the Republic of Tajikistan related to the permanent establishment (subitem 3) of item 8 of Article 34 of this Code) and the deductions provided for under this Code with respect to this income for the given period.

3. The gross income of a nonresident not referred to in item 2 of this article shall be subject to taxation at the source of payment if so specified under Article 164 of this Code, without taking any deductions.

4. A nonresident individual earning income from a source in the Republic of Tajikistan from work for hire or income from the sale or transfer of property not related to his permanent establishment in the Republic of Tajikistan shall be subject to the income tax on gross income of this type for the calendar year, less the deductions provided for under this Code which relate to this income for the given period.

### **Article 135. Gross Income**

1. Gross income of a resident taxpayer shall consist of income earned by him from sources in the Republic of Tajikistan and outside the Republic of Tajikistan.

2. Gross income of a nonresident taxpayer shall consist of income earned by him from sources in the Republic of Tajikistan.

3. All types of income, both that received in cash and in kind, other than income that is exempt from income tax (profit tax) in accordance with this Code, shall be included in gross income, including:

- 1) income earned in the form of wages;
- 2) income from activity that does not constitute work for hire;
- 3) any other income;

### **Article 136. Income Received in the Form of Wages**

1. Any payments or benefits, including in kind, received by an individual from work for hire, shall be considered income received in the form of wages, including income from previous work for hire received in the form of a pension or in another form, or income from future work for hire.

2. For the purposes of item 1 of this article, the value of benefits from work for hire shall be equal to the amount indicated below, minus any payment by the worker for the benefit received:

1) in the case of a loan at a below-market rate, the amount equal to interest that would be payable at the market rate for loans of this type;

2) in the event of the sale or transfer of goods, work, or services free of charge by an employer to an employee, the market value of these goods, work, or services;

3) in the event of assistance in obtaining an education for the employee or his dependents (excluding training programs directly related to the employee's performance of his duties), the cost of the educational assistance to the employer;

4) in the event of reimbursement for an employee's expenses, the amount of the reimbursement;

5) in the event of the forgiveness of a debt or obligation owed by an employee to an employer, the amount of the debt or obligation that is forgiven;

6) in the event of the payment of insurance premiums under life and health insurance agreements and other similar payments by an employer, the cost of these insurance premiums or payments made by the employer;

7) in other cases, the market value of the benefit in accordance with Article 32 of this Code.

3. Gross income shall not include reimbursement of business travel expenses in accordance with norms established in the relevant regulatory legal acts, as well as reimbursement of business travel expenses by international organizations and their institutions, foundations, and nongovernmental institutions that are nonresidents, at the expense of the funds of these entities.

4. Gross income shall not include payments for hospitality and other similar expenses (related to making arrangements for parties, housing of guests, etc.) received by an individual.

5. The costs and expenses referred to in item 2 of this article shall include excise taxes, value-added tax, and any other tax payable by an employer in connection with the transaction in question.

6. Gross income earned by an individual shall not include the social tax paid by an employer and this person in accordance with Section IX of this Code.

### **Article 137. Income from Activity Not Related to Work for Hire**

1. The following shall be treated as income from activity not related to work for hire:

1) income from commercial activity, including:

- profit from the sale or transfer of assets used for the purposes of commercial activity, in accordance with Article 194 of this Code;
- income received for agreeing to limit commercial activity or to close an enterprise;
- proceeds earned from the sale of fixed assets and treated as income in accordance with item 7 of Article 153 of this Code;
- compensated deductions in accordance with Article 193 of this Code;

2) income from noncommercial activity, including:

- interest income;
- dividends;
- income from the leasing or rental of property;
- royalties;
- the amount of debt owed by a taxpayer which is forgiven by a creditor;
- profit from the sale or transfer of assets not used in commercial activity;

3) any other income representing an increase in the net value of the taxpayer's assets, other than wages.

2. Individual entrepreneurs, with the exception of payers of the value-added tax, may be subject to the income tax on the basis of a patent or other simplified system, following the procedure established by the Republic of Tajikistan government. The patent form of taxation shall not be applied if individual entrepreneurs are actually hiring personnel for the purpose of performing commercial activity, regardless of whether the hiring is documented or not.

3. Individual entrepreneurs who are not payers of the income tax in accordance with item 2 of this article on the basis of a patent or other simplified system shall be subject to the income tax in accordance with the provisions of Sections IV and VI of this Code. In this case an individual entrepreneur shall be issued a certificate of registration as an individual entrepreneur following the procedure established by the Republic of Tajikistan government.

### **Article 138. Adjustment of Gross Income**

Dividends and interest earned by individuals and previously taxed at the source of payment in the Republic of Tajikistan in accordance with Articles 162 or 163 of this Code shall be excluded from gross income.

### **Article 139. Right to Personal Deductions**

1. An individual shall have the right to take a deduction equal to the monthly minimum wage for each month of the tax year. In the case of an individual who is an employee, the deduction shall be allowed only with respect to wages earned at his principal place of employment.

Income earned by an individual that does not exceed 12 times the monthly minimum wage per year or the monthly minimum wage on average per calendar month shall not be subject to the income tax.

2. The following individuals shall have the right to a deduction equal to 10 times the minimum monthly wage for each month of the tax year:

1) Heroes of the Soviet Union and Heroes of Tajikistan, persons who have been awarded any of the three degrees of the Order of Glory, as well as persons disabled since childhood and persons with Group I and II disabilities;

2) veterans of the Great Patriotic War and persons with equivalent status, veterans of other combat operations in defense of the USSR who served as military personnel at military units, headquarters, and installations and who were part of the active-duty army, former partisans, and soldier-internationalists;

3) citizens who have suffered from and survived radiation sickness caused by accidents at nuclear facilities; those who participated in clean-up efforts related to such accidents within exclusion zones; those who were involved in operations or other work at nuclear facilities during the accident clean-up period.

3. An individual shall have the right to deduct the social tax paid in accordance with Chapter 35 of this Code.

4. An individual shall have the right to one of the deductions established under items 1 and 2 of this article, whichever is the largest.

#### **Article 140. Income Tax Rates**

1. An individual's taxable income shall be subject to the income tax at the following rates:

<b>No.</b>	<b>Amount of taxable income (monthly average)</b>	<b>Tax rate and amount</b>
1.	Equal to or less than the monthly minimum wage	Not subject to income tax (zero rate)
2.	Above the monthly minimum wage up to 100 somoni	8 percent on the amount of taxable income in excess of the monthly minimum wage
3.	Above 100 somoni	The amount of tax indicated on line 2, plus 13 percent on the amount of taxable income in excess of 100 somoni

2. For purposes of taxation, both the amount of taxable income and the amount of deductions shall be calculated on a cumulative basis from the beginning of the year.

#### **Article 141. Exemption**

The following types of personal income shall not be subject to the income tax:

1) income from official diplomatic or consular work by a person who is not a citizen of the Republic of Tajikistan;

2) income earned from work for hire by a person who is not a resident or citizen of the Republic of Tajikistan and who is present within the territory of the Republic of Tajikistan for less than 90 days in a tax year, if this income is paid by a nonresident employer or on behalf of and at the expense of an employer who is not a resident of the Republic of Tajikistan, and is not paid by a permanent establishment of a nonresident in the Republic of Tajikistan;

3) the value of property received from another individual in the form of a gift or inheritance, except for income from this property and property received as labor compensation;

4) the value of gifts received from legal entities, as well as prizes (winnings) in contests and competitions, including cash prizes, if:

- the value of the gifts received from legal entities does not exceed 100 times the monthly minimum wage in a year;

- the value of prizes (winnings) from international contests and competitions does not exceed 500 times the monthly minimum wage in a year;

- the value of prizes (winnings) from domestic contests and competitions does not exceed 100 times the monthly minimum wage in a year;

5) government pensions, government stipends, and government benefits, including payments and benefits for burial, pregnancy and childbirth, in connection with a disability (including temporary disability), and in connection with the loss of a breadwinner;

6) child support and alimony, with respect to the persons receiving such payments;

7) one-time payments, material assistance at the expense of the budget, provided in accordance with the procedure established by regulatory legal acts, as well as humanitarian and charitable assistance, including that provided in the event of natural disasters;

8) income from the sale or transfer by an individual of real property that has been the taxpayer's principal place of residence for the past five years;

9) income from the sale or transfer by an individual of personal property, other than property used by the taxpayer for commercial activity;

10) state prizes awarded by the Republic of Tajikistan;

11) insurance payouts received under savings and repayment agreements up to the amount of payments made against such agreements, when insurance premiums under these agreements have been paid at the individual's own expense, and insurance payouts received as a result of the death of an insured person;

12) income from the sale by beekeepers of honey from their own hives;

13) income from the sale of agricultural produce grown (produced) on household plots without any industrial processing;

14) cash allowances, cash remuneration, and other payments received in connection with service (the performance of official duties) by military personnel, members of the rank-and-file and command staff of the ministries of defense, internal affairs, security, emergency situations, and civil defense, the Committee for Protection of the State Border, the Main Tax Police Administration, and the Customs Department of the Ministry of State Revenues and Fees of the Republic of Tajikistan, the National Guard, as well as reservists called up for training duty or inspections;

15) payments for blood donation;

16) earnings from government bonds and government lotteries of the Republic of Tajikistan;

17) targeted social assistance, benefits and compensation, with the exception of those related to labor compensation, paid at the expense of the state budget in the amounts and following the procedure established by regulatory legal acts;

18) restitution for losses sustained by a worker as a result of injury or other health impairment related to the performance of his duties on the job, in accordance with the legislation of the Republic of Tajikistan;

19) the value of special clothing and/or uniforms and footwear, means of individual protection, first aid equipment, soap, disinfectants, milk, and other equivalent food products for therapeutic and preventive-care meals based on norms and within the spheres of activity established in accordance with regulatory legal acts of the Republic of Tajikistan government;

20) insurance payouts under an employer's mandatory liability insurance agreements (at the employer's expense) for injury (in the event of injury) to an employee's life and health in the performance of his duties on the job (official duties);

21) restitution for financial damages awarded under a court ruling;

22) personal income that is exempt in accordance with other provisions of this Code.

## **SECTION V. CORPORATE PROFIT TAX**

### **CHAPTER 18. GENERAL PROVISIONS**

#### **Article 142. Taxpayers**

1. Payers of the corporate profit tax (referred to hereinafter as the "profit tax") shall be resident and foreign enterprises.

2. Any foreign entity that is not an individual shall be treated as an enterprise for the purposes of this section if it cannot prove that it should be treated as an entity under joint ownership in accordance with Article 189 of this Code.



### **Article 143. Object of Taxation**

1. The object of taxation for a resident enterprise shall be its profits. Profits shall be the positive difference between a taxpayer's gross income and deductions specified under Chapter 19 of this Code. For the purposes of this article gross income shall be defined in accordance with the provisions of Article 135 of this Code (including all receipts that lead to an increase in the net value of a taxpayer's assets, with the exception of receipts that are exempt from the profit tax. In this case property received as a contribution to authorized capital shall not be treated as income.).

2. The object of taxation for a foreign enterprise doing business in the Republic of Tajikistan through a permanent establishment shall be its profits from this business, that is, its gross income from sources in the Republic of Tajikistan related to the permanent establishment, less the deductions provided for under this Code for such income.

3. The types of gross income earned by a foreign enterprises, as specified in Article 164 of this Code, which are not related to its permanent establishment shall be subject to taxation at the source of payment without taking deductions, if the source of income is located in the Republic of Tajikistan.

4. In cases in which a foreign enterprise earns income from the sale or transfer of property not related to its permanent establishment in the Republic of Tajikistan, the object of taxation shall be its profits from this activity, that is, gross income of this type from sources in the Republic of Tajikistan for the calendar year, less the deductions provided for under this Code and applicable to this income for the period in question.

### **Article 144. Tax Rates**

1. In consideration of items 2 and 3 of this article, profits of enterprises less losses sustained in accordance with the provisions of Article 160 of this Code, shall be subject to taxation at the rate of 25 percent.

2. The types of gross income of a foreign enterprise specified under item 3 of Article 143 of this Code shall be subject to taxation at the rates indicated in Article 164 of this Code.

3. In those cases specified under item 4 of Article 143 of this Code, the profits of a foreign enterprise shall be subject to taxation at the rate of 25 percent.

### **Article 145. Concessions**

The following shall be exempt from the profit tax:

1) religious, charitable, budgetary, intergovernmental, and interstate (international) nonprofit organizations, with the exception of profits earned by them from commercial activity. Such organizations must maintain separate accounting records for their principal activity (activity that is exempt from the profit tax) and commercial activity;

2) unrequited transfers, property received free of charge, membership dues, donations, and grants received by nonprofit organizations;

- 3) the National Bank of Tajikistan and its institutions;
- 4) dividends earned by a resident enterprise from a resident enterprise;
- 5) enterprises at which the following circumstances exist simultaneously in the tax reporting year:
  - a) disabled persons account for at least 50 percent of the employees; and
  - b) at least 50 percent of the funds spent on labor compensation and other material remuneration, including in-kind payments, are spent on the needs of disabled persons;
- 6) new enterprises established in the manufacturing sphere, during the year of their state registration and starting with the year following their initial state registration, when their founders make investments in the following amounts to the authorized capital of these enterprises, taking into account the minimum investment amounts established by the legislation, for a period of:
  - 2 years, if the investments are the equivalent of up to US\$500,000;
  - 3 years, if the investments are the equivalent of more than US\$500,000 and up to US\$2 million;
  - 4 years, if the investments are the equivalent of more than US\$2 million and up to US\$5 million;
  - 5 years, if the investments are in excess of the equivalent of US\$5 million.

When calculating the amount of time (duration) for which a profit tax exemption (tax holiday) is granted in accordance with this item, subsequent re-registrations of an enterprise, a change in the enterprise's ownership, a change in its organizational-legal form, and other changes of this nature shall not be taken into consideration.

## **SECTION VI. GENERAL PROVISIONS CONCERNING THE PROFIT TAX AND INCOME TAX**

### **CHAPTER 19. DEDUCTIONS FROM GROSS INCOME**

#### **Article 146. Deduction of Expenses Related to Earning Income**

1. All expenses effected in a (tax) reporting period (applicable to a reporting period) that are related to earning the income in question, including expenditures on the payment of taxes specified by this Code, taking into account the restrictions established under Article 158 of this Code, expenditures on labor compensation and providing material and social benefits for employees that are subject to the income tax, expenditures on payment for raw materials, supplies, and energy, except expenditures on construction, the purchase of fixed assets and their installation, as well as other capital expenditures in accordance with Article 195 of this Code, and expenditures that are not deductible in accordance with Article 147 of this Code and other provisions of this chapter, shall be deducted from gross income.

2. Deductions shall be taken by a taxpayer provided that the taxpayer has properly prepared documents confirming the expenses related to earning gross income.

3. In the event that the same expenses are specified under several expenditure items, said expenses shall be deducted only once when calculating taxable profit (taxable income).

4. Penalties, interest (fines), and charges that have been awarded or recognized and are related to earning gross income, which are payable (have been paid) at the taxpayer's expense, shall be deductible, with the exception of those payable to the budget.

#### **Article 147. Nondeductible Expenses**

1. Deductions shall not be allowed for expenses that are not related to commercial activity. Deductions shall not be allowed for expenditures on the construction, operation, and maintenance of facilities that are not related to commercial (principal production) activity.

2. The deductions provided for under this chapter shall not be allowed if they do not meet the requirements set forth in Article 146 of this Code.

3. No deductions shall be allowed for hospitality and other similar expenses (related to making arrangements for parties, housing of guests, etc.)

4. Item 3 of this article shall not apply to a taxpayer whose commercial activity is of an entertainment nature, if the expenses are incurred as part of this activity.

5. Deductions with regard to contributions to reserve funds shall be taken only in accordance with the provisions of Articles 150 and 151 of this Code.

6. An individual may not deduct expenditures on personal consumption or expenses related to his own work for hire.

7. The value of property transferred, work performed, or services provided free of charge (on a charitable basis) shall not be deductible, with the exception of the case referred to under Article 148 of this Code.

8. Deductions shall not be allowed for expenses related to passenger cars which at any time during the tax period were at the personal disposal of employees or shareholders (partners of a taxpayer), including their use for transporting employees to and from work.

#### **Article 148. Deduction of Charitable Payments**

Regardless of the provisions of Article 147 of this Code, deductions of payments to charitable organizations and for the performance of charitable activity in accordance with items 2 and 3 of Article 17 of this Code shall be permitted in the amount of the payments actually made, not to exceed 5 percent of taxable profit (taxable income) determined without including the amount of the deduction allowed under this article. In the case of charitable payments in the form of property, the amount of the charitable payment actually made shall be the lesser of two values: the market value of the property or its production cost.

## **Article 149. Restriction on Deductions Pertaining to Interest**

1. Except as otherwise provided under item 2 of this article, interest actually paid (payable when the accrual basis is used) for each credit (loan) shall be deducted, but in an amount not to exceed three times the amount of interest accrued (accruable) using the refinancing rate of the National Bank of Tajikistan in effect in the tax period. This item shall also apply to interest paid under financial leasing agreements.

2. In the case of an enterprise in which more than 25 percent of the authorized capital is held directly or indirectly by nonresidents or legal entities that are exempt from the profit tax, interest paid on each credit (loan) used during a tax period shall be deducted in accordance with item 1 of this article, but the maximum amount of interest that can be deducted in accordance with item 1 of this article shall be limited to the following amount:

- 1) any interest income earned by the given enterprise, plus
- 2) 50 percent of the amount received as a result of a reduction in this enterprise's gross income (other than interest income) by authorized deductions allowed in accordance with this chapter, other than deductions pertaining to interest.

## **Article 150. Deductions Pertaining to Bad (Problem) Debts**

1. Taxpayers shall have the right to take deductions for bad (problem) debts related to the delivery of goods, the performance of work, and the provision of services, if the income related to these debts was previously included in gross income earned from commercial activity.

2. A deduction of a bad (problem) debt shall be allowed at the point that the debt is written off in the taxpayer's accounting records as having no value.

3. Banks, credit unions, and micro-credit deposit institutions that have been set up following the established procedure shall have the right to deduct contributions to a reserve to cover possible losses on credits (loans) (referred to hereinafter as in this item as a reserve) in accordance with the rules for the formation of this reserve and the classification of credits (loans) established by the National Bank of Tajikistan. A deduction shall be allowed for contributions to the reserve for all groups of credits (loans), with the exception of contributions for standard credits (loans). The authorized deduction shall be equal to 90 percent of the amount determined for contributions for all groups of credits (loans), with the exception of contributions for standard credits (loans), in accordance with the following procedure: the amount of the reserve at the end of the year minus the amount of the reserve at the beginning of the year, plus the contributions to the reserve during the year based on bad credits (loans) that have been written off, minus contributions to the reserve during the year based on credits (loans) actually repaid. An instruction on determining the amount of the authorized deduction shall be approved by the authorized government body in consultation with the National Bank of Tajikistan and the Republic of Tajikistan Ministry of Finance.

## **Article 151. Deductions of Contributions to Insurance Reserve Funds**

A legal entity operating in the insurance business shall have the right to take deductions for contributions to insurance reserve funds in accordance with the procedure and norms established by

the Republic of Tajikistan government on the basis of a proposal from the Republic of Tajikistan Ministry of Finance and the authorized government body.

### **Article 152. Deductions Pertaining to Expenditures on Scientific Research, Planning and Development, and Experimental Design Work**

Deductions shall be taken for expenditures on scientific research, planning and development, and experimental design work related to earning gross income, other than expenditures on the purchase of fixed assets, their installation, and other capital expenses. The basis for the deduction of these expenses shall be planning and estimate documentation, a certificate of work performed, and other documents confirming the performance of the relevant scientific research, planning and development, and experimental design work.

### **Article 153. Depreciation Charges and Deductions for Fixed Assets**

1. Depreciation charges for fixed assets used in commercial activity shall be deductible in accordance with the provisions of this article.

For the purposes of this Code depreciation charges for fixed assets and intangible assets not used in commercial activity (used in noncommercial activity) shall not be calculated and shall not be deductible.

2. Depreciable assets shall not include land, works of art, inventory, including unfinished construction projects and uninstalled equipment, property whose value is deducted in full in the current year from taxable profit, and other assets not subject to depreciation.

3. Depreciable fixed assets shall be divided into groups with the following depreciation rates:

<b>Group</b>	<b>Type of property</b>	<b>Maximum depreciation rate (as a percentage)</b>
1.	Automotive and tractor road equipment; special instruments, tools, and accessories; computers, peripherals, and data processing equipment; electronic equipment and means of communication.	20
2.	Trucks, buses, special motor vehicles and tractor trailers, aircraft. Machinery and equipment for all branches of industry and foundry production; forging equipment; construction equipment; agricultural machinery and equipment; passenger cars; office furniture.	15
3.	Trains; marine and river vessels; power machinery and equipment; thermal engineering equipment; turbine equipment, electric motors, and diesel generators. Electric power transmission equipment; pipelines.	8
4.	Buildings, constructions, structures.	7
5.	Depreciable assets not elsewhere classified.	10

4. The depreciation charges for each group of fixed assets (referred to hereinafter as a “group”) shall be calculated by applying the depreciation rate indicated under item 3 of this article, but not in excess of the maximum, to the value balance of the group at the end of the tax year.

5. Depreciation charges for buildings, constructions, and structures (referred to hereinafter as “structures”) shall be applied not for the group, but for each structure individually.

6. The value balance of a group at the end of a tax year shall be equal to the amount determined as follows (but not less than zero (not negative)):

1) the value balance of a group at the end of the previous year less the amount of the depreciation for the previous year, as well as the amounts indicated in items 8 and 9 of this article, plus

2) the value of fixed assets in accordance with Article 195 of this Code, added to the group in the course of the tax year, minus

3) proceeds from the sale of fixed assets in the tax year, established on the basis of the selling price.

7. If the proceeds from the sale of fixed assets in a certain group during a tax year exceed the value balance of the group at the end of the year, the surplus amount shall be included as income, and the value balance of the group shall be equal to zero.

8. If the value balance of a group at the end of the year is equal to less than 50 times the minimum monthly wage, the amount of the group’s value balance shall be deductible.

9. If all of the fixed assets in a group have been sold, transferred, or liquidated, the group’s value balance at the end of the tax year shall be deductible.

10. The value of fixed assets placed under financial leasing (received under financial leasing) shall be included in the value balance of the relevant group of the lessee.

11. For a lessor the principal, which is considered paid for fixed assets placed under financial leasing, shall be the proceeds from the sale of such fixed assets for the purposes of subitem 3) of item 6 of this article, if the fixed assets were included in the value balance of the group prior to their placement under financial leasing. For the lessee the principal paid to the lessor shall be treated as the acquisition price of the fixed assets.

12. Accelerated depreciation of groups of fixed assets shall be allowed, applying higher coefficients, not to exceed 2, to the maximum depreciation rates.

Accelerated depreciation shall be allowed with respect to fixed assets put into operation after December 31, 2004. In this case these fixed assets shall form independent groups.

#### **Article 154. Deductions for Expenditures on the Repair of Depreciable Fixed Assets**

1. Deductions shall be allowed for each group for expenditures on the repair of fixed assets included in the given group.

2. A deduction for expenditures in accordance with item 1 of this article shall be taken in the actual amount of these expenditures, not to exceed 10 percent of the value balance of the group at the end of the tax year.

3. The amount of actual expenditures on repairs in excess of 10 percent of the value balance of the group shall be treated as an increase in the value balance of the group.

4. In the event of accelerated depreciation, in order to determine the maximum expenditures on repairs that are permitted as a deduction, the amount of the group's value balance shall be determined as if the fixed assets were not subject to accelerated depreciation, and their depreciation were calculated on the basis of the rates specified under item 3 of Article 153 of this Code.

#### **Article 155. Deductions of Expenditures on Insurance Premiums**

Insurance premiums paid by insured persons under insurance agreements shall be deductible, with the exception of insurance premiums under agreements of a savings and repayment nature.

#### **Article 156. Expenditures on Geological Prospecting Work and Preparations for the Extraction of Natural Resources**

1. Expenditures on geological prospecting work and preparations for the extraction of natural resources, which are deductible from gross income in the form of depreciation charges at the depreciation rate for fixed assets in Group 2, shall form a separate group.

2. This article shall also apply to expenditures on intangible assets effected by a taxpayer in connection with the acquisition of rights to perform geological prospecting work and the development and extraction of natural resources.

#### **Article 157. Expenditures on Intangible Assets**

1. Intangible assets shall include expenditures by individuals and legal entities on intangible items (intangible property, such as licenses, invention patents, trademarks, copyrights, contracts to use the name of a legal entity, computer programs, and so on) which are used for at least 12 months, if they have a limited service life.

2. Expenditures on intangible assets that are deductible in the form of depreciation charges at the depreciation rate for fixed assets in Group 5 shall form a separate group.

3. The value of depreciable intangible assets shall not include expenditures on their acquisition or production if they have already been deducted in calculating the taxpayer's taxable profit.

4. This article shall not apply to intangible assets referred to under Article 156 of this Code.

#### **Article 158. Restriction on Deductions for Taxes and Penalties**

Deductions for taxes and penalties shall not be allowed only with respect to:

- 1) the income tax or profit tax paid on the territory of the Republic of Tajikistan or in other states;
- 2) penalties and interest paid (payable) to the budget (state fund) of the Republic of Tajikistan or to the budget of another state;
- 3) the minimum business income tax.

#### **Article 159. Losses from the Sale or Transfer of Property Not Used in Commercial Activity**

Losses resulting from the sale or transfer of property (other than property used for commercial activity, or property the profit from the sale or transfer of which is tax-exempt) shall be compensated for at the expense of profit earned from the sale or transfer of other property of this kind. If losses cannot be compensated for in the same year, they shall be carried over to a subsequent period for up to three years and shall be compensated for by profit earned from the sale or transfer of other property of this kind. Losses specified under this article shall not be deductible from gross income for the purposes of the profit tax or income tax.

#### **Article 160. Carryover of Losses to Another Period**

1. With respect to an enterprise, allowable deductions in excess of gross income (loss from commercial activity) shall be carried over to a subsequent period for up to three years and shall be covered at the expense of before-tax future profits.

2. With respect to an individual, allowable deductions from gross income from activity that is not work for hire in excess of said gross income may not be deducted from this person's wages, but may be carried over to a subsequent period for up to three years and applied against gross income from activity that is not work for hire in future periods.

### **CHAPTER 20. WITHHOLDING OF TAX AT THE SOURCE OF PAYMENT**

#### **Article 161. Procedure for the Withholding of Tax at the Source of Payment**

1. The following persons (tax agents) shall be required to withhold tax at sources of payment:

1) legal entities, as well as their separate subdivisions in those cases established by this Code, which make payments to individuals working for hire;

2) individuals who are individual entrepreneurs and who make payments to individuals working for them for hire;

3) individuals and legal entities who pay pensions, stipends, and benefits to other persons, with the exception of government pensions, stipends, and benefits;

4) resident legal entities that pay dividends to individuals and legal entities;



- 5) individuals and legal entities who pay interest to individuals and legal entities;
- 6) individuals and legal entities who make payments specified under Article 164 of this Code;
- 7) individuals and legal entities who pay winnings on bonds and lotteries and prizes (winnings, gifts) based on the results of contests and competitions.

2. An individual or legal entity who pays income shall be responsible for the withholding of taxes and their transfer to the budget. If taxes are not withheld, the person paying the income shall be required to pay to the budget at his own expense the amount of tax that was not withheld and any relevant penalties and interest.

3. Individuals and legal entities withholding (assessing) tax at the source of payment in accordance with item 1 of this article, including persons receiving funds for the payment of wages at banks and other financial and lending institutions performing certain types of banking operations, shall be required:

1) to transfer the taxes withheld (assessed), including the social tax in accordance with Chapter 35 of this Code, to the budget simultaneously with the receipt of the funds for the payment of wages, and in other cases, within five banking days after the end of the month in which the payments were made;

2) when paying wages, to provide the individuals earning the income with statements at their request, indicating their last name, initials, the amount and type of income, as well as the amount of tax withheld (if tax is being withheld);

3) within 30 days after the end of a tax year, to present to the tax authorities with which they are registered, on a mandatory basis, and also to send (present) to individuals and legal entities earning (who have earned) income in accordance with item 1 of this article, statements at their request within 10 days, indicating the taxpayer identification number, the person's name (last name, first name, and patronymic), the total amount of income and the total amount of tax withheld in the reporting year.

4. An employer who is not the principal employer of a taxpayer shall be required to withhold income tax from wages at the rate of 13 percent without applying the deductions provided for under Article 139 of this Code.

#### **Article 162. Withholding of Tax on Dividends at the Source of Payment**

1. Dividends paid by resident enterprises shall be subject to taxation at the source of payment at the rate of 12 percent, with the exception of dividends paid to resident enterprises.

2. Dividends that are taxable in accordance with item 1 of this article shall not be included in the recipient's gross income and shall not be subject to further taxation.

#### **Article 163. Withholding of Tax on Interest at the Source of Payment**

1. Interest paid by a resident or permanent establishment of a nonresident, or on behalf of such an establishment, shall be subject to taxation at the source of payment at the rate of 12 percent of the amount to be paid, if the income is received from a source in the Republic of Tajikistan in accordance with Article 34 of this Code, with the exception of the cases referred to in item 2 of this article.

2. Interest, including interest under financial leasing agreements, paid to resident banks, other resident financial and lending institutions (organizations), including resident micro-finance institutions, and resident leasing companies shall not be subject to taxation at the source of payment.

3. Interest that is taxable in accordance with item 1 of this article shall not be included in an individual recipient's gross income and shall not be subject to further taxation after being paid to said individual.

4. A resident legal entity whose profits are subject to taxation, in the event that interest is received that is subject to taxation in accordance with item 1 of this article, shall include in its gross income the full amount of interest income without deducting the tax that is withheld and shall have the right to a crediting of this tax withheld at the source of payment, provided that it has documents confirming the withholding of the tax at the source of payment.

#### **Article 164. Withholding of Tax on Nonresidents' Income at the Source of Payment**

1. A nonresident's income from a source in the Republic of Tajikistan, as defined in Article 34 of this Code, which is not related to a permanent establishment of this nonresident located on the territory of the Republic of Tajikistan, shall be subject to taxation at the source of payment as gross income, without taking deductions (with the exception of a deduction from the total amount payable to the nonresident including the value-added tax, equal to the value-added tax withheld from this total, in the event of taxation in accordance with Article 220 of this Code), at the rates specified in item 6 of this article.

2. Payment of income shall be understood to mean the transfer of money in cash or noncash forms, securities, goods, and other property, or the performance of work or the provision of services.

3. Payments made to nonresidents in accordance with item 1 of this article which are related to the delivery of goods under foreign trade transactions (related to the importation of goods) onto the territory of the Republic of Tajikistan shall not be subject to taxation at the source of payment.

4. Taxation of a nonresident's income at the source of payment shall be effected regardless of the disposition by the given nonresident of income earned in the Republic of Tajikistan in favor of third parties in the Republic of Tajikistan and/or its subdivisions in other states.

5. Tax on a nonresident's income from a source in the Republic of Tajikistan shall be withheld regardless of the form and location of the payment of the income.

6. In consideration of the provisions of this article, a nonresident's income from a source in the Republic of Tajikistan that is not related to a permanent establishment of the nonresident which is located on the territory of the Republic of Tajikistan, shall be subject to taxation at the source of payment as gross income without taking deductions (with the exception of a deduction from the total

amount payable to the nonresident including the value-added tax, equal to the value-added tax withheld from this total, in the event of taxation in accordance with Article 220 of this Code), at the following rates:

- 1) dividends – in accordance with Article 162 of this Code;
- 2) interest – in accordance with Article 163 of this Code;
- 3) insurance premiums paid by a resident enterprise or resident individual entrepreneur in accordance with an insurance agreement or risk reinsurance agreement – at the rate of 4 percent;
- 4) payments made by a resident enterprise or resident individual entrepreneur for telecommunications or transportation services in the case of international communications or international shipments between the Republic of Tajikistan and other states, with the exception of payments for sea freight – at the rate of 4 percent, and payments for sea freight – at the rate of 6 percent;
- 5) income in the form of wages, as well as income specified under subitems 8), 17), 18), 19), 20), 21), 22), and 24) of item 8 of Article 34 of this Code, paid by a resident enterprise or resident individual entrepreneur – at the rate indicated in item 1 of Article 140 of this Code;
- 6) income defined under item 8 of Article 34 of this Code paid by a resident enterprise or resident individual entrepreneur, with the exception of income:
  - referred to in subitems 1), 2), 3), 4), and 5) of this item;
  - referred to in subitems 12), 13), and 26) of item 8 of Article 34 of this Code;
  - from the sale or transfer of property referred to in subitem 11) of item 8 of Article 34 of this Code – at the rate of 15 percent.

7. For the purposes of this article, payments made by a permanent establishment of a nonresident in the Republic of Tajikistan or on behalf of such an establishment shall be treated as payments made by a resident enterprise.

#### **Article 165. Submission of Tax Reporting on Withholding of Tax at the Source of Payment**

Tax agents as defined under Article 161 of this Code shall be required once every six months, no later than the 15<sup>th</sup> of the month following the reporting half-year in which an obligation to withhold tax at the source of payment occurred, to submit to the tax authorities with they are registered a statement of the tax withheld at the source of payment, following the form and procedure established by the authorized government body.

### **CHAPTER 21. INTERNATIONAL TAXATION**

#### **Article 166. Taxation of Net Profit of a Permanent Establishment of a Foreign Legal Entity**

In addition to the profit tax, a permanent establishment of a foreign legal entity shall be subject to a tax on the net profit of this permanent establishment at the rate of 8 percent.

#### **Article 167. Foreign Tax Credit**

1. The amount of income tax or profit tax paid outside the Republic of Tajikistan shall be applied as a credit against the payment of these taxes in the Republic of Tajikistan provided that confirmation of the payment of the tax outside the Republic of Tajikistan is furnished following the procedure established by the authorized government body.

2. The amount of the credit referred to under item 1 of this article must not exceed the amount of tax assessed in the Republic of Tajikistan with respect to the given income or profit, at the rates in effect in the Republic of Tajikistan.

#### **Article 168. Income Earned in Countries with Concessional Taxation**

1. If a resident directly or indirectly controls more than 10 percent of the authorized capital or holds more than 10 percent of the voting shares in a foreign enterprise which, in turn, earns income in a country with concessional taxation, the portion of said income that applies to the resident shall be included in its (the resident's) taxable income (profit).

2. A foreign state shall be considered a state with concessional taxation if the tax rate in the country is 30 percent lower than the rate established in accordance with this Code, or if it has laws regarding the confidentiality of financial information or information about companies which make it possible to maintain the secrecy of the actual owner of property or recipient of income (profit).

### **CHAPTER 22. SPECIAL PROVISIONS REGARDING INTERNATIONAL TREATIES**

#### **Article 169. Conditions for the Application of an International Treaty**

1. The provisions of an international treaty on avoidance of dual taxation and prevention of evasion of taxes on income and property (capital), to which the Republic of Tajikistan is a party (referred to hereinafter as an "international treaty" for the purposes of Articles 169–180 of this Code) shall apply to persons who are residents of one or both of the states that have concluded such a treaty.

2. The provision of item 1 of this article shall not apply to a resident of a state with which an international treaty has been concluded if this resident is using the provisions of the international treaty in the interests of another person who is not a resident of the state with which the international treaty has been concluded.

3. For the purposes of this chapter the taxation of income depending on the context (content) of an international treaty shall mean the taxation of profit or income in accordance with this Code.

#### **Article 170. Procedure for the Implementation of International Treaties**

The implementation of international treaties shall be effected following the procedure established by the Republic of Tajikistan Ministry of Finance in consultation with the authorized government body in accordance with the provisions of Articles 169–180 of this Code.

**Article 171. Methods for Deducting Management and General Administrative Expenses of a Nonresident Legal Entity for the Purposes of the Taxation of Income from Sources in the Republic of Tajikistan**

1. If the provisions of an international treaty applicable to the definition of taxable income of a nonresident legal entity from doing business in the Republic of Tajikistan through a permanent establishment allow for the deduction of management and general administrative expenses incurred for the purpose of earning such taxable income both in the Republic of Tajikistan and abroad, the amount of such expenses shall be determined using one of the following methods:

- 1) the proportional distribution of expenses method;
- 2) the direct application of expenses as deductions.

2. A nonresident legal entity shall independently choose one of these methods for the deduction of management and general administrative expenses.

3. The chosen method for treating management and general administrative expenses as a deduction for a permanent establishment (including the procedure for calculation of the reference indicator used in the proportional distribution of expenses method) shall be applied on an annual basis and may be changed only with the approval of the respective tax authority.

**Article 172. Proportional Distribution of Expenses Method**

1. When using the proportional distribution method, the amount of management and general administrative expenses referred to in Article 171 of this Code that are treated as deductions for a permanent establishment shall be defined as the product of these expenses and the reference indicator.

2. The reference indicator shall be calculated using one of the following methods:

1) the ratio of gross annual income earned by a nonresident legal entity from doing business in the Republic of Tajikistan through a permanent establishment in the tax year, to the nonresident legal entity's total gross annual income from all business both within the Republic of Tajikistan and outside the country for said tax period;

2) determination of the average of three indicators:

- the ratio of gross annual income earned by a nonresident legal entity from doing business in the Republic of Tajikistan through a permanent establishment in the tax year, to the nonresident legal entity's total gross annual income from all business both within the Republic of Tajikistan and outside the country for said tax period;

- the ratio of the value of fixed assets reported in the financial statements of a permanent establishment in the Republic of Tajikistan as of the end of the tax period to the total value of fixed assets of the nonresident legal entity as a whole both within the Republic of Tajikistan and outside the country for the same tax period;

- the ratio of the payroll for personnel employed at a permanent establishment in the Republic of Tajikistan as of the end of the tax period to the total payroll for personnel employed by the nonresident legal entity as a whole both within the Republic of Tajikistan and outside the country for the same tax period.

A nonresident legal entity shall identify independently one of the aforementioned methods for calculation of the reference indicator.

3. The amount of management and general administrative expenses that has been estimated shall be treated as a deduction for a permanent establishment only if supporting documents are available.

4. Supporting documents shall include:

1) a copy of the financial statements of the nonresident legal entity which indicate, depending on the reference indicator identified by the nonresident legal entity:

- the total amount of gross annual income as a whole;
- the total payroll as a whole;
- the original and residual value of fixed assets as a whole;
- the total amount of expenses, with an itemized breakdown, including an itemized breakdown of management and general administrative expenses;

2) a copy of an auditor's report based on an audit of the financial statements of the nonresident legal entity (when the financial statements of the given legal entity are audited).

5. A statement of the amount of these expenses that are to be treated as a deduction for a permanent establishment in the Republic of Tajikistan shall be attached to the corporate income tax (profit tax) return submitted to the appropriate tax authority of the Republic of Tajikistan.

6. In the event that the financial statements do not indicate the amount of management and general administrative expenses that are subject to proportional distribution, these expenses shall not be allowed as deductions for the permanent establishment.

### **Article 173. Direct Application of Expenses Method**

1. When using the direct application method for the management and/or general administrative expenses of a nonresident, these expenses shall be treated as deductions for a permanent establishment in the Republic of Tajikistan if they are determined directly and were incurred directly for the purposes of earning income from doing business in the Republic of Tajikistan through the permanent establishment.

Said expenses shall be treated as deductions for a permanent establishment only if supporting documents are available.

2. Supporting documents shall include:

1) accounting records that confirm the expenses incurred by the nonresident legal entity on the territory of the Republic of Tajikistan for the purposes of earning income from doing business in the Republic of Tajikistan through the permanent establishment;

2) copies of accounting records that confirm the expenses incurred by the nonresident legal entity outside the Republic of Tajikistan for the purposes of earning income from doing business in the Republic of Tajikistan through the permanent establishment.

**Article 174. Procedure for Payment of the Tax on Income of Nonresidents from Activity in the Republic of Tajikistan Not Leading to the Creation of a Permanent Establishment**

1. The procedure for the payment of tax specified under this article shall apply to income earned by a nonresident from activity in the Republic of Tajikistan that does not lead to the creation of a permanent establishment in accordance with the provisions of an international treaty, with the exception of income referred to under Articles 175–178 of this Code, except as otherwise provided by said articles.

2. A nonresident referred to in item 1 of this article who earns income from sources in the Republic of Tajikistan shall have the right to apply the tax payment procedure provided for under this article. In the event that the provisions of this article do not apply, a tax agent shall be required to withhold the tax at the source of payment and transfer it to the state budget following the generally established procedure.

3. A nonresident earning income, a tax agent, and a resident bank (referred to hereinafter as a “bank”) identified by a tax agent, shall conclude an agreement regarding a provisional bank deposit following the form agreed upon by the parties to the agreement, taking into account the provisions of this article.

4. A tax agent shall be required to register an agreement on a provisional bank deposit with the appropriate tax authority within 10 calendar days of the date the agreement is signed, and a copy of the agreement, as well as a copy of a payment document confirming the transfer of the tax to the provisional bank deposit, shall be submitted to the appropriate tax authority.

5. The provisions of this article shall extend only to agreements on a provisional bank deposit that have been registered with the appropriate tax authority. Agreements on a provisional bank deposit the terms of which do not contradict the provisions of this article shall be subject to registration.

6. At the time that income is paid to a nonresident, a tax agent shall be required to withhold tax at the source of payment at the rate specified under Article 164 of this Code, and to transfer the amount withheld to the bank for posting to the provisional bank deposit on behalf of the nonresident.

7. In the case of compliance with the terms of an international treaty, in order to obtain a refund of taxes previously withheld, a nonresident shall submit a request to the appropriate tax authority following the procedure and form established by the authorized government body.

8. Within 15 days of the receipt of a request, a tax authority shall review said request and the necessary documents and shall make a decision regarding the request, and the nonresident and the bank shall be informed of this decision.

9. Upon receipt of a request for the refund of taxes that have been withheld, which has been certified by a tax authority, a bank shall grant the nonresident who submitted the request the right to dispose of the funds held on a provisional bank deposit, up to the amount indicated in the request, plus bank interest that has accrued.

10. In the event that a nonresident does not agree with a negative decision by a tax authority, the nonresident shall have the right within 10 calendar days of the receipt of said decision to file an appeal with the authorized government body (with the involvement of a competent authority of the nonresident's country of residence, if necessary) by submitting a request for a reconsideration of the legality of the application of the provisions of an international treaty, accompanied by the simultaneous notification of the tax authority that its decision is being appealed.

11. In the event that a tax authority makes a negative decision regarding a request and does not receive notification from a nonresident of an appeal of the tax authority's decision within the 10-day period established under item 10 of this article, this tax authority shall forward to the bank a collection order calling for the transfer of the amount indicated in the request and held in a provisional bank deposit, plus bank interest that has accrued, to the budget, accompanied by a document confirming the refusal to exempt the nonresident from taxation of its income.

12. A bank shall be required, within one business day of the receipt of documents referred to in item 11 of this article from a tax authority, to transfer to the budget the amount of tax held on the provisional bank deposit, plus bank interest that has accrued.

The amount of tax collected in this manner shall be applied against the nonresident's obligations to the budget.

13. Provisional bank deposits shall be opened in the domestic currency or in foreign currency. In the event that provisional bank deposits are opened in foreign currency, the taxes and bank interest shall be transferred to the budget in the domestic currency, converted at the official exchange rate of the National Bank of Tajikistan at the time the tax is paid.

14. A nonresident and a tax agent shall not have the right to dispose of tax funds held on a provisional bank account until a tax authority makes some sort of decision.

15. In the event of a violation of the terms of an agreement on a provisional bank deposit and failure to transfer withheld taxes to the budget in a timely manner, for which the bank is at fault, the bank shall bear liability in accordance with the legislation of the Republic of Tajikistan.

16. In the event that it is not possible for a bank to meet its obligations to transfer to the budget taxes held on a provisional bank deposit, the obligation to transfer taxes at the source of payment, bank interest, and penalties for failure to transfer taxes to the budget in a timely manner shall be assigned to a tax agent.

17. Tax authorities shall be required to maintain records of taxes:



- 1) held on provisional bank deposits;
- 2) paid to [sic] nonresidents who have the right to apply the provisions of international treaties;
- 3) transferred to the budget.

**Article 175. Procedure for the Application of an International Treaty Regarding Taxation of Income from Providing Transportation Services in International Shipping Operations**

1. Income from providing transportation services in international shipping operations, one of the parties to which is the Republic of Tajikistan, earned by a nonresident legal entity that has the right to apply the provisions of an international treaty, shall be exempt from taxation without the submission of a request for the application of the provisions of an international treaty on the basis of a document confirming the nonresident's residency, if the given legal entity has a permanent establishment in the Republic of Tajikistan associated with this activity.

A nonresident legal entity shall be required to maintain separate accounting records of income earned from providing transportation services in international shipping operations (not subject to taxation in accordance with an international treaty) and from providing transportation services on the territory of the Republic of Tajikistan (subject to taxation), and also to report said income in the profit tax return.

The total amount of taxable profit (taxable income) in the aforementioned return shall be reduced by the amount of taxable profit (taxable income) that is exempt from taxation in accordance with an international treaty, as calculated on the basis of separate accounting records.

In the event of the unlawful application of the provisions of an international treaty that results in nonpayment or underpayment of taxes to the budget, the taxpayer shall bear liability in accordance with legislative acts of the Republic of Tajikistan.

2. The income of a nonresident legal entity that operates means of transport in international shipping operations, one of the parties to which is the Republic of Tajikistan, without the creation of a permanent establishment in the Republic of Tajikistan, and that has the right to apply the provisions of an international treaty, shall be exempt from taxation following the procedure established under Article 174 of this Code.

**Article 176. Procedure for the Application of an International Treaty Regarding Taxation of Dividends, Interest, and Royalties**

1. A tax agent shall have the right at the moment income is paid to a nonresident in the form of dividends, interest, and royalties, to apply the provisions of the relevant international treaty without requiring the nonresident to submit a request for the application of the provisions of an international treaty, on the basis of a document confirming residency, if the nonresident is the final recipient of the income and has the right to apply the provisions of an international treaty.

2. A tax agent shall be required to indicate in a statement of tax withheld at the source of payment, which is submitted to a tax authority, the amount of income paid (accrued) and the taxes

withheld in accordance with the provisions of international treaties, as well as the tax rates and the names of the international treaties.

3. In the event of the unlawful application of the provisions of an international treaty, which results in the nonpayment or underpayment of taxes to the budget, the tax agent shall bear liability in accordance with legislative acts of the Republic of Tajikistan.

**Article 177. Procedure for the Application of an International Treaty Regarding Taxation of Net Profit (Net Income) from Doing Business through a Permanent Establishment**

1. A nonresident shall have the right to apply the provisions of an international treaty regarding the taxation of net profit (net income) from doing business in the Republic of Tajikistan through a permanent establishment without submitting a request for the application of the provisions of an international treaty, on the basis of a document confirming residency, if the nonresident is the final recipient of the net profit (net income) and has the right to apply the provisions of the relevant international treaty.

2. A nonresident legal entity shall be required to indicate in a profit tax return the tax rate and amount of tax on net profit (net income) and the name of the international treaty on the basis of which the relevant tax rate has been applied.

3. In the event of the unlawful application of the provisions of an international treaty, which results in the nonpayment or underpayment of taxes to the budget, the taxpayer shall bear liability in accordance with legislative acts of the Republic of Tajikistan.

**Article 178. Procedure for the Application of an International Treaty Regarding Taxation of Other Income from Sources in the Republic of Tajikistan**

1. A nonresident who earns income from sources in the Republic of Tajikistan, with the exception of cases referred to in Articles 174–177 of this Code, shall have the right to file a request with the tax authority where the tax agent is registered for the application of the provisions of an international treaty following the form established by the authorized government body, before the income is paid.

2. A tax authority shall review a request within 10 calendar days, and if the information contained in the request is accurate, shall certify the request.

3. In the event of the unlawful application of the provisions of an international treaty, the tax authority shall issue a denial to the nonresident, indicating the reasons for doing so.

4. In the event that a nonresident does not agree with a negative decision by a tax authority, the nonresident shall have the right to file an appeal with the authorized government body (with the involvement of a competent authority of the nonresident's country of residence, if necessary) by submitting a request for a reconsideration of the legality of the application of the provisions of an international treaty.

**Article 179. General Requirements for the Submission of a Request for Application of the Provisions of an International Treaty**

A request for the application of the provisions of an international treaty, following the form established by the authorized government body, shall be accepted by a tax authority provided that the following requirements are met:

1) submission of the following with the request:

- copies of contracts (agreements) for the performance of work (provision of services) or for other purposes;

- copies of charter documents;

- a breakdown of income from providing transportation services in international shipping operations and on the territory of the Republic of Tajikistan;

- a certificate of work performed, when a nonresident performs various types of work; a certificate of occupancy when construction work is performed; and an invoice or payment document confirming the receipt of income for services provided;

2) submission by a tax agent of accounting documents confirming the amount of income accrued and/or paid and taxes withheld;

3) confirmation of the applicant's residency by a competent or authorized body of the applicant's home country, with which the Republic of Tajikistan has concluded an international treaty (on the form used for the request, or with a document confirming residency attached). For the purposes of this article and Articles 174–178 of this Code, a nonresident who has the right to apply the provisions of a relevant international treaty, in the event of a change in the nonresident's registration data in its country of residence, shall be required to submit a document confirming residency which takes into account the modified data following the procedure established by said articles;

4) diplomatic or consular authentication, following the procedure established by the legislation of the Republic of Tajikistan or an international treaty to which the Republic of Tajikistan is a party, of the signature and seal of the body that has certified the nonresident's residency (document confirming residency).

#### **Article 180. Certificate of Taxes Withheld and Paid in the Republic of Tajikistan**

At the request of a nonresident, a tax authority shall issue a certificate of the amount of income received from sources in the Republic of Tajikistan and the taxes withheld, following the form and procedure established by the authorized government body.

### **CHAPTER 23. TAX ACCOUNTING RULES**

#### **Article 181. Tax Period (Year)**

The tax period (year) shall be a calendar year.

#### **Article 182. Procedure for the Accounting of Income and Expenditures**

1. A taxpayer shall be required to maintain accurate and timely accounting records of income and expenditures on the basis of documented data and to apply income and expenditures to the appropriate reporting period in which the income was earned or the expenditures were made, depending on the accounting method used in accordance with this chapter for the proper recording of taxable income (profit). The accounting method used by a taxpayer shall be understood to mean all aspects of the timing and procedure for the recording of receipts and expenses, such as cash basis or accrual accounting, and the method used to record production expenses and other capital expenses.

2. A taxpayer shall be required to maintain accounting records of all transactions related to its operations, which allow one to determine their beginning, progression, and end.

3. Except as otherwise established in this article, taxable income (profit) must be calculated according to the same accounting method that the taxpayer uses for its regular accounting records, with the necessary adjustments to comply with the requirements of this Code.

4. Except as otherwise established in this article, a taxpayer may maintain accounting records for tax purposes on a cash basis or an accrual basis, provided that the taxpayer applies the same method throughout the tax year.

5. A taxpayer must maintain accounting records on an accrual basis in the tax year if:

1) its turnover in the previous year exceeded 5 times the volume of operations established for registration for value-added tax purposes; or

2) it is required to maintain double-entry accounting records in accordance with the regulatory legal acts in force.

A taxpayer that is required to maintain accounting records on an accrual basis for the first time in accordance with the provisions of this item must maintain accounting records on an accrual basis in all subsequent years as well.

6. Banks, credit unions, and micro-credit deposit institutions shall be required to maintain accounting records on an accrual basis from the time that they begin operation.

Micro-loan institutions and micro-loan funds shall maintain accounting records for taxation purposes on a cash basis from the time that they begin operation, regardless of the provisions of this article.

7. For an individual, the requirement regarding accrual accounting shall apply only to income and deductions related to commercial activity.

8. In the event of a change in the accounting method used by a taxpayer, adjustments in the accounting of income, expenditures, and other elements that affect the tax amount must be made in the year that the accounting method is changed, so that none of these elements are omitted or counted twice.

9. In the case of payers of the value-added tax, income and expenditures shall be recorded without the value-added tax, except in cases of expenditures for which a value-added tax credit is not allowed.

### **Article 183. Principles of Cash Basis Accounting of Income and Expenditures**

A taxpayer who performs cash basis accounting must record income as of the date it is received and deduct expenses as of the date they are effected in accordance with Articles 184 and 185 of this Code.

### **Article 184. The Moment Income Is Received in Certain Cases When Cash Basis Accounting Is Used**

1. If a taxpayer receives money, the moment income is received shall be the moment that cash funds are received, and in the case of a noncash payment, the moment money is posted to the taxpayer's bank account or to another account which the taxpayer controls or from which the taxpayer has the right to receive said funds.

2. In the event of the cancellation or discharge of a taxpayer's financial obligation, and specifically in the event of a mutual netting of obligations, the moment income is received shall be the moment the obligation is canceled or discharged.

### **Article 185. The Moment Expenses Are Effected in Certain Cases When Cash Basis Accounting Is Used**

1. The moment that expenses are effected shall be the moment a taxpayer actually effects the expense, except as otherwise provided in this article.

2. If a taxpayer makes a monetary payment, the moment expenses are effected shall be the moment cash is paid, and in the event of a noncash payment, it shall be the moment a bank receives an instruction from the taxpayer to transfer funds (assuming that funds are available on accounts at the bank).

3. In the event of the cancellation or discharge of a financial obligation to a taxpayer, and specifically in the event of a mutual netting of obligations, the moment expenses are effected shall be the moment the obligation is canceled or discharged.

4. When interest is paid on a debt obligation or when payments are made for the leasing of property, if the term of the debt obligation or the leasing agreement covers several tax periods, the amount of interest paid (leasing payments made) actually deductible for the tax period shall be the amount of interest (leasing payments) due for the given period.

### **Article 186. Principles of Accrual Accounting of Income and Expenditures**

A taxpayer who performs accrual accounting must record income and expenses, respectively, at the moment the right to receive income is acquired or an obligation to effect a payment is incurred, regardless of the time the income is actually received or a payment is actually made in accordance with Articles 187 and 187 of this Code.

### **Article 187. The Moment Income Is Received When Accrual Accounting Is Used**

1. The right to receive income shall be considered to be acquired if the amount in question is payable unconditionally to the taxpayer or the taxpayer has performed all of its obligations under a transaction or agreement.

2. If a taxpayer performs work or provides services, the right to receive income shall be considered to be acquired at the moment of the final completion of work or services specified in a transaction or agreement.

If a transaction or agreement calls for the performance of work or services in stages, the right to receive income shall be considered to be acquired with respect to each stage at the time of the final completion of a particular stage of work or services, except as provided under Article 190 of this Code.

3. If a taxpayer receives income or has the right to receive income in the form of interest or income from the leasing of property, the right to receive income shall be considered to be acquired at the moment the term of the debt obligation or leasing agreement expires. If the term of a debt obligation or leasing agreement covers several tax periods, income shall be distributed among these tax periods in the order in which it is accrued.

### **Article 188. The Moment Expenses Are Effected When Accrual Accounting Is Used**

1. The moment expenses which relate to a transaction (agreement) are effected shall be considered the moment at which all of the following conditions are met, except as otherwise provided in this article:

1) a taxpayer unequivocally recognizes a financial obligation;

2) there is a sufficiently precise assessment of the size of the financial obligation;

3) all of the parties to the transaction or agreement have actually fulfilled all of their obligations under the transaction or agreement and the amounts in question are subject to unconditional payment.

2. In connection with the provisions outlined in item 1 of this article, a financial obligation shall mean an obligation assumed by a taxpayer in accordance with a transaction (agreement) for the purposes of the fulfillment of which another party to the transaction (agreement) will have to provide the taxpayer with the income in question (security in question) in cash or in another form.

3. In the case of the payment of interest on a debt obligation or making payments for leased property, the moment expenses are effected shall be considered the moment at which the term of the debt obligation or leasing agreement expires. If the term of a debt obligation or leasing agreement covers several tax periods, the expense shall be distributed among these tax periods in the order in which it is accrued.

### **Article 189. Joint Ownership**

In the event of an agreement (both written and oral) regarding the joint ownership of property or joint commercial activity, or another type of agreement that calls for at least two owners, but without the establishment of a legal entity, income and deductions under the agreement shall apply to each owner and they shall be subject to taxation in accordance with their stake in the operation.

#### **Article 190. Income and Deductions on Long-Term Contracts**

1. In the event that a taxpayer applies accrual accounting, income and deductions in connection with long-term contracts shall be reflected for each tax year in accordance with the extent to which the contracts have actually been carried out.

2. The extent to which a contract has been carried out shall be determined by comparing expenses incurred during the tax year against the total estimated expenses provided for under the given contract.

3. “Long-term contract” shall be understood to mean a contract for manufacturing, installation, or construction, or for the performance of auxiliary services, which is not completed within the tax year during which the work specified under the contract was begun, with the exception of contracts which, according to estimates, should be completed within six months of the date the work specified under the contract was started.

#### **Article 191. Procedure for Inventory Accounting**

1. Inventory accounting for tax purposes shall be performed exclusively in accordance with the accounting regulations in force, which have been prepared on the basis of the Republic of Tajikistan legislation on accounting.

2. In inventory accounting a taxpayer shall be required to reflect in the tax records the value of goods that the taxpayer has produced or purchased, which is determined, respectively, on the basis of production expenses (production costs) or purchase price. Specifically, a taxpayer shall be required to include in the cost of these goods expenses associated with their storage and transport.

3. In inventory accounting a taxpayer shall have the right to estimate the cost of goods or products that are defective, obsolete, or no longer in fashion, which for these or other similar reasons cannot be sold at a price that is greater than the costs associated with their production (purchase price), based on the price at which they could be sold.

4. In the case of goods for which a taxpayer does not maintain separate accounting records, the taxpayer shall have the right to use one of the three following methods for inventory accounting:

1) the FIFO method, according to which in a reporting period goods that are part of the inventory at the beginning of the reporting period are assumed to be sold (used) first, followed by goods produced (purchased) during the reporting period in the order of their production (purchase);

2) the LIFO method, according to which goods that were produced (purchased) last are assumed to be sold (used) first in the reporting period;

3) a valuation method based on the average production cost.

## **Article 192. Accounting of Financial Leasing**

1. In cases in which a lessor is the owner of depreciable tangible property before the beginning of a financial leasing arrangement, the transaction shall be treated as the sale of the property by the lessor and its purchase by the lessee.

2. Depreciable tangible property that is leased out under a financial leasing agreement shall be recorded on the lessee's balance sheet during the period that the financial leasing agreement is in force, which shall give the lessee the right to take deductions related to the leased object (specifically, depreciation and repair expenses).

## **Article 193. Compensated Deductions and Reduction in Reserves**

1. If compensation is provided for expenses, losses, and problem debts previously taken as deductions, the amount received shall be treated as income for the tax period in which the compensation was provided.

2. If there is a reduction in reserves for which a deduction was previously taken in accordance with item 3 of Article 150 and Article 151 of this Code, the amount of the reduction shall be treated as income.

## **Article 194. Profit and Loss from the Sale or Transfer of Assets**

1. Profit from the sale or transfer of assets shall be the positive difference between receipts from the sale or transfer and the value of the assets defined in accordance with Article 195 of this Code. When assets are transferred on an unrequited basis or at a discounted price, the profit of the person providing the assets shall be defined as the positive difference between the market price of the property being transferred in this manner and its value as determined in accordance with Article 195 of this Code.

2. Losses from the sale or transfer of assets shall be the negative difference between receipts from the sale or transfer and the value of the assets defined in accordance with Article 195 of this Code.

3. Items 1 and 2 of this article shall not apply to assets that are depreciable by groups, nor shall they apply to inventory.

## **Article 195. Value of Assets**

1. The value of assets shall include expenses related to their purchase, production, construction, assembly and installation, as well as other expenses that increase their value, with the exception of expenses which a taxpayer has the right to take as deductions.

2. If only part of an asset is sold or transferred, the value of the asset at the time of its sale or transfer shall be distributed between the remaining and sold or transferred parts.

## **Article 196. Nonrecognition of Profit or Loss**



1. No profit or loss shall be taken into account when determining taxable income (profit) in the event of:

- 1) the transfer of assets between spouses;
- 2) the transfer of assets between former spouses in the process of a divorce; or
- 3) the unintentional destruction of an asset or its alienation accompanied by the reinvestment of the proceeds (for example, insurance compensation received for the unintentional destruction of an asset) in an analogous asset or an asset of the same type before the end of the second year following the year in which the asset was destroyed or alienated.

2. The value of a replacement asset referred to under subitem 3) of item 1 of this article shall be determined taking into account (at the level of) the value of the replaced asset at the time of its destruction or alienation, with an increase in the value of the replacement asset by the positive difference between the taxpayer's expenditures on reinvestment and the amount of the proceeds in accordance with subitem 3) of item 1 of this article.

3. The value of an asset acquired as a result of a transaction in which profit is not taken into account for tax purposes in accordance with subitems 1) and 2) of item 1 of this article shall be the value of the asset for the party transferring it as of the transaction date.

4. This article shall not apply to assets that are depreciable by groups, with the exception of subitems 1) and 2) of item 1 of this article, which shall apply in cases in which all assets in the group are transferred at the same time.

## **CHAPTER 24. ADMINISTRATIVE PROVISIONS**

### **Article 197. Filing of a Return**

1. An income tax or profit tax return shall be filed with tax authorities before April 1 of the year following the reporting year by the following taxpayers, respectively:

- 1) resident legal entities;
- 2) resident individuals who earn income not subject to taxation at the source of payment in the Republic of Tajikistan, with the exception of income earned from individual entrepreneurial activity on the basis of a patent that has been obtained in accordance with Article 137 of this Code;
- 3) resident individuals who hold funds on accounts with foreign banks located outside the Republic of Tajikistan, as well as those earning income outside the Republic of Tajikistan;
- 4) persons who are responsible for filing an income tax return and property status return in accordance with the laws of the Republic of Tajikistan. The procedure and deadlines for filing, as well as the form of the returns to be filed by these persons, shall be determined by the Republic of Tajikistan government;
- 5) nonresident legal entities and individuals earning income from sources in the Republic of Tajikistan that is subject to taxation but is not taxed at the source of payment.

2. In the event that a taxpayer terminates commercial activity in the Republic of Tajikistan, said taxpayer shall file a tax return with the appropriate tax authority within 30 days.

3. In the event of the liquidation of a legal entity, the liquidation commission or the taxpayer shall send written notification to this effect to the tax authority without delay. The liquidation commission shall be required to submit a tax return to the appropriate tax authority in accordance with item 7 of Article 71 of this Code.

4. An individual who is not required to submit a tax return may submit a tax return with a request for a recalculation of tax or a refund.

### **Article 198. Current Tax Payments (Prepayments)**

1. Legal entities that are not payers of the tax under the simplified system shall be required to make monthly current payments to the budget no later than the 15<sup>th</sup> of the month. The amount of each current monthly payment for the 12-month period beginning each April 15 must be equal to 1 percent of gross income for the reporting month in accordance with Article 321 of this Code, which shall be applied against (recorded as) payment of the minimum business income tax. If one-twelfth of the amount of profit tax for the previous year, multiplied by a coefficient of 1.1, is greater than the 1 percent of gross income for the reporting month referred to above, the difference between the one-twelfth of the amount of profit tax for the previous year, multiplied by a coefficient of 1.1, and the 1 percent of gross income for the reporting month paid to the budget and recorded as the minimum business income tax, shall be payable as current profit tax payments within the same time period.

Other individuals and legal entities engaged in commercial activity, with the exception of resident individuals who are subject to the income tax on the basis of a patent or other simplified system in accordance with item 2 of Article 137 of this Code, and legal entities that are payers of the tax under the simplified system, shall be required to make current payments to the budget for the quarter just ended no later than April 15, July 15, and October 15 of the current year, and January 15 of the following year. For legal entities the amount of each quarterly current payment for the 12-month period beginning each April 15 must be equal to 1 percent of gross income for the reporting quarter in accordance with Article 321 of this Code, which shall be applied against (recorded as) payment of the minimum business income tax. If one-fourth of the amount of profit tax for the previous year, multiplied by a coefficient of 1.1, is greater than the 1 percent of gross income for the reporting quarter referred to above, the difference between the one-fourth of the amount of profit tax for the previous year, multiplied by a coefficient of 1.1, and the 1 percent of gross income for the reporting quarter paid to the budget and recorded as the minimum business income tax, shall be payable as current profit tax payments within the same time period.

2. The amount of current tax payments may be defined as the product of a taxpayer's gross income (without deductions) for the current month (quarter) and the coefficient that represents the proportion of the annual amount of the given tax in the taxpayer's gross income (without deductions) for the previous year. For taxpayers that are legal entities, a coefficient shall be applied that is derived from the total annual amount of taxes owed by the taxpayer against the minimum business income tax and the corporate profit tax, taking into account any credit that has been applied in accordance with Article 323 of this Code. A taxpayer may choose to apply throughout the entire year one of the two possible methods for determining the amount of current tax payments identified in items 1 and 2 of this article

3. Current tax payments shall be applied against the amount of tax due from a taxpayer for a tax year. Any amount by which current tax payments on the profit tax exceed the obligations under this tax shall be applied against obligations under the minimum business income tax for the same year, and any balance remaining (after obligations under the minimum business income tax) shall be applied against obligations under other taxes or shall be refunded to the taxpayer in accordance with Article 89 of this Code.

4. Interest shall be charged for current tax payments that are not made in a timely manner in accordance with Article 93 of this Code.

### **Article 199. Payment of Tax Based on the Results for a Year**

Taxpayers shall effect a final settlement and pay the tax owed no later than April 10 of the year following the tax reporting year.

## **SECTION VII. VALUE-ADDED TAX**

### **CHAPTER 25. GENERAL PROVISIONS**

#### **Article 200. The Concept of the Value-Added Tax**

The value-added tax, referred to hereinafter as the VAT, shall be a form of transferring to the budget a portion of the value added in the process of the production and circulation of goods, work, and services on the territory of the Republic of Tajikistan, as well as a portion of the value of all taxable goods imported onto the territory of the Republic of Tajikistan. The value-added tax, which is an indirect tax, shall be payable at all stages of the production and circulation of goods and the performance of work and the provision of services. The amount of VAT payable on taxable turnover shall be defined as the difference between the amount of tax assessed on such turnover and the amount of tax to be credited in accordance with VAT tax invoices that are presented pursuant to the provisions of this section.

The amount of VAT payable on taxable imports shall be defined as the product of taxable imports and the VAT rate.

### **CHAPTER 26. TAXPAYERS**

#### **Article 201. Taxpayers**

1. A person who is registered or required to register as a payer of the VAT shall be a payer of the VAT.

2. A registered person shall become a payer of the VAT from the moment the registration enters into force. An unregistered person who is required to file an application for registration shall be a payer of the VAT from the beginning of the reporting period following the period in which the obligation to file an application for registration takes effect.

3. In addition to persons who are payers of the VAT in accordance with item 1 of this article, all persons who are engaged in the taxable importation of goods into the Republic of Tajikistan shall be considered payers of the VAT with respect to such imports.

4. A resident person who performs work or provides services that are subject to taxation in accordance with Article 220 of this Code, without registering for VAT purposes, shall be a payer of the VAT with respect to such goods or services.

5. Joint commercial activity performed by two or more persons, without the establishment of a legal entity, on the basis of a joint operating agreement in accordance with the Civil Code of the Republic of Tajikistan or without a written agreement, as a result of which the volume of taxable transactions during the preceding period of not more than 12 consecutive (one after the other) full calendar months exceeded the minimum level established under item 1 of Article 202 of this Code, shall be subject to registration for VAT purposes. One of the persons participating in such activity shall be subject to registration as a payer of the VAT with respect to transactions carried out in the course of the joint operations with the tax authority serving the area in which the joint activity is performed.

6. The performance of joint commercial activity without the establishment of a legal entity shall be subject to registration for VAT purposes regardless of the volume of taxable transactions if at least one of the participants in the joint operations is a payer of the VAT. In this case one of the persons who are payers of the VAT shall be subject to registration as a payer of the VAT with respect to transactions carried out in the course of the joint operations with the tax authority at which its original (principal) registration for the VAT took place.

#### **Article 202. Requirement to File an Application for Registration**

1. A person who is engaged in commercial activity and whose volume of taxable transactions in the preceding period of not more than 12 consecutive (one after the other) full calendar months exceeded 48,000 somoni shall be required to file an application for registration for VAT purposes with the tax authority with which it is registered in accordance with Articles 45 and 46 of this Code, except as otherwise provided by this Code or other acts of the tax legislation, no later than 30 days after the end of this period.

2. For the purposes of this article, the delivery of goods, the performance of work, and the provision of services by a nonresident shall be taken into account when determining the total value of taxable transactions only if they are performed through a permanent establishment of the nonresident in the Republic of Tajikistan.

3. A legal successor of a taxpayer who is carrying on the taxpayer's business shall be required to file an application for registration for purposes of the value-added tax within 30 days after assuming the rights of legal successor.

#### **Article 203. Voluntary Registration**

A person who is not required to register for VAT purposes may voluntarily file an application with tax authorities for such registration. An individual who is not engaged in commercial activity may not register as a payer of the VAT.

## **Article 204. Registration**

1. A person filing an application for registration for VAT purposes shall be required to do so following the procedure and form established by the authorized government body.

2. When a person engaged in taxable transactions files an application for registration for VAT purposes, the tax authority shall be required to enter said person in the register of VAT payers and issue a certificate of registration for the value-added tax within 10 days of the date the application is filed, indicating in the certificate the taxpayer's full name (or last name and first name) and other relevant information about the taxpayer, the certificate's date of issue, the date on which the registration enters into force, and the taxpayer identification number.

The form used for the certificate of registration for the value-added tax shall be a registered high-security form and shall be issued to a taxpayer free of charge.

The certificate of registration for the value-added tax shall be kept on file with the payer of the value-added tax and in the event of the cancellation of registration for VAT purposes it shall be returned to the appropriate tax authority within 10 days of the date the cancellation of registration for VAT purposes enters into force.

The form of the certificate and the procedure for the issuance and revocation of a certificate of registration for the value-added tax shall be established by the authorized government body.

3. Registration shall enter into force on one of the following dates, whichever occurs first:

1) in the case of mandatory registration, on the first day of the reporting period following the month in which the obligation to file an application for registration arises;

2) in the event of voluntary registration, on the first day of the reporting period following the month in which the application for registration is filed;

3) on the date indicated by a taxpayer in an application for registration;

4) in the case of a legal successor, as of the date the rights of legal successor are assumed.

4. Tax authorities shall be required to open and maintain a register of payers of the VAT following the procedure established by the authorized government body, and it must contain detailed information about all persons who are registered for VAT purposes.

The authorized government body shall maintain a national register of payers of the VAT for accounting and control purposes.

5. If a person is required to register for VAT purposes and has not filed an application for registration, tax authorities shall register the taxpayer at their own initiative and shall send the relevant documentation to the taxpayer.

6. As of the date the registration for VAT purposes enters into force, a person who has registered for VAT purposes shall be required to prepare VAT invoices for its own taxable

transactions and to indicate its taxpayer identification number on all VAT invoices and on all returns and official letters sent to tax authorities.

7. At the request of a payer of the value-added tax, the authorized government body may treat its separate subdivisions as independent payers of the value-added tax.

### **Article 205. Cancellation of Registration**

1. A taxpayer may submit a request for cancellation of its registration for VAT purposes at any time after 24 months have passed since the entry into force of the most recent registration for VAT purposes if the total value of the taxpayer's taxable transactions over the 12 consecutive (one after the other) full calendar months preceding the filing of the request was not more than 48,000 somoni. Cancellation of registration for VAT purposes shall enter into force on the first day of the tax period following the period (month) in which the person filed the request with tax authorities for cancellation of registration.

2. In the event of the liquidation of a legal entity that is a payer of the value-added tax, this person shall be removed from registration for the value-added tax (that is, the cancellation of registration for VAT purposes with respect to this person shall enter into force) as of the day this person is removed from the state register of taxpayers.

In the event of the death of an individual, cancellation of registration for VAT purposes with respect to this person shall enter into force as of the person's date of death as officially confirmed by the appropriate government body.

3. If a person's registration for VAT purposes is cancelled, tax authorities shall be required to remove the person's name (last name, first name) and other information about the person from the register of VAT payers and to take actions to remove this person from the national register of VAT payers, and also to revoke the certificate of registration for the value-added tax that was issued, following the procedure established by the authorized government body.

4. Cancellation of registration for VAT purposes in accordance with this Code shall be carried out following the procedure established by the authorized government body.

## **CHAPTER 27. OBJECTS OF TAXATION**

### **Article 206. Objects of Taxation**

1. Objects of taxation with respect to the value-added tax shall be taxable transactions and taxable imports.

2. Taxable transactions shall be deliveries of goods, the performance of work, and the provision of services, other than deliveries of goods, the performance of work, and the provision of services that are exempt from the value-added tax, which are performed as part of a person's commercial activity, if they are considered to be performed on the territory of the Republic of Tajikistan in accordance with Articles 218 or 219 of this Code. Taxable transactions shall not include the provision of services or performance of work outside the Republic of Tajikistan in accordance with Article 219 of this Code.

3. If a taxpayer purchases goods (work, services) accompanied by payment of the VAT and receives (or has the right to receive) the corresponding amount as a credit, the use of said goods (work, services) or the results of the use of the goods (work, services) for noncommercial activity shall be considered a taxable transaction.

4. The delivery of goods, the performance of work, and the provision of services by a taxpayer for the taxpayer's own employees, including on an unrequited basis, shall be a taxable transaction.

5. The delivery of goods, the performance of work, and the provision of services, unless they are exempt from the VAT according to the provisions of this Code, by one separate subdivision for another separate subdivision of the same legal entity, which are independent payers of the value-added tax in accordance with item 7 of Article 204 of this Code, as well as the delivery of goods, the performance of work, and the provision of services to other outside persons, shall be taxable transactions.

6. Regardless of the other provisions of this article, the delivery of goods by a person who has purchased these goods as a result of a transaction subject to the VAT, but who did not have the right to a VAT credit in the purchase of these goods according to Article 226 of this Code, shall not be treated as a taxable transaction. If a credit was partially disallowed in the purchase of goods, the size of the taxable transaction shall be reduced in proportion to the amount of the credit that was disallowed.

7. The value of packaging (packing material) that is to be returned under the conditions and within the time periods specified in an agreement (contract) for the delivery of goods shall not be included in the taxable amount, with the exception of retail sales. Retail merchants may reduce the amount of taxable turnover by the amount indicated as paid by them as reimbursement for the return of packaging (packing material) by customers.

8. If the registration of a taxpayer is cancelled, goods remaining in the taxpayer's possession at the time of cancellation shall be treated as delivered as part of a taxable transaction performed at that moment.

9. In the case of the production of goods, performance of work, and provision of services using raw materials and supplies furnished by the customer, when the customer remains the owner of the raw materials, supplies, and products of their processing, the taxable transaction for the processor (producer, service provider) shall be the services (work) involved in the processing of the raw materials and supplies into goods (work, services).

10. Taxable imports shall be goods imported onto the territory of the Republic of Tajikistan (with the exception of those exempt from the value-added tax in accordance with Article 211 of this Code), which are supposed to be declared in accordance with the customs legislation of the Republic of Tajikistan.

## **Article 207. Sale or Transfer of an Enterprise**

1. The sale or transfer of an entire enterprise under a single transaction as a property complex or an independently operating subdivision of an enterprise by one VAT taxpayer to another VAT taxpayer shall not be considered a taxable transaction.

2. In the case referred to under item 1 of this article, the buyer or recipient shall assume the rights and responsibilities of the seller, as set forth in this section, which are associated with the enterprise or the independently operating subdivision of an enterprise that has been sold or transferred.

3. This article shall apply only in the event that the selling (transferring) and receiving parties provide written notification to tax authorities of the decision to apply the provisions of this article no later than 30 calendar days after the sale (transfer).

## **CHAPTER 28. DEFINITION OF TAXABLE TURNOVER AND TAXABLE IMPORTS**

### **Article 208. Value of a Taxable Transaction**

1. The value of a taxable transaction shall be determined on the basis of the amount (the value, including in kind) which the taxpayer receives or has the right to receive from a customer or any other person, including any duties, taxes, and/or other fees, but not including the VAT and retail sales tax.

2. If a taxpayer receives or has the right to receive goods, work, or services in exchange for a taxable transaction, the value of the taxable transaction shall include the market value of these goods, work, or services (including any duties, taxes, or other fees), but not including the VAT and retail sales tax.

3. In the event that a taxpayer does not receive or does not have the right to receive any values in exchange for a taxable transaction, the value of the taxable transaction shall be equal to the market value of the goods delivered, the work performed, or services provided by the taxpayer in the process of said taxable transaction (including any duties, taxes, or other fees), but not including the VAT and retail sales tax.

4. In the case of the consumption or use of goods (work or services) for noncommercial purposes as set forth in item 3 of Article 206 of this Code, and also in the case of deliveries of goods (performance of work or provision of services) for one's own employees as set forth in item 4 of Article 206 of this Code, the amount of a taxable transaction shall be equal to the market price of these goods, work, or services (including any duties, taxes, or other fees), but not including the VAT and retail sales tax.

5. When goods are delivered under an arrangement calling for payment in installments, the value of the taxable transaction shall be determined in accordance with item 1 of this article, taking into account all of the payments to be made under the installment plan as specified by the terms of the agreement, including a financial leasing agreement, with the exception of interest payments.

6. When property is (goods are) mortgaged, the value of this taxable transaction on the part of the mortgagor shall be determined on the basis of the amount of borrowed funds received against the security of the given property (goods), not including the value-added tax (that is, not including the value-added tax in the value of the mortgaged property (goods) or in the amount of borrowed funds).



7. When wholesale and retail trade enterprises and procurement enterprises that are taxpayers with respect to the VAT purchase goods from persons who are not payers of the VAT, and these taxpayers subsequently deliver the goods to another party, the value of the taxable transaction shall be considered to be equal to the positive difference between the value of the delivery of these goods, not including the VAT, and the value of their acquisition from the non-payer of the VAT.

In the event of a negative difference, the value of the taxable transaction for purposes of calculating the VAT shall be assumed to be equal to zero.

#### **Article 209. Adjustment of Taxable Turnover**

1. This article shall apply to a taxpayer's taxable transactions in the following cases:

- 1) cancellation of a transaction;
- 2) a change in the nature of a transaction;
- 3) a change in the agreed-upon compensation for a transaction both due to a drop in prices and for any other reason; or
- 4) the full or partial return of goods to the taxpayer (refusal to accept work or services performed by the taxpayer).

2. If as a result of the occurrence of one of the events referred to in item 1 of this article the taxpayer:

- 1) presents a VAT invoice in which the VAT amount indicated is incorrect; or
- 2) has indicated the incorrect VAT amount in a VAT return,

An adjustment shall be made in accordance with item 2 of Article 225 or item 8 of Article 226 of this Code.

3. An adjustment of a taxable transaction shall be made on the basis of a supplemental VAT invoice or other documents confirming the occurrence of situations referred to in item 1 of this article after the completion of the original taxable transaction.

#### **Article 210. Value of Taxable Imports**

1. The value of taxable imports shall be the customs value of goods as determined in accordance with the customs legislation of the Republic of Tajikistan, plus the amount of duties and taxes payable on the importation of goods into the Republic of Tajikistan, but not including the VAT.

2. In the case of services that are treated as part of the importation of goods according to item 2 of Article 222 of this Code, their value not including the VAT shall be added to the value indicated in item 1 of this article.

### **CHAPTER 29. TAX CONCESSIONS**

## **Article 211. Tax Exemption**

1. An exemption from the value-added tax shall mean that deliveries of goods, work performed, and services provided that are exempt from the VAT are not taxable transactions and their value is not included by the taxpayer in taxable turnover, and imports exempt from the VAT are not included in the value of taxable imports. Accordingly, the value of such deliveries of goods, work performed, and services provided and such imports of goods may not serve as the basis for assessment of the VAT by a taxpayer in accordance with Article 224 of this Code.

2. The following deliveries of goods (other than exports of goods), work performed, and services provided shall be exempt from the VAT:

1) the sale, transfer, or leasing of real estate, other than:

- the sale or transfer of hotel premises or housing for vacationers;
- the sale or transfer of newly built residential premises, other than cases in which the premises have been used as housing for at least two years;

2) the provision of financial services (with respect to financial leasing in accordance with Article 33 of this Code, the exemption shall apply exclusively to interest and shall not extend to amounts payable to a lessor by a lessee against the value of the object of the financial lease (principal));

3) the delivery of domestic and/or foreign currency (other than for numismatic purposes), as well as securities;

4) the performance of religious and ceremonial services by a religious organization;

5) the provision of medical services, with the exception of cosmetic medical services;

6) the provision of services in the sphere of:

- pre-school childcare and education;
- general primary and general secondary education;
- basic, secondary, and higher vocational and professional education, post-graduate professional education;
- supplemental and special education.

The activities specified under subitems 5) and 6) of this item shall be exempt from the value-added tax only if they are performed by persons who have the appropriate state licenses (permits) to engage in the given activities, which have been issued in accordance with the procedure established by regulatory legal acts of the Republic of Tajikistan;

7) the delivery of goods, the performance of work, and the provision of services as humanitarian assistance;

8) the delivery of goods, the performance of work, and the provision of services produced (performed, provided) directly by penitentiary institutions of the Republic of Tajikistan or state enterprises that are part of the penitentiary system of the Republic of Tajikistan;

9) the delivery of newspapers, magazines, fiction, children's literature, scientific and technical books and textbooks, as well as the performance of work related to their publication.

The concessions provided for under this subitem shall not extend to said types of products of an erotic or specialized advertising nature;

10) the delivery of children's goods (clothing and footwear, headwear, socks and hosiery) based on a list established by the Republic of Tajikistan government;

11) the delivery of specialized products for individual use by disabled persons based on a list established by the Republic of Tajikistan government;

12) sanatorium and health resort services.

A list of institutions (organizations) providing such services shall be established by the Republic of Tajikistan government.

3. The delivery of primary aluminum, raw cotton, and cotton fiber, including delivery for export, shall be exempt from the value-added tax.

4. The following types of imports shall be exempt from the VAT:

1) imports of domestic and/or foreign currency (other than for numismatic purposes), as well as securities;

2) imports of gold, silver, platinum, palladium (rhodium, iridium, ruthenium, osmium) by the National Bank of Tajikistan, as well as imports of gold, silver, platinum, palladium (rhodium, iridium, ruthenium, osmium), natural (cut and uncut) diamonds, sapphires, emeralds, rubies, alexandrites, pearls, and spinel by the Republic of Tajikistan Ministry of Finance for the State Valuables Repository;

3) imports of goods as humanitarian assistance, as well as imports of goods transferred on an unrequited basis to charitable organizations for the purpose of dealing with the aftereffects of natural disasters, accidents, and catastrophes, and imports of goods transferred on an unrequited basis to government bodies of the Republic of Tajikistan;

4) imports of manufacturing and industrial equipment and components thereof (constituting an integral unit, that is, the manufacturing and industrial equipment cannot be operated without these components) for the purpose of establishing or adding to the authorized capital of an enterprise or the technical retooling of an existing production facility, on the condition that this property is used directly for the production of goods, the performance of work, or the provision of services in accordance with the enterprise's charter documents and does not fall under the category of excisable

goods, as well as personal property imported into the Republic of Tajikistan by foreign employees of enterprises with foreign investment directly for their own needs. In the event that such an enterprise is liquidated or the aforementioned manufacturing and industrial equipment and components thereof, which have been imported into the Republic of Tajikistan, are not used or are sold by the enterprise to another person within four years of the date of their entry (importation) into the Republic of Tajikistan, the amount of VAT not paid in accordance with this subitem shall be payable to the budget. This concession shall be granted and equipment shall be classified as manufacturing and industrial equipment following the procedure established by the Republic of Tajikistan government;

5) imports of agricultural equipment and spare parts thereof, as well as medicines, based on a list established by the Republic of Tajikistan government in accordance with the foreign economic activity commodity nomenclature;

6) imports of goods for the implementation of targeted projects approved by the Republic of Tajikistan government at the expense (within the limits) of proceeds from grants and/or credits (loans) provided by legal entities or individuals, foreign states, governments of foreign states, or international organizations;

7) imports of goods for the construction of high-priority projects. A list of such goods and high-priority projects shall be established by the Republic of Tajikistan government;

8) imports (with the exception of excisable goods) of basic types of raw materials, supplies, energy resources, and equipment based on a list and in quantities established by the Republic of Tajikistan government, effected directly by the Tajik Aluminum Plant for the production of primary aluminum;

9) imports of specialized products for individual use by disabled persons based on a list established by the Republic of Tajikistan government.

## **Article 212. Taxation of International and Transit Shipments**

1. The provision of transportation or other services and the performance of work directly related to international freight and passenger transport, as well as the delivery of fuel and lubricants and other consumables loaded onto aircraft for consumption during international flights, shall be exempt from the VAT. International shipments shall be understood to mean freight and passenger transport, the point of departure and point of destination of which (or one of these points) is located outside the Republic of Tajikistan.

2. For the purposes of this article, work and services performed in connection with international shipments shall include:

1) work and services related to the transport (transportation, shipment), loading, unloading (offloading), transshipment, and forwarding of goods exported from the territory of the Republic of Tajikistan, as well as goods in transit across the territory of the Republic of Tajikistan;

2) work and services related to the transport (transportation, shipment) of mail, passengers, and baggage outside the Republic of Tajikistan;

3) technical, commercial, navigation, and airport servicing of international flights.

3. In the case of the performance of work and provision of services referred to under subitem 1) of item 2 of this article, the VAT exemption shall apply provided that the following conditions are met:

1) there is an agreement (contract) for the performance of work or provision of services concluded directly with the supplier of the exported goods (the exporter of the goods);

2) documentation of the shipment is provided in the form of a single set of international shipping documents;

3) in the case of transit freight, there is a freight customs declaration for goods that have been imported onto the territory of the Republic of Tajikistan, prepared on the basis of the transit regime.

4. In the case of the performance of work and provision of services referred to under subitems 2) and 3) of item 2 of this article, the VAT exemption shall apply provided that the following conditions are met:

1) there is an agreement (contract) for the performance of work or provision of services concluded directly with the recipient (customer) of said work or services;

2) documentation is provided in the form of a single set of international shipping documents;

5. The shipment and servicing of transit freight consignments referred to under subitem 3) of item 1 of Article 213 of this Code shall be exempt from the VAT.

6. This article shall not apply to states that impose a value-added tax on the provision of transportation or other services or on the performance of work directly related to international freight shipments and passenger travel to the Republic of Tajikistan.

### **Article 213. Provisions Specific to Taxation Involving the Movement of Goods Across the Customs Frontier of the Republic of Tajikistan**

1. When goods are imported onto the customs territory of the Republic of Tajikistan, depending on and in compliance with the conditions of the chosen customs regime, taxation shall apply according to the following procedure:

1) when goods are placed under the release for free circulation customs regime, the tax shall be applied in full;

2) when goods are placed under the re-import customs regime, the taxpayer shall pay the amount of taxes from which the taxpayer was exempt or which were refunded to the taxpayer in connection with the export of goods in accordance with this Code, following the procedure provided for by the customs legislation of the Republic of Tajikistan;

3) when goods are placed under the transit, customs warehouse, re-export, duty-free shop, processing under customs control, free customs zone, free warehouse, destruction, and forfeiture to the state customs regimes, the tax shall not be paid;

4) when goods are placed under the processing on the customs territory customs regime, the tax shall be paid at the time of the importation of these goods onto the customs territory of the Republic of Tajikistan with a subsequent refund of the tax that has been paid when the processing products are exported from the customs territory of the Republic of Tajikistan;

5) when goods are placed under the temporary import customs regime, there shall be a full or partial exemption from payment of the tax following the procedure provided for by the customs legislation of the Republic of Tajikistan;

6) in the case of the importation of products of the processing of goods that were placed under the processing outside the customs territory of the Republic of Tajikistan customs regime, there shall be a full or partial exemption from payment of the tax following the procedure provided for by the customs legislation of the Republic of Tajikistan;

2. When goods are exported from the customs territory of the Republic of Tajikistan taxation shall apply according to the following procedure:

1) when goods are placed under the export outside the territory of the Republic of Tajikistan customs regime, the tax shall not be paid or taxes that have been paid shall be refunded (credited) by tax authorities of the Republic of Tajikistan following the procedure provided for by the customs legislation of the Republic of Tajikistan and this Code.

The procedure specified under this subitem shall also apply to the export of goods outside the customs territory of the Republic of Tajikistan in accordance with the export customs regime with respect to goods which at the time of export have been placed under the customs warehouse, free warehouse, or free customs zone customs regimes;

2) when foreign goods that have been placed under the re-export customs regime are exported, taxes that were paid at the time the goods were imported onto the customs territory of the Republic of Tajikistan (in connection with failure to meet the deadlines established by the customs legislation for the mandatory export of foreign goods placed under the re-export customs regime) shall be refunded to the taxpayer following the procedure and under the conditions determined by the customs legislation of the Republic of Tajikistan;

3) when goods are exported from the customs territory of the Republic of Tajikistan in accordance with other customs regimes not referred to under subitems 1) and 2) of this item, no exemption from payment of the tax and/or refund of the taxes paid shall be offered, except as otherwise provided by the customs legislation of the Republic of Tajikistan.

3. When individuals transport goods across the customs frontier of the Republic of Tajikistan, which are not intended for production or other commercial activity, a simplified or concessional procedure for payment of the tax may be applied. In this case the value of goods acquired and intended for personal consumption must not exceed the amount established by the Republic of Tajikistan government. Any excess shall be subject to taxation following the generally established (nonconcessional) procedure. The application of a simplified or concessional taxation

regime to such operations shall be performed following the procedure established by the Republic of Tajikistan government.

4. In the event of a failure to comply with the conditions of the chosen customs regime, in those cases provided for by the customs legislation of the Republic of Tajikistan, a taxpayer shall pay the taxes as well as interest accrued on the amount in question.

## **CHAPTER 30. TRANSACTIONS SUBJECT TO TAXATION AT THE ZERO RATE**

### **Article 214. Taxation of Exports of Goods**

1. Exports of goods, other than raw cotton, cotton fiber, and primary aluminum, shall be subject to the value-added tax at the zero rate.

2. In the event of a failure to provide confirmation of the export of goods in accordance with Article 215 of this Code within 30 calendar days from the date of the notation made by the customs authority that released the goods under the export regime, or in the event of the export of goods under the export via electric power lines regime or using the incomplete periodic declaration procedure, from the date of the notation made by the customs authority that performed the customs processing, deliveries of said goods shall be subject to the value-added tax at a positive rate indicated in item 1 of Article 224 of this Code.

### **Article 215. Confirmation of the Export of Goods**

1. Documents confirming the export of goods shall include:

1) an agreement (contract) for the delivery of exported goods;

2) a freight customs declaration bearing notations made by the customs authority that released the goods under the export regime, or in the event of the export of goods under the export via electric power lines regime or using the incomplete periodic declaration procedure, a complete customs declaration bearing notations made by the customs authority that performed the customs processing;

3) copies of shipping documents bearing the notation of a customs authority located at a point of entry on the customs frontier of the Republic of Tajikistan.

In the event of the export of goods under the export via electric power lines regime, an acceptance certificate for the goods shall also be presented.

2. Documents confirming the export of goods to members states of the Commonwealth of Independent States, which share a common border with the Republic of Tajikistan, shall include the documents referred to under item 1 of this article, as well as a copy of a freight customs declaration prepared in the country of import of the goods being exported from the customs territory of the Republic of Tajikistan under the export regime.

In accordance with an international treaty, the authorized government body may establish a different procedure for confirmation of exports of goods to members states of the Commonwealth of Independent States.

3. In the event of the further export of goods that were previously exported outside the customs territory of the Republic of Tajikistan under the processing outside the customs territory regime, or products of their processing, confirmation of the export shall be performed in accordance with items 1 and 2 of this article, and also on the basis of the following documents:

1) a freight customs declaration, in accordance with which the processing regime is replaced with the export regime;

2) a freight customs declaration prepared under the processing of goods outside the customs territory regime;

3) a copy of a freight customs declaration prepared for the importation of goods onto the territory of a foreign state under the processing of goods on the customs territory regime (processing of goods under customs control), certified by the customs authority that performed the customs processing;

4) a copy of a freight customs declaration prepared under the export regime when goods or products of their processing are exported from the territory of the state in which they were processed, and certified by the customs authority that performed the customs processing.

4. Upon presentation of documents confirming the export of goods to the tax authority with which a taxpayer is registered, within 180 calendar days of the date of the notation by the customs authority referred to in subitem 2) of item 1 of this article, a taxpayer shall have the right to obtain a refund of the tax assessed in accordance with item 2 of Article 214 of this Code. Otherwise, a taxpayer shall not have the right to a refund of the tax assessed in accordance with item 2 of Article 214 of this Code.

5. A regulation on the procedure and deadlines for confirmation of the export of goods, taking into account the requirements of this article, shall be approved by the Republic of Tajikistan government based on a representation from the authorized government body.

#### **Article 216. Deliveries of Gold, Precious Metals and Stones to the National Bank of Tajikistan and the State Valuables Repository under the Republic of Tajikistan Ministry of Finance**

Deliveries of gold, silver, platinum, palladium (rhodium, iridium, ruthenium, osmium) to the National Bank of Tajikistan, as well as deliveries of gold, silver, platinum, palladium (rhodium, iridium, ruthenium, osmium), natural (cut and uncut) diamonds, sapphires, emeralds, rubies, alexandrites, pearls, and spinel to the Republic of Tajikistan Ministry of Finance for the State Valuables Repository shall be taxed at the zero rate.

### **CHAPTER 31. TIME AND PLACE OF THE PERFORMANCE OF A TAXABLE TRANSACTION AND SPECIAL RULES**

#### **Article 217. Time of the Performance of a Taxable Transaction**

1. Except as otherwise provided by this article, a taxable transaction shall take place at the time a VAT invoice is presented for the given transaction.



2. If a VAT invoice is not presented within five days of the deadlines specified under this item, item 1 of this article shall not apply, and a taxable transaction shall take place:

1) at the time of the acceptance, sale, or transfer of goods, the performance of work, or the provision of services; or

2) in the case of the delivery of goods which entails the shipment of the goods, at the time they are shipped.

3. When payment is made before the time indicated in subitems 1) or 2) of item 2 of this article, if a VAT invoice is not presented within five days after payment, items 1 and 2 of this article shall not apply and the taxable transaction shall take place at the time payment is made.

4. For the purposes of item 3 of this article, and with the exception of those cases specified in item 5 of this article, if two or more payments are made for a taxable transaction, each payment shall be treated as being made for a separate transaction in the amount of the payment.

5. If services are provided on a regular or ongoing basis, the provision of services shall be treated as taking place each time at the point that a VAT invoice (invoice for payment) is presented in connection with any part of the transaction, or if payment is made earlier, at the time payment is made for any part of the transaction.

In any case, regardless of the other provisions of this article, for the purposes of this item a VAT invoice (invoice for payment) must be presented for each month no later than the 10<sup>th</sup> of the month immediately following the reporting month. If an invoice (invoice for payment) is not presented within the specified deadline, the provision of services shall be treated as occurring on the last day of the reporting month.

6. In the event of the application of item 3 of Article 206 of this Code, the moment a taxable transaction is performed shall be the moment at which the goods, work, or services start being consumed or used.

7. In those cases referred to under item 4 of Article 206 of this Code, the moment a taxable transaction is completed shall be the moment that goods are delivered, work is performed, or services are provided for employees.

8. The moment a taxable transaction involving the delivery of electricity, thermal power, gas, or water is completed shall be determined in accordance with the rules in effect with respect to the provision of services on a regular or ongoing basis.

9. With respect to taxpayers performing cash basis accounting for the purposes of the profit tax, a taxable transaction shall take place at the moment funds are received for the goods delivered (goods to be delivered), for the work performed (work to be performed), or for the service provided (to be provided).

## **Article 218. Place of the Delivery of Goods**

1. If the conditions of delivery call for the transport of goods, delivery shall occur at the place where the transport of the goods begins. In other cases the delivery of goods shall occur at the place of their transfer.

2. The delivery of electricity, thermal power, and gas shall occur at the place where the goods are received. In the event of the export of these goods from the Republic of Tajikistan, it shall be considered that delivery occurs in the Republic of Tajikistan.

### **Article 219. Place of the Performance of Work or Provision of Services**

1. For the purposes of this section, the place where work is performed or services are provided shall be:

- 1) the location of real property, if the work (service) is related directly to this property;
- 2) the place where the work (service) is actually performed, if it is related to movable property;
- 3) the place where services are actually performed, if they are provided in the sphere of culture, the arts, education, physical education and sports, or in another similar sphere of activity;
- 4) the place where transportation actually occurs, if the work (service) is related to this transportation. For the purposes of Article 212 of this Code, such a transaction related to the performance of work or provision of services by a taxpayer outside the Republic of Tajikistan shall be treated as being performed on the territory of the Republic of Tajikistan;
- 5) the location of a permanent establishment of a purchaser of services, with which (permanent establishment) these services are most closely related.

The provisions of this item shall apply to the following services:

- transfer of ownership or assignment of patents, licenses, trademarks, copyrights, or other similar rights;
- performance of consulting, legal, accounting, engineering, or advertising services, as well as data processing and other similar services;
- performance of personnel and staffing services;
- leasing of movable property (with the exception of means of transport of transportation enterprises);
- performance of the services of an agent who hires a person (an enterprise or an individual) on behalf of a principal party to a contract for the performance of services specified under this subitem;

6) the place where commercial activity is carried out by a person performing work or providing services.

2. In the application of item 1 of this article, a place where work is performed or services are provided that is referred to under more than one subitem of item 1 of this article shall be determined on the basis of whichever subitem appears first.

#### **Article 220. Reverse Taxation**

1. If a person who is not a resident and has not been registered for VAT purposes in the Republic of Tajikistan provides services or performs work on the territory of the Republic of Tajikistan for a tax agent referred to in item 2 of this article, then for the purposes of this section said performance of work or provision of services shall be subject to taxation in accordance with this article.

2. For the purposes of this article a tax agent shall be any person registered in the Republic of Tajikistan for VAT purposes, and any resident legal entity.

3. In the event of the application of item 1 of this article, a tax agent shall withhold tax from the amount payable to a nonresident. The tax amount shall be determined by applying a positive tax rate in accordance with the provisions of item 1 of Article 224 of this Code to the amount payable to the nonresident after the withholding of tax.

4. If a tax agent is registered for VAT purposes, the tax withheld shall be subject to inclusion in the VAT return for the month in which the transaction was performed, as an amount payable (as an amount assessed). This shall grant the tax agent the right to credit this VAT amount according to the provisions of Article 226 of this Code.

5. If a tax agent is not registered for VAT purposes, he shall be required to pay the withheld tax to the budget following the procedure established by the authorized government body within five days of the day payment is made to a nonresident.

6. In the event of the importation of property belonging to a nonresident for leasing to a tax agent, when collecting the VAT from lease payments in accordance with this article, with the consent of the nonresident owner, a tax agent may request a credit of the VAT paid on the import. In this case the tax agent shall be treated as the taxpayer and shall bear liability for payment of the VAT at the time of the subsequent delivery of the property (excluding its export).

#### **Article 221. Time of Import**

The importation of goods shall take place at the moment the goods are subject to customs duty in accordance with the customs legislation of the Republic of Tajikistan. If goods are exempt from the customs duty, the importation of the goods shall take place at the moment when the customs duty would have been paid if the goods were not exempt from the duty.

#### **Article 222. Combined Transactions**

1. The delivery of goods, the performance of work, or the provision of services that are of an ancillary nature with respect to the principal delivery of goods, performance of work, or provision of services shall be treated as part of the principal delivery of goods, performance of work, or provision of services.

2. The performance of work or the provision of services that are of an ancillary nature with respect to the importation of goods shall be part of the importation of goods.

3. A taxable transaction that includes independent elements, one or more of which entails the separate delivery of goods, provision of services, or performance of work that are exempt from the VAT shall be treated as consisting of separate transactions. A transaction that is exempt from the VAT and includes independent elements, one or more of which entails the separate delivery of goods, provision of services, or performance of work that are subject to the VAT, shall be treated as consisting of separate transactions.

### **Article 223. Transactions Performed by an Agent**

1. The delivery of goods, the performance of work, or the provision of services by a person who is acting as an agent (a trustee) of another person (a principal), on behalf of and on the instruction of this other person (principal), shall be treated as a transaction performed by the principal.

2. Item 1 of this article shall not apply to services provided by an agent to a principal.

3. Item 1 of this article shall not apply to the delivery of goods to the Republic of Tajikistan by a resident agent of a person who is not a resident and is not registered as a payer of the VAT in the Republic of Tajikistan. In this case the delivery shall be treated as being performed by the agent for VAT purposes.

## **CHAPTER 32. PROCEDURE FOR ASSESSMENT AND PAYMENT OF THE TAX**

### **Article 224. Value-Added Tax Rates and Procedure for Calculating the Tax**

1. The value-added tax rate shall be 20 percent of taxable turnover, with the exception of exports, and/or 20 percent of taxable imports.

Taxable transactions referred to in Chapter 30 of this Code shall be taxed at the zero rate.

2. Taxable turnover shall consist of the total value of taxable transactions in the reporting period (both those taxed at a positive rate and those taxed at the zero rate).

3. The amount of tax assessed on taxable turnover shall be defined as the product of taxable turnover and the appropriate tax rate according to item 1 of this article.

4. The amount of tax assessed on taxable imports shall be defined as the product of taxable imports according to Article 210 of this Code and the appropriate tax rate according to item 1 of this article.

5. Assessment of the value-added tax shall mean the performance of actions specified under items 3 and/or 4 of this article.

### **Article 225. Value-Added Tax Payable to the Budget on Taxable Turnover**

1. The amount of value-added tax payable to the budget on taxable turnover for a reporting period in accordance with Article 217 of this Code shall be defined as the difference between the amount of tax assessed on taxable turnover in accordance with Article 224 of this Code, taking into account (adding in) the tax amount assessed in accordance with item 4 of Article 220 of this Code, and the tax amount to be credited in accordance with Article 226 of this Code.

2. In those cases specified under Article 209 of this Code, when the amount of VAT payable exceeds the amount actually shown by a taxpayer in the VAT return, the excess shall be treated as VAT that is payable for the reporting period in which an event referred to under Article 220 of this Code occurred, and it shall be added to the amount payable for the reporting period in accordance with item 1 of this article.

#### **Article 226. Value-Added Tax to be Credited when Determining Payments to the Budget**

1. Except as otherwise provided by this article, the amount of value-added tax to be credited shall be the amount of tax payable (paid) by a taxpayer on the basis of VAT invoices presented to him, taking into account the timing of a taxable transaction involving:

1) the importation of goods during the reporting period pursuant to Article 221 of this Code; and

2) taxable transactions that entail deliveries of goods, the performance of work, or the provision of services and are treated as taking place in the reporting period pursuant to Article 217 of this Code.

A crediting of the value-added tax shall be allowed only in the event that the goods, work, or services referred to under subitems 1) and 2) of this article are used or are supposed to be used for purposes of commercial activity by the taxpayer, even if these goods, work, or services are not included in production costs. In order to effect a crediting of value-added tax on imports of goods, the value-added tax must have actually been paid to the budget.

2. The amount of value-added tax that may be credited in accordance with item 1 of this article shall be:

1) the amount of tax payable to suppliers on the basis of invoices which are presented and in which the value-added tax is identified separately;

2) the amount of tax indicated in a freight customs declaration prepared in accordance with the customs legislation of the Republic of Tajikistan, which has been paid to the budget of the Republic of Tajikistan following the established procedure and is not refundable in accordance with the conditions of the customs regime;

3) the amount of tax to be included in a value-added tax return in accordance with Article 220 of this Code (reverse taxation);

4) the amount of tax indicated in a ticket issued for rail or air travel;

5) the amount of tax indicated in documents used by a supplier of municipal services, settlements for which are effected through banks.

3. The value-added tax that is payable to suppliers of goods imported into the Republic of Tajikistan, with respect to which a different export and import procedure applies in accordance with an international treaty, shall be credited following the procedure established by the Republic of Tajikistan government.

4. The value-added tax shall be credited in the same tax period in which goods (work, services) are received, following the procedure established under item 2 of this article.

In the event that the value-added tax is assessed in accordance with Article 220 of this Code, the assessed tax shall be credited in the same tax period in which the transaction was completed.

In the case of taxpayers referred to in item 9 of Article 217 of this Code, the value-added tax, taking into account the provisions of this article, shall be credited in the same tax period in which taxpayers actually made payment, that is, the time that a credit is applied shall be determined on a cash basis.

5. In cases of VAT that is payable (paid) by a taxpayer on the basis of VAT invoices presented to him for imports of goods and taxable transactions, which are intended in part for the taxpayer's commercial activity and in part for other purposes, the VAT shall be credited on the basis of the proportion of their use in commercial activity (if it is possible to determine the proportion of the earmarked use of goods (work, services) acquired through imports and under other taxable transactions directly within the tax period in which they were received).

6. The crediting of VAT that has been paid (is payable) shall not be allowed in the case of:

1) passenger cars, with the exception of those offered for sale or rent by a person for whom the sale or rental of automobiles is a principal commercial activity;

2) entertainment and hospitality expenses, expenditures on charitable activities or for other social purposes;

3) VAT invoices in which the VAT amount due on the given taxable transactions is not identified (not indicated) as a separate amount in accordance with Article 231 of this Code.

7. In the event that a taxpayer has taxable transactions and transactions that are exempt from the value-added tax, the VAT amount to be credited shall be the value-added tax figure determined in accordance with Article 228 of this Code. If a taxpayer has only exempt turnover, no crediting shall be allowed. Item 5 of this article shall apply before this item applies, taking into consideration the provisions of Article 227 of this Code.

8. In those cases described in Article 209 of this Code, when the VAT indicated in an invoice or in a VAT return exceeds the VAT payable by a taxpayer, the excess amount may be credited to the taxpayer (that is, the taxpayer's tax obligations may be reduced by the excess amount) for the reporting period in which the case referred to in item 1 of Article 209 of this Code occurred.

#### **Article 227. Adjustment of Value-Added Tax Amounts Applied as a Credit**

1. Value-added tax that was previously applied as a credit shall be excluded from the subsequent amount of value-added tax to be taken as a credit in the following cases:

- 1) with regard to goods (work, services) used for purposes of noncommercial activity;
- 2) with regard to goods, including fixed assets, in the event of their damage or loss (with the exception of cases arising as a result of emergency situations). Damage or loss of goods as a result of emergency situations must be confirmed by a finding from the appropriate government agency for emergency situations, produced no later than 30 calendar days from the date of the occurrence of the emergency situations and presented to the appropriate tax authority within the same time limit;
- 3) in the case of failure to comply with the provisions established under Article 231 of this Code.

2. For the purposes of this Code damage to goods (property) shall mean a deterioration in all or certain qualities (properties) of the goods (property) as a result of which the given goods (property) cannot be used for purposes of taxable turnover.

Loss of goods (property) shall be understood to mean an event as a result of which goods (property) are destroyed and/or lost. Loss of goods (property) sustained by a taxpayer within the limits of normal wear and tear established by regulatory legal acts of the Republic of Tajikistan shall not be considered loss in this context.

3. In the event of a change in the value of goods (work, services) received in those cases referred to under item 1 of Article 209 of this Code, a corresponding adjustment shall be made in the amount of value-added tax that was previously applied as a credit.

4. An adjustment in the amount of value-added tax applied as a credit shall be made in the same tax period in which the circumstances referred to in items 1 and 3 of this article occurred.

#### **Article 228. Procedure for Crediting Value-Added Tax Given Turnovers That Are Exempt from the Value-Added Tax (Exempt Turnovers)**

1. The value-added tax that is payable to suppliers and on imports with respect to goods (work, services) used for purposes of exempt turnovers shall not be taken as a credit.

2. If there are both taxable and exempt turnovers, the value-added tax amount, determined using the proportional or separate method at the taxpayer's discretion, shall be applied as a credit.

The chosen method for determining the amount of value-added tax to be applied as a credit may not be changed during a tax year.

A taxpayer shall provide the respective tax authority with which it is registered as a payer of the VAT with written notification of the crediting method that has been chosen before the submission of the first VAT return. A taxpayer shall provide the respective tax authority with written notice of a planned change in the crediting method 15 calendar days before the beginning of a new tax year.

## **Article 229. Proportional Method**

Under the proportional method, the amount of value-added tax to be applied as a credit shall be determined on the basis of the proportion of taxable turnover in total turnover.

## **Article 230. Separate Method**

1. When determining the amount of value-added tax to be applied as a credit under the separate method, a payer of the value-added tax shall maintain separate accounting records of expenditures and value-added tax paid on goods (work, services) used for purposes of taxable and exempt turnover.

2. In the case of expenditures for which it is not possible to break down the value-added tax on the basis of separate accounting, the amount of value-added tax to be applied as a credit shall be determined on the basis of the proportional method in accordance with Article 229 of this Code.

## **Article 231. Value-Added Tax Invoices**

1. Except as otherwise provided under item 5 of this article, a person who is registered as a payer of the value-added tax and who performs a taxable transaction shall be required as of the date his registration for VAT purposes enters into force to present a VAT invoice to the recipient of goods, work, or services. A person who is not registered for VAT purposes shall not have the right to present VAT invoices.

2. A VAT invoice shall be a document that serves as the grounds for applying VAT as a credit in accordance with Article 226 of this Code, which has been filled out according to the form established by the authorized government body and which contains the following information:

- 1) the name (last name, first name) of the taxpayer and purchaser (customer), as well as the trading name of the taxpayer if it is different from the legal name;
- 2) the taxpayer identification numbers of the taxpayer and the purchaser (customer);
- 3) the number and date of issue of the certificate of registration for the VAT;
- 4) the name of the goods shipped, the work performed, or the services provided;
- 5) the amount of the taxable transaction;
- 6) the amount of excise tax on excisable goods;
- 7) the amount of VAT owed on the given taxable transaction;
- 8) the date of issue of the VAT invoice;
- 9) the ordinal number of the VAT invoice.

An invoice shall be prepared (written up) in triplicate. The first copy of the prepared invoice shall be issued to the purchaser (recipient, customer) of the goods (work, services), the second shall



remain in the accounting records of the taxpayer (the person who wrote up the VAT invoice), and the third copy shall be submitted to the appropriate tax authority together with the VAT return. The preparation (writing up) of a VAT invoice shall be recorded in a ledger for recording VAT invoices written up and received by a taxpayer. The form of this ledger and the procedure for maintaining it shall be determined by the authorized government body.

3. A taxpayer shall be required to present a VAT invoice to a purchaser of goods (customer for whom work, services are performed) at the time of delivery or not more than five days after delivery.

A VAT invoice shall be certified by the signatures of the manager and chief accountant of the supplier or by other duly authorized officials of the supplier.

4. Except as otherwise provided under this item, the size of a taxable transaction shall be indicated separately in an invoice for each type of goods (work, services).

The total size of a taxable transaction may be indicated if a document is attached to the invoice which contains a list of the goods (work, services) delivered. In this case the invoice must contain a reference to the number and date of the attached document, as well as the name of the document.

5. VAT invoices shall be written up only when taxable transactions are performed. If the delivery of goods and the performance of work and/or provision of services are exempt from the VAT in accordance with the provisions of this section, no VAT tax invoices shall be written up.

6. A VAT invoice for export transactions must include:

- 1) a notation indicating that the invoice pertains to an export transaction;
- 2) the country and point of destination of the exports;
- 3) the VAT rate applicable to the export transaction.

7. Preparation of an invoice shall not be required in the following cases:

1) settlements for municipal services and communications services provided to the public, which are effected through banks using primary documents that serve as the basis for accounting records;

2) passenger travel in which tickets are issued;

3) when goods (work, services) are provided which are exempt from the value-added tax.

8. In the case of retail deliveries of goods and the performance of work or provision of services to purchasers who are not payers of the VAT, a receipt or simplified invoice may be issued in place of a VAT invoice, following the form established by the authorized government body, or a receipt from a cash register with fiscal memory may be issued.

9. An instruction on the procedure for the writing up and presentation of invoices (for the VAT and excise taxes) shall be issued by the authorized government body.

### **Article 232. Preparation of Supplemental Invoices in the Event of an Adjustment in Taxable Turnover**

1. In the event of an adjustment in the size of taxable turnover, a supplemental invoice shall be prepared, which shall indicate:

- 1) the ordinal number and date of preparation of the supplemental invoice;
- 2) the ordinal number and date of preparation of the invoice for which the supplemental invoice is being prepared (to which it applies);
- 3) the name, address, and TIN of the supplier and recipient of the goods (work, services);
- 4) the size of the adjustment in taxable turnover, not including the value-added tax;
- 5) the amount of value-added tax.

2. A supplemental invoice shall be prepared by the supplier of the goods (work, services) and shall be confirmed by the recipient of said goods (work, services).

### **Article 233. Special Rules**

Determination of the amount of VAT payable in the case of gambling, lotteries, services provided by travel agents, consignment sales, sales of second-hand (used) goods, and other types of activities in which direct determination of the tax base and other aspects of taxation on the basis of the general rules is difficult, shall be performed following the procedure established by the Republic of Tajikistan government.

## **CHAPTER 33. ADMINISTRATIVE AND FINAL PROVISIONS**

### **Article 234. Submission of Returns and Payment of the Value-Added Tax**

1. Every taxpayer shall be required:

- 1) to submit a value-added tax return for each reporting period to the appropriate tax authority;
- 2) to pay tax to the budget for each reporting period no later than the deadline established for the submission of the VAT return.

2. Except as otherwise provided under this section, a value-added tax return shall be submitted for each reporting period not later than the 15<sup>th</sup> of the month following the reporting period.

Third copies of VAT invoices written up by the given taxpayer during the reporting period, and copies of VAT invoices received by the given taxpayer for goods (work, services) purchased during the reporting period, shall be submitted at the same time as the return.

3. When registration is performed retroactively, that is, when registration is back-dated, in accordance with subitem 3) of item 3 of Article 204 of this Code, a taxpayer shall be required to pay the VAT on taxable transactions effected from the moment the registration enters into force, and shall have the right to a crediting of taxes paid following the procedure established for taxpayers. In addition, the relevant transactions must be recorded in the first return submitted by the taxpayer, and such transactions shall be treated as having taken place during the month for which the return is being filed. In this case the taxpayer shall have the right to present VAT invoices for transactions that are recorded in the return.

4. Items 1 and 2 of this article shall not apply to a person who is a taxpayer only with respect to the importation of goods in accordance with item 3 of Article 201 of this Code.

5. Except as otherwise established by this Code, VAT on taxable imports shall be assessed and collected by customs authorities in accordance with this Code and the customs legislation of the Republic of Tajikistan following the procedure provided for the payment of customs charges.

### **Article 235. Reporting (Tax) Period for the Value-Added Tax**

The reporting (tax) period for the value-added tax shall be a calendar month.

### **Article 236. Transactions with the Budget in the Event That the Amount of Tax to be Credited Exceeds the Amount of Tax Assessed for a Reporting Period**

1. In the case of a taxpayer at least 70 percent of whose taxable turnover for a reporting period is subject to taxation at the zero rate, the amount of tax to be applied as a credit in excess of the amount of tax assessed for the reporting period shall be refunded from the respective budget by a financial authority, in conjunction with the tax authority, within 30 calendar days of the moment the tax authority receives a request from the taxpayer for a refund of said excess, which has been submitted by a payer of the value-added tax following the form established by the authorized government body.

A refund of tax to be applied as a credit in excess of the amount of tax assessed for the reporting period shall be carried out on the basis of:

1) the value-added tax return for the tax period, submitted according to the established procedure;

2) documents required for confirmation of exports of goods in accordance with Article 215 of this Code;

3) a finding by a tax authority on the validity of the value-added tax amounts for which a refund has been requested.

2. Value-added tax shall be refunded by carrying out the following sequence of actions:

1) crediting the value-added tax against outstanding debt owed by a payer of the value-added tax on other taxes, including debt owed on the value-added tax for previous tax periods;

2) applying a credit against the value-added tax payable for imports of goods;

3) transferring the money remaining after the actions specified under subitems 1) and 2) of this item have been carried out to the bank account of the payer of the value-added tax.

3. With respect to other taxpayers not covered by item 1 of this article, the amount of tax to be applied as a credit in excess of the amount assessed for the tax period shall be carried over to the six following reporting periods and shall be credited against tax obligations for these periods, and also against debt owed by the payer of the value-added tax on other taxes, including the value-added tax, for previous tax periods. Any balance remaining from the excess shall be refunded from the budget within 30 days of the end of this six-month period.

4. In all cases in which a tax authority discovers that certain amounts were refunded to a taxpayer in error, the tax authority may demand the return of these funds following the procedure established for the collection of taxes.

5. The procedure for refunding taxes to be applied as a credit in excess of the tax amount assessed for a reporting period shall be established by the Republic of Tajikistan government, taking into account the provisions of this article.

**Article 237. Refund of Value-Added Tax Paid on Goods (Work, Services)  
Purchased at the Expense of Proceeds from a Grant or Credit (Loan)**

1. A refund of value-added tax paid to suppliers of goods (work, services) purchased at the expense of proceeds from a grant or credit (loan) shall be effected from the respective budget by a financial authority, in conjunction with a tax authority, within 30 calendar days of the moment a tax authority receives a request from a grant recipient (credit recipient) for a VAT refund, if the following conditions are met simultaneously:

1) the grant or credit (loan), the proceeds from which are being used (or an amount up to the proceeds from which is being used) to purchase goods (work, services), has been provided through foreign states, governments of foreign states, or international organizations;

2) the goods (work, services) are being purchased exclusively for the purposes for which the grant or credit (loan) was provided;

3) the delivery of goods, the performance of work, or the provision of services is being carried out in accordance with an agreement (contract) concluded with the grant recipient or credit recipient, or with a responsible party designated by the grant recipient or credit recipient for the fulfillment of the objectives of the grant or credit (loan).

2. A refund of the value-added tax in accordance with this article shall be provided to the grant recipient or credit recipient following the procedure provided for under item 2 of Article 236 of this Code, on the basis of documents confirming payment of the value-added tax out of the proceeds from the grant or credit (loan).

A list of documents confirming payment of the value-added tax out of the proceeds from a grant or credit (loan) shall be established by the authorized government body.

3. The procedure for refunding the value-added tax paid on goods (work, services) purchased at the expense of (up to the amount of) proceeds from a grant or credit (loan), taking into account the provisions of this article, shall be established by the Republic of Tajikistan government.

**Article 238. Refund of Value-Added Tax to Diplomatic, Consular, and Equivalent Representative Offices, as well as Members of their Staff Accredited in the Republic of Tajikistan**

1. A refund of value-added tax shall be provided to diplomatic, consular, and equivalent representative offices, as well as members of their staff accredited in the Republic of Tajikistan, on the condition that such a refund is provided for on a reciprocal basis by international treaties to which the Republic of Tajikistan is a party.

Value-added tax paid by diplomatic, consular, and equivalent representative offices to suppliers on goods (work, services) intended for official use by diplomatic, consular, and equivalent representative offices, and also for the personal use of diplomatic, administrative-technical, and service personnel of these representative offices, including family members residing with them, shall be refundable.

2. A refund of value-added tax to diplomatic, consular, and equivalent representative offices, as well as members of their staff accredited in the Republic of Tajikistan, shall be effected on the basis of combined statements (registers) prepared by these diplomatic, consular, and equivalent representative offices, and certified copies of documents (invoices, receipts, etc.) confirming the fact that the value-added tax has been paid.

Combined statements (registers) shall be filled out following the form established by the authorized government body and shall be submitted by diplomatic, consular, and equivalent representative offices to the Republic of Tajikistan Ministry of Foreign Affairs for confirmation of the exchange of notes regarding observance of the principle of reciprocity in granting concessions on indirect taxes (the value-added tax and excise tax) in accordance with the provisions of an international treaty. Following confirmation, the combined statements (registers) shall be transferred to a tax authority identified by the authorized government body so that the refund can be made.

If the value-added tax amounts are not identified under a separate line in documents attached to combined statements (registers), a tax refund may be allowed only if confirmation is provided from the supplier of the goods (work, services) that the value-added tax was included in the invoice.

3. A refund of value-added tax to diplomatic, consular, and equivalent representative offices, as well as members of their staff accredited in the Republic of Tajikistan, shall be provided from the respective budget by a financial authority within 30 calendar days of the receipt of combined statements (registers) by the authorized government body from the Republic of Tajikistan Ministry of Foreign Affairs.

The value-added tax amounts to be refunded from the budget shall be transferred to the appropriate accounts of diplomatic, consular, and equivalent representative offices.

4. The procedure for refunding the value-added tax to diplomatic, consular, and equivalent representative offices, as well as members of their staff accredited in the Republic of Tajikistan,

shall be determined by the Republic of Tajikistan government taking into account the provisions of this article.

## **SECTION VIII. EXCISES**

### **CHAPTER 34. EXCISES**

#### **Article 239. The Concept of Excises (Excise Tax)**

1. An excise (excise tax) shall be an indirect tax that is included in the selling price of excisable goods.

2. The production of excisable goods on the territory of the Republic of Tajikistan and/or the importation of excisable goods shall be subject to excise taxes, with the exception of cases in which they are exempt from this tax.

#### **Article 240. Taxpayers**

1. Except as otherwise provided under this section, payers of excise taxes shall be all individuals and legal entities engaged in the production of excisable goods on the territory of the Republic of Tajikistan and/or the importation of excisable goods.

2. In the case of excisable goods produced on the territory of the Republic of Tajikistan from raw materials supplied by the customer (customer-supplied raw materials), the payer of excise taxes shall be the manufacturer, who shall be required to transfer to the customer the excisable goods (finished products) produced from the customer's raw materials at a selling price that includes the excise tax in accordance with this Code, as if the customer-supplied raw materials belonged to the manufacturer.

3. Payers of excise taxes shall also be persons:

1) who are engaged in the delivery (transfer) of confiscated, unclaimed excisable goods, as well as excisable goods that have been bequeathed to the state and transferred to the state on an unrequited basis on the territory of the Republic of Tajikistan;

2) who are responsible for the damage or loss of excisable goods.

4. Taking into account the provisions of this article, nonresident legal entities and their separate subdivisions shall also be payers of excise taxes.

#### **Article 241. Object of Taxation**

The following taxable transactions shall be the object of taxation:

1) in the case of excisable goods produced on the territory of the Republic of Tajikistan, the release of excisable goods outside the production premises (workshop) shall be a taxable transaction, including:

a) the delivery of excisable goods, other than deliveries for export;

b) the transfer of excisable goods for processing on the basis of customer-supplied raw materials;

c) the delivery (transfer) of excisable goods that are the product of processing of customer-supplied raw materials and supplies, including excisable customer-supplied raw materials and supplies;

d) the contribution of excisable goods to the statutory fund (authorized capital);

e) the use of excisable goods when making payments in kind;

f) the shipment (release) of excisable goods by a manufacturer to its separate subdivisions;

g) the use by a manufacturer of excisable goods it has produced for its own production needs;

2) in the case of imports, the importation of excisable goods onto the territory of the Republic of Tajikistan in accordance with the customs legislation shall be a taxable transaction;

3) the delivery (transfer) of confiscated and/or unclaimed excisable goods, excisable goods bequeathed to the state, and excisable goods transferred to the state on an unrequited basis;

4) the damage or loss of excisable goods.

#### **Article 242. Calculation of the Excise Tax and the Amount of a Taxable Transaction**

1. Items 2–4 of this article shall apply in cases in which calculation of the excise tax is based on the value of excisable goods and the excise tax rate, expressed as a percentage of the value (ad valorem rate). When the ad valorem excise tax rate is applied, the excise tax shall be calculated by multiplying the value of the excisable goods in accordance with items 2–4 of this article by the established ad valorem rate. In other cases, the excise tax shall be calculated by multiplying the excise tax rate, expressed as a fixed amount (specific rate) per unit of measure of the goods in physical terms, by the appropriate number of units of excisable goods in physical terms.

2. In the case of excisable goods produced on the territory of the Republic of Tajikistan, the amount of a taxable transaction shall be determined on the basis of the remuneration received or receivable by a taxpayer from a customer or other person, with the exception of the value-added tax and excise tax amount, as well as the retail sales tax, but in an amount that is not less than the market price (less the VAT and excise tax, as well as the retail sales tax). In the case of excisable goods that a taxpayer sells on a retail basis, the amount of a taxable transaction shall be determined on the basis of the market price (less the VAT and excise tax, as well as the retail sales tax).

3. In the case of imports, the amount of a taxable transaction shall be the customs value of the excisable goods, determined in accordance with the customs legislation of the Republic of Tajikistan (but in an amount that is not less than the market price, less the VAT and excise tax), plus the amount of duties and taxes payable at the time of importation of the goods into the Republic of Tajikistan, with the exception of the value-added tax and excise tax.

4. The price of packaging, with the exception of packaging that is returned, shall be taken into account when determining the amount of a taxable transaction.

#### **Article 243. Time That a Taxable Transaction Is Performed**

1. Except as otherwise provided under this article, in the case of excisable goods produced on the territory of the Republic of Tajikistan, a taxable transaction shall take place at the time goods are released outside the production premises, including the manufacturer's delivery of excisable goods it has produced through a network of its own separate subdivisions, and when excisable goods produced from customer-supplied raw materials are transferred to a contractor (processor).

When excisable goods are manufactured from customer-supplied goods, the date on which a transaction is performed shall be the day on which the manufactured excisable goods are transferred to the customer or a person specified by the customer.

2. When excisable goods are used for one's own production needs, the date on which a transaction is performed shall be the day on which said goods are transferred for this use.

3. In the case of damage to excisable products, the date on which a transaction is performed shall be the day on which a certificate is prepared regarding the write-off of the damaged excisable products or the day on which a decision is made regarding their further use in the production process.

In the case of the loss of excisable goods, the date on which a transaction is performed shall be the day on which the loss of the excisable goods occurred.

4. In the case of the importation of excisable goods, a taxable transaction shall take place at the time the importation is completed pursuant to the customs legislation.

#### **Article 244. Exemption**

1. The following shall be exempt from the payment of excise tax:

1) alcoholic beverages produced by an individual and used for the individual's own consumption based on a list and within the limits established by the Republic of Tajikistan government;

2) the importation of one liter of alcoholic beverages or one carton (200 units) of cigarettes by an individual for his own consumption, and also for persons entering the Republic of Tajikistan by motor vehicle, the contents of the fuel tank;

3) goods in transit across the territory of the Republic of Tajikistan;

4) the temporary importation of goods onto the territory of the Republic of Tajikistan, with the exception of goods intended for re-export;

5) imported goods intended for re-export, which are guaranteed by security following the procedure provided for by the customs legislation;



6) excisable goods, other than alcohol and tobacco products, imported as humanitarian assistance, as well as those imported for the purpose of their unrequited transfer to charitable organizations to aid in dealing with the aftereffects of natural disasters, accidents, and catastrophes, and for unrequited transfer to government bodies of the Republic of Tajikistan;

7) exports of excisable goods, if such exports meet the requirements established under Article 245 of this Code.

2. The excise tax exemptions specified under subitems 3)–6) of item 1 of this article shall apply only in cases in which the conditions are met for exemption from customs duty under the respective regimes in accordance with the customs legislation of the Republic of Tajikistan. In these cases, if for the purposes of collecting customs duty imports fall under the customs duty refund regime or if the payment of customs duty is required in the event of a violation of the exemption conditions, the same regime shall apply to the collection of excise tax.

#### **Article 245. Confirmation of the Export of Excisable Goods**

1. When excisable goods are delivered for export, the following documents must be submitted by the taxpayer to the tax authority with which the taxpayer is registered for confirmation of the validity of the exemption in accordance with Article 244 of this Code, within 30 calendar days of the date of the notation made by the customs authority that released the excisable goods under the export regime:

1) the agreement (contract) for delivery of the excisable goods being exported;

2) the freight customs declaration or a copy thereof, certified by a customs authority, with notations by the customs authority that released the excisable goods under the export regime, and in the case of the export of excisable goods under the export via the main pipeline system regime or application of the incomplete periodic declaration procedure, a complete freight customs declaration with notations by the customs authority that performed the customs processing;

3) copies of shipping documents with the notation of the customs authority located at the point of entry on the customs frontier of the Republic of Tajikistan, and in the case of the export of excisable goods under the export via the main pipeline system regime, an acceptance certificate for the goods;

4) payment documents and bank statements confirming the actual posting of proceeds from the sale of excisable goods to the taxpayer's accounts in the Republic of Tajikistan, which have been opened in accordance with the legislation of the Republic of Tajikistan.

2. When excisable goods are exported to member states of the Commonwealth of Independent States, a copy of the freight customs declaration prepared in the country of import of the excisable goods exported from the customs territory of the Republic of Tajikistan under the export regime shall also be submitted.

3. In the event that a delivery of excisable goods for export is not confirmed in accordance with items 1 and 2 of this article, said delivery shall be subject to the excise tax following the procedure established under this section for the delivery of excisable goods on the territory of the Republic of Tajikistan.

4. When a taxpayer submits documents confirming the export of excisable goods to the tax authority with which the taxpayer is registered, within 180 calendar days of the date of the notation made by a customs authority referred to in item 1 of this article, the taxpayer shall be entitled to a refund of the tax assessed in accordance with item 3 of this article. Otherwise, the taxpayer shall not be entitled to a refund of the tax assessed in accordance with item 3 of this article.

#### **Article 246. Crediting of Excise Tax for Production Resources**

1. A person purchasing excisable goods (raw materials) and using these goods for the production of other excisable goods, which are subject to taxation, shall have the right to a tax credit in the amount of the excise tax paid at the time of the purchase of the goods (raw materials) or to a refund of the excise tax paid on the given goods (raw materials).

The provisions of this item shall also apply when excisable goods manufactured from customer-supplied excisable goods (raw materials) are transferred, on the condition that there is confirmation of the payment of the excise tax by the owner of the customer-supplied excisable goods (raw materials).

2. A crediting or refund of excise tax paid for excisable goods used for medical purposes by medical institutions and pharmacies, as well as pharmaceutical enterprises in the production of medicines, shall be permitted in accordance with the procedure and norms established by the Republic of Tajikistan Ministry of Health in consultation with the authorized government body and the Republic of Tajikistan Ministry of Finance.

3. A crediting or refund of excise tax pursuant to this article shall be allowed only upon submission of an invoice confirming the payment of excise tax at the time of the purchase of excisable goods (raw materials) or on the condition of confirmation of the payment of excise tax by the owner of the customer-supplied excisable goods (raw materials), or in the case of the importation of raw materials, upon submission of the relevant documentation. The excise tax shall be refunded to a taxpayer from the respective budget by a financial authority, in conjunction with a tax authority, within 30 calendar days following the filing of the documents with the tax authority. A list of documents confirming the payment of excise tax shall be established by the authorized government body.

4. In accordance with this article, the crediting or refund of tax (taking into account the provisions of this Code) shall be performed with respect to the amount of excise tax determined on the basis of the volume (quantity, value) of the actual use in the tax period of excisable goods (raw materials) purchased (supplied by the customer) for the production of other excisable goods, for medical purposes by medical institutions and pharmacies, and also by pharmaceutical enterprises in the production of medicines.

#### **Article 247. Tax Rates and List of Excisable Goods**

1. In accordance with the foreign economic activity commodity nomenclature, the Republic of Tajikistan government shall identify a list of excisable goods and shall establish excise tax rates for them.

2. Excisable goods shall be:

- 1) spirits, nonalcoholic and alcoholic beverages;
  - 2) processed tobacco and industrial tobacco substitutes;
  - 3) mineral-based fuel, petroleum and refined petroleum products; bituminous substances; mineral waxes;
  - 4) new tires and rubber pneumatic tire casings, reconditioned or used tires and rubber pneumatic tire casings; solid or semi-pneumatic tires and tire casings, rubber tire treads and rim strips;
  - 5) passenger cars and other motor vehicles intended for transporting people;
  - 6) jewelry made of gold, platinum, or silver.
3. Excise tax rates may be established as a percentage of the value of the excisable goods (ad valorem rates) and/or as a fixed (absolute) amount per unit of measure of the excisable goods in physical terms.
4. Excise tax rates for alcohol products shall be set in accordance with items 1–3 of this article depending on the type of product or depending on the product's content of absolute (100-percent) alcohol.

#### **Article 248. Payment of Excise Taxes**

1. In the case of the production of excisable goods, excise taxes shall be payable on taxable transactions that take place within each reporting (tax) period, no later than the 10<sup>th</sup> of the month following the reporting period.
2. The reporting (tax) period for excise tax shall be a calendar month.
3. A taxpayer shall not have the right to move goods beyond the limits of the production premises without payment of the excise tax on these goods, with the exception of the tax warehouse regime.
4. In the case of the importation of goods, excise tax shall be collected by a customs authority following the same procedure as customs duties.

#### **Article 249. Tax Regime with Respect to Alcohol and Tobacco Products**

1. The storage, transport, and release beyond the limits of the production premises (workshop) of excisable alcohol and/or tobacco products produced on the territory of the Republic of Tajikistan in accordance with subitem 1) of Article 241 of this Code (referred to hereinafter as “release”) shall be carried out under the conditions of the tax warehouse regime.
2. During the period that alcohol and/or tobacco products are under the tax warehouse regime, said products shall not be considered to have been released beyond the limits of the

production premises (workshop) and no obligation to pay excise tax shall arise in connection with these products.

3. The importation of excisable alcohol and/or tobacco products onto the territory of the Republic of Tajikistan under the release of goods for free circulation regime shall be permitted by customs authorities only after prior application of excise stamps to these products following the procedure established by the authorized government body. The importer of excisable alcohol and/or tobacco products shall be responsible for the application of excise stamps to these products. In order to obtain excise stamps, excisable alcohol and/or tobacco products imported into the Republic of Tajikistan must be declared under the customs warehouse regime in accordance with the customs legislation of the Republic of Tajikistan.

4. The declaration of excisable alcohol and/or tobacco products under the release of goods for free circulation customs regime may be performed in batches in proportion to the volume of excisable alcohol and/or tobacco products to which excise stamps have been applied and the amount of customs payments that have been paid as established by the tax and customs legislation of the Republic of Tajikistan.

5. For tax control purposes, an importer of excisable alcohol and/or tobacco products shall submit to the tax authority with which it is registered, within the deadline established under item 1 of Article 248 of this Code, and following the procedure and form established by the authorized government body, a report on the release of stamped excisable alcohol and/or tobacco products in accordance with Article 241 of this Code, with copies of invoices prepared for its customers or other documents pertaining to the release of the products attached to the report.

6. The sale of alcohol and/or tobacco products that are exempt from the excise tax in accordance with subitems 1) and 2) of item 1 of Article 244 of this Code on the territory of the Republic of Tajikistan shall be prohibited.

### **Article 250. Tax Warehouse Regime**

1. The tax warehouse regime shall be understood to mean a set of tax control measures and actions performed by tax authorities with respect to alcohol and/or tobacco products from the moment their manufacturing is completed and/or they arrive at a warehouse (referred to hereinafter as a “tax warehouse”) until the moment they are released.

2. The tax warehouse regime shall apply to grounds on which production premises used by a taxpayer for the manufacturing of alcohol and/or tobacco products are located (which are directly occupied by such premises), as well as specially established tax warehouses for the storage of such products which are located outside these grounds. The storage of said products prior to their release in accordance with item 1 of Article 249 of this Code at other sites, with the exception of tax warehouses and means of transport in the shipping (transportation) process, shall be prohibited.

3. The moment that excisable alcohol and/or tobacco products are released from the grounds on which production premises used by a taxpayer for the manufacturing of these products are located (which are directly occupied by such premises), or from a tax warehouse, shall be considered the moment that the tax warehouse regime is no longer in force.

4. Alcohol and/or tobacco products that are under the tax warehouse regime shall be stored under the supervision of customs authority employees in specially designated and equipped premises (tax warehouses), which may be located both on and off the grounds on which the production premises used by a taxpayer for the manufacturing of alcohol and/or tobacco products are located.

5. Tax warehouses shall be established by taxpayers with the appropriate permit issued by the authorized government body. The procedure for issuing permits for the establishment of tax warehouses, the procedure for their functioning, as well as the range of tax control measures applicable to such tax warehouses, shall be determined by the Republic of Tajikistan government.

6. When alcohol and/or tobacco products are located at tax warehouses, the only operations that may be performed with them are those related to ensuring their safekeeping, as well as preparing them for release and transport (including the application of excise stamps to the alcohol and/or tobacco products).

7. Following the procedure and under the conditions determined by the Republic of Tajikistan government, tax authorities shall establish excise posts at enterprises manufacturing alcohol and tobacco products for the purpose of monitoring production volumes and shipments of the aforementioned excisable products and the excise taxes assessed on them.

#### **Article 251. Damage and Loss of Excisable Goods**

1. In the event of the damage or loss of excisable goods manufactured in and/or imported into the Republic of Tajikistan, excise tax shall be paid in full, with the exception of cases arising as a result of emergency situations confirmed following the procedure established under subitem 2) of item 1 of Article 227 of this Code.

2. For the purposes of this article, damage or loss of excisable goods shall be understood to mean events described under item 2 of Article 227 of this Code.

#### **Article 252. Place of Payment of Excise Tax**

1. Excise tax payments shall be made at the place where the payer of the excise tax is registered, with the exception of those cases referred to in item 2 of this article.

2. Payers of the excise tax that have separate subdivisions shall pay the excise tax based on the location of the separate subdivisions following the procedure established under Article 253 of this Code if these separate subdivisions are engaged in the manufacturing of excisable alcohol and/or tobacco products and/or their bottling and/or packing (packaging) and further release for sale.

#### **Article 253. Procedure for Calculation and Payment of the Excise Tax by Taxpayers for Separate Subdivisions**

1. Payers of the excise tax referred to under item 2 of Article 252 of this Code that have separate subdivisions shall be required to register the separate subdivisions with tax authorities serving the area in which the subdivisions are located and to notify the tax authority with which they are registered themselves of the registration of the separate subdivisions.

2. The amount of excise tax payable for a separate subdivision shall be determined on the basis of an excise tax statement for the separate subdivision, prepared for each separate subdivision following the form and in accordance with the procedure established by the authorized government body.

3. Transactions that are subject to the excise tax and have been performed by separate subdivisions during the tax period shall be reported in the excise tax statement for separate subdivisions.

4. Payers of the excise tax shall be required to submit a statement of excise taxes payable for their separate subdivisions to the tax authority with which the payers themselves are registered and copies of the statements to the tax authorities serving the area in which the separate subdivisions are located, within the deadlines specified under Article 248 of this Code.

5. Payment of the excise tax for separate subdivisions shall be effected by a legal entity that is a payer of the excise tax from its own settlement account or the separate subdivisions shall be responsible for payment of the excise tax within the deadlines specified under Article 248 of this Code.

#### **Article 254. Submission of a Return**

1. In those cases mentioned in item 1 of Article 248 of this Code, a taxpayer shall be required to submit a return in accordance with the procedure and following the form established by the authorized government body, within the deadlines established for payment of the tax, indicating the taxable transactions for the reporting period.

2. Payers of the excise tax referred to under item 2 of Article 252 of this Code shall submit excise tax statements for separate subdivisions at the same time as the return.

3. A payer of the excise tax shall submit a request for a credit mentioned in Article 246 of this Code together with a return indicating payment of the tax. A person who is not a payer of the excise tax shall submit a special application for a refund, which may be filed at any time within one year of the date that the right to a refund arises.

The form and procedure for the completion and submission of a request for a refund and a special request for a refund shall be established by the authorized government body.

#### **Article 255. Refund of Excise Tax in the Case of Re-Export**

1. In the case of goods that are imported for the purpose of their further export (that is, in the case of the re-export of goods), excise tax shall be paid at the time of the importation of the goods and shall then be refunded by the financial authorities to which the excise tax was paid at the time of import, in conjunction with the respective customs authorities, in accordance with the actual volume of the re-exported goods. The refund shall be provided following the established procedure within 30 days of the submission of a written request.

2. Item 1 of this article shall not apply to goods whose importation is exempt from the excise tax in accordance with subitem 5) of item 1 of Article 244 of this Code.

## **Article 256. Excise Stamps**

1. The Republic of Tajikistan government shall identify excisable goods, both domestic and imported, which require excise stamps. The importation and/or sale of such excisable goods without excise stamps shall be prohibited. Tax authorities shall have the right to seize such excisable goods that are offered for sale without excise stamps following the established procedure.

2. Excise stamps shall be registered high-security documents with a certain degree of protection. The procedure for their manufacture and circulation shall be determined by the Republic of Tajikistan government.

The procedure for the application of excise stamps to excisable products shall be established by the authorized government body.

3. Except as otherwise provided under this item, in the event of the damage or loss of excise stamps the excise tax shall be paid in the amount of the declared list of excisable products.

Calculation of the excise tax based on damaged or lost excise stamps (including those that have been stolen) intended for the stamping of alcohol or tobacco products in accordance with the provisions of this Code shall be performed on the basis of the established rates applicable to the unit volume of the container (package, packaging) indicated on the stamp.

In the event that a stamp does not indicate the unit volume of the container (package, packaging), calculation of the excise tax based on damaged or lost excise stamps shall be performed on the basis of the largest unit volume of the container (package, packaging) in which the product was bottled (packed, packaged) during the tax period preceding the period in which the excise stamps were damaged or lost.

In the event of the damage or loss of excise stamps, the excise tax shall not be paid in the following cases:

1) the damage or loss of excise stamps occurred as a result of emergency situations confirmed following the procedure established under subitem 2) of item 1 of Article 227 of this Code;

2) the damaged excise stamps have been accepted by tax authorities on the basis of a certificate of removal for destruction.

## **Article 257. Excise Tax Invoices**

1. Except as otherwise provided under item 3 of this article, a taxpayer performing the delivery of excisable goods, including those that are imported, shall be required to write up and present to the recipient of the goods an excise tax invoice in accordance with instructions from the authorized government body.

2. An excise tax invoice shall be an invoice that has been prepared following the form and in accordance with the procedure established by the authorized government body, and that contains information specified under item 2 of Article 231 of this Code.

3. In the case of the retail delivery of excisable goods, an excise tax invoice may be used that is based on a simplified form established by the authorized government body.

## **SECTION IX. SOCIAL TAX**

### **CHAPTER 35. SOCIAL TAX**

#### **Article 258. The Concept and Role of the Social Tax**

The social tax shall be a compulsory payment which for the purposes of providing social insurance is to be paid by payers of the social tax in accordance with the rates established by this Code, which are applied to wages or another tax base pursuant to this chapter.

#### **Article 259. Taxpayers**

1. Payers of the social tax in accordance with this section shall be:

1) individuals and legal entities that are employers, including permanent establishments of nonresidents, and that pay wages to resident individuals working for hire in the Republic of Tajikistan;

2) individuals and legal entities, including permanent establishments of nonresidents, that pay for the services of resident individuals provided in the Republic of Tajikistan on the basis of contracts of a civil-legal nature or without such contracts, in the course of their commercial activity;

3) individuals receiving payments referred to under subitems 1) and 2) of this item;

4) resident individuals engaged in individual entrepreneurial activity on the territory of the Republic of Tajikistan, including those mentioned in items 2 and 3 of Article 137 of this Code.

2. The payers referred to under subitems 1) and 2) of item 1 of this article shall be referred to hereinafter in this chapter as insured parties, and the payers referred to under subitem 3) of item 1 of this article shall be referred to as insured persons.

3. At the request of a legal entity, its separate subdivisions may be treated by tax authorities as independent payers of the social tax.

#### **Article 260. Object of Taxation**

1. The object of taxation in the cases referred to under subitem 1) of item 1 of Article 259 of this Code shall be the wages payable to hired employees as determined in accordance with Article 136 of this Code. The object of taxation in the cases referred to under subitem 2) of item 1 of Article 259 of this Code shall be the amount of payments to individuals as determined in accordance with Article 136 of this Code, as if these individuals were employees.

2. For payers referred to under subitem 4) of item 1 of Article 259 of this Code who are subject to the income tax in accordance with item 2 of Article 137 of this Code, the object of taxation shall be income from commercial activity declared independently by them for social insurance purposes (to determine the amount of social tax), but not less than the income established



for social insurance purposes for taxpayers in this category by the Republic of Tajikistan government.

3. For payers referred to under subitem 4) of item 1 of Article 259 of this Code who are subject to the income tax in accordance with item 3 of Article 137 of this Code, the object of taxation shall be taxable income from commercial activity determined in accordance with Sections IV and VI of this Code.

### **Article 261. Exemption**

The following shall be exempt from payment of the tax (shall not be included in the object of taxation):

1) income earned by persons who are employed by diplomatic and/or consular institutions and are not citizens of the Republic of Tajikistan;

2) temporary disability payments provided at the expense of budget funds allocated for social insurance.

### **Article 262. Tax Rates**

1. A rate of 25 percent shall be applied for the social tax payable to the budget by insured parties and a rate of 1 percent shall be applied for the social tax payable by insured persons.

2. The social tax rate for individuals referred to under subitem 4) of item 1 of Article 259 of this Code shall be equal to 20 percent.

### **Article 263. Procedure for Determination and Payment of the Tax**

1. The amount of social tax payable to the budget shall be determined by multiplying the objects of taxation in accordance with Article 260 of this Code by the appropriate tax rates as established under Article 262 of this Code.

2. In those cases referred to under subitems 1), 2), and 3) of item 1 of Article 259 of this Code, the social tax shall be withheld and transferred to the budget following the procedure established under Article 161 of this Code with respect to employee wages.

3. Payers referred to under item 2 of Article 260 of this Code shall pay the social tax at the same time as a patent fee is paid to the budget, or before the end of each month for which a patent fee is paid.

4. Payers referred to under item 3 of Article 260 of this Code shall make current (advance) social tax payments within the deadlines established in the second paragraph of item 1 of Article 198 of this Code in the following amount: 1) one-fourth of the tax amount for the previous tax period, determined in accordance with a return filed before April 1 of the year following the reporting year with the appropriate tax authorities, multiplied by a coefficient of 1.1, or 2) as determined in accordance with item 2 of Article 198 of this Code.

## **SECTION X. LAND TAX**

## **CHAPTER 36. LAND TAX**

### **Article 264. Taxpayers**

The land tax shall be paid by landholders who have been allotted parcels of land for tenure on an indefinite basis, for limited-time tenure, or for lifetime inheritable tenure.

### **Article 265. Object of Taxation**

1. The land tax shall be established taking into consideration the quality and location of the parcel of land, the land registry appraisal of the land, the nature of its use, and the environmental aspects of the parcel of land.

2. The grounds for determining the land tax, taking into consideration the provisions of item 1 of this article, shall be the land registry documentation of the landholder.

In the event that the area of land actually in use is greater than the area of land as indicated in the taxpayer's land registry documentation, the area of land actually in use shall be applied for taxation purposes.

3. The amount of land tax shall not depend on the results of the landholder's economic activities and shall be established in the form of stable payments per unit of land area per year.

### **Article 266. Land Tax Rates for Land in Cities and Urban-Type Settlements**

1. The land tax rates for land in cities and urban-type settlements shall be established as follows:

- 1) 400 somoni per hectare in the city of Dushanbe;
- 2) 300 somoni per hectare in the cities of Khudzhand, Kurgant'yube, and Kulyab;
- 3) 200 somoni per hectare in cities under republican and oblast jurisdiction and the city of Khorog;
- 4) 150 somoni per hectare in other cities and urban-type settlements.

Agricultural land and land covered with woods and shrubbery in cities and urban-type settlements shall be taxed on the basis of land registry zones pursuant to Articles 267 or 308 of this Code.

With the exception of land exempt from the tax, taxable area shall include all allocated land, including land occupied by structures and buildings, plots necessary for their maintenance, public health protection zones surrounding installations, and industrial and other zones.

2. Land used for housing construction by individuals in cities and urban-type settlements shall be subject to taxation as follows:

1) the area of each parcel of land allocated to a landholder under a separate (independent) title shall be treated separately for purposes of taxation, with the exception of cases in which these parcels of land are contiguous. For taxation purposes, the area of contiguous parcels of land allocated to the same landholder on the basis of different (several) titles shall be combined, and these contiguous parcels of land shall be treated as a single parcel;

2) the amount of land tax shall be calculated as follows, depending on the size of the parcel of land allocated to the landholder:

a) up to 800 square meters – at the rates established under item 1 of this article;

b) over 800 square meters and up to 2,000 square meters – the amount of tax calculated according to subitem a) above, plus an amount calculated at 2 times the tax rate established under item 1 of this article for the area in excess of 800 square meters;

c) over 2,000 square meters – the amount of tax calculated according to subitem b) above, plus an amount calculated at 5 times the tax rate established under item 1 of this article for the area in excess of 2,000 square meters.

#### **Article 267. Land Tax Rates for Land Outside Cities and Urban-Type Settlements**

1. The average tax rates per hectare of land based on land registry zones and types of land shall be established as follows (in somoni):

Type of land	Arable land and perennial plantings: irrigated/dry	Pastures and hayfields	Roads, streets, public buildings, forests, squares, canals, irrigations ditches, and reservoirs	Other land not used in the production of agricultural products
Name of land registry zone				
Sogdi	30.0/5.5	4.0	12.0	3.75
Gissar	32.0/13.0	4.0	9.0	2.75
Rasht	26.0/19.0	4.0	6.0	1.25
Kulyab	33.0/15.5	4.0	9.0	2.75
Vakhsh	46.5/11.5	4.0	13.0	4.25
Gorno-Badakhshan Autonomous Oblast (not including Murgab zone)	9.0/4.0	2.0	6.0	1.25

2. The average land tax rates within the land registry zones for the Republic's regions shall be determined following the established procedure by the Republic of Tajikistan government based on a representation from the Republic of Tajikistan State Land Use Committee.

3. Household plots shall be subject to taxation as follows:

1) the area of each household plot allocated to a landholder under a separate (independent) title shall be treated separately for purposes of taxation, with the exception of cases in which these household plots are contiguous. For taxation purposes, the area of contiguous household plots allocated to the same landholder on the basis of different (several) titles shall be combined, and these contiguous household plots shall be treated as a single household plot;

2) the amount of land tax shall be calculated as follows, depending on the size of the household plot allocated to the landholder:

a) when the size of the household plot is within the norms established by the Land Code of the Republic of Tajikistan, the rates established under item 1 of this article shall apply;

b) when the size of the household plot exceeds the norms established by the Land Code of the Republic of Tajikistan, the amount of tax calculated in accordance with subitem a) above shall apply, plus an amount calculated at 2 times the tax rate established under item 1 of this article for the area in excess of the norms established by the Land Code of the Republic of Tajikistan.

### **Article 268. General Procedure for Calculation and Payment of the Land Tax**

1. The land tax shall be calculated by multiplying the object of taxation (the area of a parcel of land) by the appropriate land tax rates for each parcel of land individually.

The land tax rates for the coming budget year shall be indexed to the rates in effect in the current budget year, based on a figure of 0.7 percentage point for each percentage point of inflation taken into account in the compilation of the State Budget for the coming budget year.

2. The land tax shall be calculated starting with the month following the month in which a taxpayer acquires tenure or lifetime inheritable tenure with respect to a parcel of land.

3. In the event of the termination of tenure or lifetime inheritable tenure with respect to a parcel of land, the land tax shall be calculated for the actual number of months of tenure of the parcel of land, including the month in which said rights are terminated.

4. In the event that land in a population center (a parcel of land) is reclassified from one settlement category to another in the course of a tax year, the land tax for the current year shall be collected from taxpayers at the rates previously established for these population centers (land categories), and in the following year it shall be collected at the rates established for the new settlement category.

5. In the event that a population center is dissolved and its territory is included as part of another population center, the new rate shall apply on the territory of the dissolved population center as of January 1 of the year following the year in which the population center was dissolved.

### **Article 269. Procedure for Submission of a Tax Statement**

1. Taxpayers, with the exception of individuals, shall submit a statement of the land tax owed by them for the current year to tax authorities serving the area in which the parcel of land is located, on an annual basis no later than March 1 of the current year. The form and procedure for the aforementioned statement shall be established by the authorized government body.

2. A statement of land tax payable by individuals shall be prepared by tax authorities serving the area in which the parcel of land is located. The form and procedure for the aforementioned statement shall be established by the authorized government body.

An individual shall be notified by the appropriate tax authorities of his land tax obligations no later than June 1 of the current year. The form of notification of land tax obligations shall be established by the authorized government body.

3. A tax statement for newly allocated parcels of land shall be submitted within 30 calendar days of the date of their allocation.

4. Tax authorities shall maintain a register of payers of the land tax and shall monitor the correct and timely calculation and payment of the land tax.

### **Article 270. Deadlines for Payment of the Land Tax**

1. The land tax due for the current tax year shall be paid on the basis of a statement submitted by taxpayers in accordance with Article 269 of this Code, with the exception of individuals:

1) for land referred to under Article 266 of this Code, no later than March 15, June 15, and September 15 of the current year in an amount equal to at least 25 percent of the tax due for the year, and no later than December 15 of the current year in an amount equal to the remaining balance of the annual amount;

2) for land referred to under Article 267 of this Code, no later than March 15 in an amount equal to at least 15 percent, no later than June 15 in an amount equal to at least 20 percent, no later than September 15 in an amount equal to at least 25 percent, and December 15 in an amount equal to the remaining balance of the annual amount.

2. The land tax due for the current tax year shall be paid by individuals on the basis of a notification provided to them by the appropriate tax authorities for land referred to in Articles 266 and 267 of this Code, no later than June 15 in an amount equal to at least 33 percent, no later than September 15 in an amount equal to at least 33 percent, and December 15 of the current year in an amount equal to the remaining balance of the annual amount.

If for any reason notification of land tax obligations is not provided to an individual before June 1 of the current year, said individual shall be required on his own to inform the tax authority serving the area in which the parcel of land is located to this effect and to pay the entire amount of land tax for the current tax year no later than December 15 of the current year (taking into account cumulative payments that have been made in accordance with the earlier payment deadlines).

### **Article 271. Land Tax Concessions**

The following shall be exempt from the land tax:

1) the grounds of nature preserves, national and forest parks, and botanical gardens in accordance with a list of these organizations and the size of their grounds established by the Republic of Tajikistan government;

2) land used by budgetary organizations and the National Bank of Tajikistan and its branch offices for the performance of the objectives, tasks, and functions set forth in the charter documents of these organizations and institutions;

3) land held by organizations and occupied by buildings used by them that are protected by the state as historical, cultural, and architectural monuments, based on a list of organizations and in accordance with the size of parcels of land established by the Republic of Tajikistan government;

4) disturbed land (in need of restoration) which has been obtained for use in accordance with a finding issued by the Republic of Tajikistan State Land Use Committee in consultation with the authorized government body, and land that is in the agricultural development stage during the year it is obtained for use (for development) and for five years immediately following the year the land was obtained (the year development was initiated);

5) land occupied by the surveillance zone along the state border;

6) public land in population centers and land used for municipal services, including cemeteries, with the exception of such land used for commercial activity;

7) land covered by glaciers, landslides, rivers, and lakes;

8) land in the free state reserve;

9) land occupied by public highways and railroads, as well as land occupied by public water supply facilities and hydraulic structures;

10) land allocated to support the operation of government executive and administrative bodies, and also to provide for the defense and security of the Republic of Tajikistan, in accordance with the location and size of such parcels of land as established by the Republic of Tajikistan government;

11) household plots and land for housing construction allocated to veterans of the Great Patriotic War and persons with equivalent status;

12) household plots allocated to citizens arriving (being resettled) from other regions of the Republic of Tajikistan for permanent residence in regions identified by the Republic of Tajikistan government, in the year they are allocated and for a period of 3 calendar years immediately following the year in which the land is allocated;

13) household plots and land for housing construction allocated to teachers working in rural areas at general education institutions for the period they are employed at such institutions;

14) land used directly for scientific and educational purposes, and also for testing varieties of agricultural crops by scientific organizations, experimental and scientific-testing farms, scientific research institutions, and educational institutions specializing in agriculture and forestry, within the

land size specifications and based on a list of landholders determined by the Republic of Tajikistan government;

15) household plots and land for housing construction allocated to disabled persons in all categories in the absence of an able-bodied family member;

16) household plots allocated to persons referred to under subitem 14) of Article 141 of this Code and their family members, as well as officers, warrant officers, and military personnel serving beyond the regular tour of duty, and female military personnel, who have been discharged (retired) due to age, health, or as a result of a reduction in force, who have served for more than 20 years, within the norms established by the Land Code of the Republic of Tajikistan;

17) land allocated to enterprises and organizations if disabled persons account for at least 50 percent of their employees.

## **SECTION XI. TAX ON USERS OF MINERAL RESOURCES**

### **CHAPTER 37. GENERAL PROVISIONS**

#### **Article 272. Relations Regulated by this Section**

1. This section shall define specific provisions related to the fulfillment of tax obligations arising under mineral use contracts and it shall establish the procedure for the calculation and payment of special charges for users of mineral resources, including bonuses (signing, commercial discovery, and extraction bonuses) and royalties.

2. Individuals and legal entities engaged in the implementation (execution) of mineral use contracts in the Republic of Tajikistan, in addition to the payment of special charges for users of mineral resources, shall be taxpayers with respect to other taxes established by this Code if they meet the requirements specified by this Code for the payers of other taxes.

3. All types of bonuses and royalties shall be deducted (shall be deductions) for purposes of the profit tax (income tax for individual entrepreneurs).

#### **Article 273. Payers**

The payers of special charges for users of mineral resources (referred to hereinafter as “special charges”) shall be individuals and legal entities engaged in mineral use operations in the Republic of Tajikistan (referred to hereinafter as “users of mineral resources”), including the extraction of minerals resulting from industrial processing.

#### **Article 274. Establishment of a Tax Regime in Mineral Use Contracts**

1. The tax regime established for a user of mineral resources shall be specified only in a mineral use contract (referred to hereinafter as a “contract”) concluded between the user of mineral resources and a competent authority authorized by the Republic of Tajikistan government (referred to hereinafter as a “competent authority”), following the procedure determined by the Republic of Tajikistan government.

2. The tax regime established under a contract must be consistent with the requirements of the tax legislation of the Republic of Tajikistan as of the date the contract is concluded (signed).

3. The inclusion of issues pertaining to the payment of taxes and special charges in licenses and other documents related to mineral use, with the exception of mineral use contracts, shall be prohibited.

4. In cases in which mineral use is carried out under the same contract by several taxpayers, the tax regime established under the contract shall be the same for all of them.

In this case, with respect to activities performed under such a contract, for taxation purposes the taxpayers shall be considered a single taxpayer and they shall be required to maintain a single set of consolidated accounting records and to pay all taxes and special charges established in the contract in accordance with the tax legislation of the Republic of Tajikistan.

5. Users of mineral resources performing operations under more than one contract may not combine income and expenses arising from the implementation of different contracts for the purposes of determining taxes and special charges. There must be separate accounting of income and expenses for each contract, and a separate statement of taxes and special charges must also be prepared.

6. The provisions of item 5 of this article shall not apply to cases in which users of mineral resources perform operations under more than one contract and all of these contracts have been concluded for the extraction of commonly-occurring minerals and/or ground water, provided that all of these contracts do not also provide for the extraction of other types of minerals.

7. A user of mineral resources shall be required to maintain separate accounting records for the calculation of tax obligations in accordance with the tax regime provided for under the contract, and for the calculation of tax obligations related to activity that falls outside the scope of the given contract (not related to mineral use).

8. The provisions of item 7 of this article pertaining to separate accounting shall not apply to cases in which a user of mineral resources, in addition to the activities under contracts for the extraction of commonly-occurring minerals and/or ground water, also performs activities that fall outside the scope of the given contracts (not related to mineral use).

9. In the case of the commercial processing of mineral by-products not specified in a contract, a user of mineral resources shall pay royalties on them in accordance with the provisions of Chapter 39 of this Code.

#### **Article 275. Tax Regime for Transactions Not Pertaining to Mineral Use**

The fulfillment of tax obligations related to activity performed within the scope of a contract shall not exempt a user of mineral resources from the fulfillment of tax obligations provided for under this Code for the performance of activity that falls outside the scope of the given contract (not related to mineral use) in accordance with the tax legislation in force on the date such obligations arise (not related to mineral use).

#### **Article 276. Stability of the Tax Regime**



1. The tax regime established under a contract that has been concluded in accordance with the established procedure and has undergone a mandatory tax evaluation shall remain unchanged until the end of the period of validity of the given contract, with the exception of the case referred to under item 2 of this article.

2. In the event that changes are made to the legislation after the date on which a contract is signed, which make it impossible to comply with the original terms of the contract, the user of mineral resources and representatives of a competent authority, the authorized government body, and the Republic of Tajikistan Ministry of Finance may make changes or amendments to the contract which are necessary in order to restore the economic interests of the parties to their status as of the moment the contract was signed. The given changes or amendments to the terms of the contract shall be made within 60 days of the date of written notification sent by the authorized government body or user of mineral resources to the other party.

3. In the event of the elimination of certain types of taxes and special charges specified under a contract, a user of mineral resources shall continue to pay them to the budget following the procedure and in the amounts established under the contract until the relevant changes are made to the contract for the purposes and following the procedure provided for under item 2 of this article.

#### **Article 277. Taxation of Assignment of Rights**

Income earned from the assignment of rights provided for under a contract shall be subject to taxation following the procedure established by this Code.

#### **Article 278. Tax Evaluation**

1. A tax evaluation shall be a special evaluation that consists of an analysis and assessment of a draft contract concluded between a user of mineral resources and a competent authority, which is performed for the purpose of determining the tax regime, including the establishment of special charges for users of mineral resources in accordance with the legislation of the Republic of Tajikistan.

2. Prior to being concluded (signed), all contracts between a user of mineral resources and a competent authority (the contracting parties) must undergo a mandatory tax evaluation following the procedure and within the time frame determined by the Republic of Tajikistan government. This provision shall also apply to amendments and additions to previously concluded contracts.

3. In the event of a change in the tax legislation between the date that a tax evaluation is performed and the date that a contract is signed, the tax regime must be brought into conformity with the given changes and another tax evaluation must be performed.

4. The tax regime established in accordance with the results of a tax evaluation must be included in the final text of a contract without any changes or revisions.

### **CHAPTER 38. BONUSES**

#### **Article 279. General Provisions Regarding Bonuses**

1. Bonuses shall be fixed payments by users of mineral resources and they shall be paid in monetary form in the amounts and following the procedure established in the mineral use contract.

2. Based on the individual conditions involved in the use of mineral resources, users of mineral resources shall pay the following types of bonuses:

- 1) signing bonus;
- 2) commercial discovery bonus;
- 3) extraction bonus.

3. One or several types of bonuses may be established depending on the economic effectiveness of the contracts being concluded.

#### **Article 280. Signing Bonus**

A signing bonus shall be a one-time fixed payment by a user of mineral resources for the right to engage in activities related to the use of mineral resources on a contracted territory and it shall be established at the time the contract is concluded following the procedure established by regulatory legal acts of the Republic of Tajikistan.

#### **Article 281. Procedure for the Establishment of a Signing Bonus, the Amount and Deadline for Payment of a Signing Bonus**

1. The initial amounts of signing bonuses shall be determined by a competent authority, including on the basis of holding a tender, in consultation with the Republic of Tajikistan Ministry of Finance and the authorized government body.

2. The final amount of a signing bonus shall be established in a contract, depending on the economic value of the deposits (territories) being turned over for mining operations, but it must not be less than the initial amounts.

3. The deadline for payment of a signing bonus shall be established by the contract, but it shall be no later than 30 calendar days from the date the contract is concluded.

#### **Article 282. Tax Return**

A signing bonus return shall be submitted by a user of mineral resources to the tax authority with which it is registered before the 15<sup>th</sup> of the month following the month in which the payment deadline occurs.

#### **Article 283. Commercial Discovery Bonus**

1. A commercial discovery bonus shall be a payment for each commercial discovery on a contracted territory, including the discovery of minerals in the course of additional prospecting at deposits which leads to an increase in the recoverable reserves originally identified, with the exception of those cases indicated in item 2 of this article.

2. A commercial discovery bonus shall not be established under contracts for the prospecting of mineral deposits that do not provide for the subsequent extraction of minerals.

3. A commercial discovery shall mean reserves of a certain type of mineral that are discovered within the boundaries of a contracted territory, which have been confirmed in accordance with the established procedure and the extraction of which is economically viable.

#### **Article 284. Procedure for Calculation of a Commercial Discovery Bonus and the Size of a Commercial Discovery Bonus**

1. The procedure for the calculation of a commercial discovery bonus shall be determined by the Republic of Tajikistan government.

2. The size of a commercial discovery bonus shall be established under the contract.

#### **Article 285. Tax Return and Payment Deadline**

A commercial discovery bonus return shall be submitted by a user of mineral resources to the tax authority with which it is registered no later than 30 calendar days following the date on which the commercial discovery is confirmed in accordance with the established procedure, and a commercial discovery bonus shall be paid no later than this deadline.

#### **Article 286. Extraction Bonus**

An extraction bonus shall be a fixed payment and shall be paid periodically by a user of mineral resources, when certain extraction volumes specified under the contract are reached.

#### **Article 287. Procedure for the Calculation of an Extraction Bonus, the Amount and Deadline for Payment of an Extraction Bonus**

1. The procedure for the calculation of an extraction bonus based on groups of minerals shall be determined by the Republic of Tajikistan government.

2. The size of extraction bonuses shall be established under the mineral use contract.

3. An extraction bonus shall be paid no later than the 20<sup>th</sup> of the month following the month in which each of the extraction levels specified in the contract is reached.

#### **Article 288. Tax Return**

1. An extraction bonus return shall be submitted by a user of mineral resources to the tax authority with which it is registered no later than the deadline established for the payment of the extraction bonus.

2. The form of tax returns for a signing bonus, a commercial discovery bonus, and an extraction bonus and the procedure for filling them out shall be established by the authorized government body in consultation with a competent authority.

### **CHAPTER 39. ROYALTIES**

#### **Article 289. General Provisions Regarding Royalties**

1. Royalties shall be a charge paid by a user of mineral resources separately for each type (for all types) of minerals extracted on the territory of the Republic of Tajikistan, regardless of whether they are delivered (shipped) to buyers (recipients) or used for one's own needs.

2. Royalties established in a mineral use contract shall be paid in monetary form, with the exception of those cases provided for under item 3 of this article.

3. In the course of operations being performed under a contract, the monetary form for the payment of royalties may be replaced temporarily, in full or in part, by in-kind payment equivalent to the monetary form, by a decision of the Republic of Tajikistan government, on the basis of a supplemental agreement between the user of mineral resources and a competent authority. When a supplemental agreement regarding the in-kind payment of royalties is concluded (signed), the provisions specified under Article 295 of this Code must be observed.

### **Article 290. Payers**

Payers of royalties shall be users of mineral resources engaged in the extraction of minerals, including the extraction of minerals resulting from industrial processing, regardless of whether their delivery (shipment) occurred in the reporting period.

### **Article 291. Procedure for the Establishment of Royalties**

1. The amount of royalties shall be determined in accordance with the object of taxation, the calculation base, and the rate.

2. For calculating royalties:

1) the object of taxation for all types of minerals shall be the volume of minerals extracted or the volume of the initial commercial product obtained from minerals actually extracted, calculated in the respective physical units of measure.

In this case the initial commercial product may be:

a) the minerals themselves:

- petroleum, natural gas, and gas condensate;
- coal and oil shale;
- commercial-grade ores;
- ground water, including water that has gone through primary treatment;
- mica, asbestos, raw materials for the production of building materials;
- nonmetallic raw materials for metallurgy;

b) precious metals and/or chemically pure metals in sand, ore, and concentrate;

c) concentrates of ferrous, nonferrous, rare, and radioactive metals, mining and chemical raw materials;

d) precious stones, uncut semi-precious stones and piezo-optic raw materials that have gone through primary processing;

e) for other types of minerals – mineral raw materials that have gone through primary processing;

2) the base for the calculation of royalties shall be the value of minerals determined in accordance with Article 292 of this Code;

3) the royalty rate shall be established in each contract individually for each type (all types) of mineral(s), with the exception of commonly-occurring minerals and ground water, based on the economic effectiveness of the project, following the procedure determined by the Republic of Tajikistan government and taking into consideration the provisions of items 3, 4, and 5 of this article. The minimum royalty rate for any type of mineral must be no less than 0.5 percent.

3. Royalty rates for hydrocarbons shall be established on a sliding (graduated) scale as a percentage, determined in accordance with the extraction volume in physical units of measure and/or the value of the extraction volume, based on one of the following two methods:

1) based on the volume of cumulative extraction and/or the value of cumulative extraction of hydrocarbons for the entire period of operation specified in the contract;

2) based on the volume of cumulative extraction and/or the value of cumulative extraction for each individual year of operation under the contract.

4. Royalty rates for solid minerals, including gold, silver, platinum, and other precious metals and precious stones, shall be established as a fixed percentage for the entire period that the contract is in force.

5. The royalty rates for commonly-occurring minerals and ground water shall be the same for all users of mineral resources and shall be established by the Republic of Tajikistan government as a percentage.

Royalties for commonly-occurring minerals and ground water shall be paid by users of mineral resources regardless of whether they are supplied to consumers or used for one's own needs, with the exception of the cases cited below in this item.

Royalties shall not be paid:

1) by individuals for ground water extracted on parcels of land allocated to them on a tenure or lifetime inheritable tenure basis, on the condition that this water is not supplied to other parties and is not used for production or industrial needs in the performance of commercial activity;

2) by government institutions extracting ground water for their own operating needs;

3) by users of mineral resources when they pump incidentally extracted ground water back into the ground to maintain reservoir pressure.

6. In the event that several types of minerals are extracted under the same contract, royalties shall be established and paid for each type of mineral.

7. The size of royalties payable to the budget shall be defined as the sum of the products of the value of each of the minerals extracted by a user of mineral resources in a tax period and the respective royalty rates.

#### **Article 292. Procedure for Determining the Value of Minerals Extracted**

1. For the purpose of calculating the size of royalties payable to the budget, the value of minerals extracted by a user of mineral resources during a tax period, with the exception of gold, silver, and platinum, shall be determined on the basis of the weighted average delivery price in the tax period of the minerals extracted or the initial commercial product obtained from the minerals, not including indirect taxes.

2. The value of gold, silver, and platinum extracted during a tax period shall be calculated on the basis of the average price of these metals during the tax period on the London Metal Exchange, following the procedure established by the authorized government body in consultation with the Republic of Tajikistan Ministry of Finance.

#### **Article 293. Procedure for Payment of Royalties**

1. The tax (reporting) period for the determination and payment of royalties shall be a calendar month.

2. A royalty return (statement) shall be submitted by a user of mineral resources, following the form and according to the procedure established by the authorized government body in consultation with a competent authority, to the tax authority with which it is registered before the 10<sup>th</sup> of the month following the reporting period.

3. Royalties on all types of minerals shall be paid no later than the 15<sup>th</sup> of the month following the reporting period.

#### **Article 294. Determination of the Value of Minerals Extracted in the Absence of Sales (Deliveries)**

1. In the event that there are no sales of an initial commercial product in a tax period, the weighted average selling price (not including indirect taxes) of the commercial product in the last period in which a sale (delivery) occurred shall be taken as the weighted average selling price (not including indirect taxes) for the purpose of calculating the value of the minerals extracted, with the exception of gold, silver, platinum, and commonly-occurring minerals and ground water.

2. In the event that there have been no sales at all of an initial commercial product, with the exception gold, silver, and platinum, actual expenditures on the extraction of minerals shall be taken as the weighted average selling price for the purpose of calculating the value of the minerals extracted in the tax period.

In this case the user of mineral resources shall be required to make a subsequent adjustment in the amount of royalties assessed in the tax period in which the first sale occurs, based on the actual selling price of the initial commercial product.

3. In the event that commonly-occurring minerals are not sold in a tax period, or if they are used entirely for one's own needs, actual expenditures by the user of mineral resources on their extraction and primary processing, plus a standard profit rate equal to 10 percent of the aforementioned expenditures, shall be taken as the weighted average selling price of the initial commercial product.

In the event that ground water is used as a main component in goods produced and/or services provided, actual expenditures by the user of mineral resources on its extraction and primary processing, plus a standard profit rate equal to 10 percent of the aforementioned expenditures, shall be taken as the weighted average selling price of the initial commercial product in the tax period.

### **Article 295. Procedure for the Establishment and Payment of In-Kind Royalties**

1. In the event that a supplemental agreement to a contract is concluded for the payment of royalties in kind, a legal and tax evaluation of the agreement shall be required before it is signed.

2. The in-kind payment of royalties must be equivalent to the monetary royalties established in the contract.

3. In the event that in-kind payment of royalties is established, the supplemental agreement must indicate:

1) the recipient on behalf of the state of the portion of production output applicable to royalties (referred to hereinafter as the "recipient");

2) the location and terms of delivery.

4. The deadlines for the transfer of products by the user of mineral resources as payment of royalties which are specified in supplemental agreements must be consistent with the payment deadlines for monetary royalties established in the mineral use contract.

In this case the user of mineral resource shall transfer products to the recipient no later than the deadline for the payment of royalties established under the mineral use contract.

5. The recipient shall transfer to the budget the monetary royalties calculated by the user of mineral resources in accordance with the terms of the contract within the deadline for the payment of monetary royalties established under the mineral use contract, and shall independently monitor the timely transfer in full of the corresponding quantity of products in kind by the user of mineral resources to said recipient.

6. Following the form and in accordance with the procedure established by the authorized government body, a user of mineral resources and a recipient shall submit reporting documents to a tax authority regarding the payment of royalties in kind within the deadlines established by the contract.

7. A recipient shall bear liability in accordance with the legislation of the Republic of Tajikistan for violation of the deadlines for the transfer of funds to the budget for products received as payment of royalties and for failing to provide for the transfer of these funds in full.

## **SECTION XII. HIGHWAY USER TAX**

### **CHAPTER 40. HIGHWAY USER TAX**

#### **Article 296. Taxpayers**

Payers of the higher user tax shall be payers of the VAT that are legal entities:

- 1) resident enterprises;
- 2) foreign enterprises engaged in commercial activity in the Republic of Tajikistan through their permanent establishments.

#### **Article 297. Object of Taxation**

The object of taxation shall be deliveries of goods, the performance of work, and the provision of services that are subject to the VAT, including those taxed at the zero rate. Deliveries of goods, the performance of work, and the provision of services that are exempt from the VAT shall not be an object of taxation.

When goods are imported that are subject to the VAT, they shall not be subject to the highway user tax.

#### **Article 298. Tax Concessions**

This tax shall not apply to:

- 1) budgetary organizations and government executive and administrative bodies, including the National Bank of Tajikistan and its branch offices;
- 2) religious associations and organizations and ethnic-cultural societies, with the exception of commercial activity performed by them.

#### **Article 299. Tax Rate**

The tax rate shall be set at 2 percent of the tax base.

The tax rate for trade, procurement, and distribution enterprises shall be set at 0.5 percent of the tax base.

#### **Article 300. Tax Base**

The tax base shall be calculated following the procedure established for determining taxable turnover with respect to the VAT in accordance with Article 208 of this Code, and it shall not include transactions that are exempt from the VAT.



## **Article 301. Procedure and Deadlines for Payment of the Tax**

The tax period, payment deadlines, and procedure for the submission of a return shall be same as those for the value-added tax.

## **SECTION XIII. TAX PAYABLE UNDER THE SIMPLIFIED SYSTEM**

### **CHAPTER 41. TAX PAYABLE UNDER THE SIMPLIFIED SYSTEM**

## **Article 302. Payers**

Payers of the tax payable under the simplified system shall be enterprises whose gross income at the beginning of the tax year, not including the VAT and retail sales tax, does not exceed 3 times the limit established by this Code for the purposes of registration as a payer of the VAT, with the exception of those enterprises that are engaged in the production of excisable goods or the delivery of cotton fiber and primary aluminum, are users of mineral resources, have separate subdivisions, or are insurers, investment funds, professional participants in the securities market, or lending institutions.

## **Article 303. Object of Taxation**

1. The object of taxation shall be gross income earned during the reporting period, less the deductions provided for under this Code, with the exception of deductions that are considered wages in accordance with Article 136 of this Code (net gross income). Gross income shall be calculated on a cash basis as the sum of earnings received from the delivery of goods (work, services), the selling price of property supplied during the reporting period, and nonsales income as part of commercial activity, less the VAT and retail sales tax. Gross income and deductions shall be subject to confirmation on the basis of the relevant income and expenditure documents prepared following the established procedure.

2. Enterprises that are subject to taxation under the simplified system shall not be payers of the corporate profit tax and the minimum business income tax.

3. The aforementioned taxpayers shall be tax agents with respect to the income tax payable by their employees, and with respect to the social tax they shall simultaneously be taxpayers and tax agents.

4. Payers of the tax payable under the simplified system shall maintain simple accounting records of income and expenditures and reporting documents based on the simplified system following the procedure determined by the Republic of Tajikistan Ministry of Finance in consultation with the authorized government body.

5. Concessions provided for under Article 145 of this Code shall be applicable for the purposes of this section.

## **Article 304. Tax Rate**

The tax rate shall be set at 12 percent of the object of taxation.

## **Article 305. Procedure for Application of the Simplified Taxation System**

1. The tax (reporting) period for enterprises using the simplified taxation system shall be a quarter.
2. An enterprise shall submit to a tax authority before the 15<sup>th</sup> of the month following the tax reporting period a return indicating the amount of tax payable and shall pay the tax that is due within this same deadline.
3. A taxpayer referred to under Article 302 of this Code shall have the right to change over to the general system of taxation. Such a change may be made only as of January 1 of any year. In this case a taxpayer must notify the tax authority with which it is registered of the changeover to the general system of taxation before January 15 of the year in which the change is to take place.

A taxpayer that has made the change to the general system of taxation in accordance with this item may change back to paying tax in accordance with this chapter no sooner than two calendar years from the date of the most recent change to the general system of taxation.

## **SECTION XIV. UNIFORM TAX FOR PRODUCERS OF AGRICULTURAL PRODUCTS**

### **CHAPTER 42. UNIFORM TAX FOR PRODUCERS OF AGRICULTURAL PRODUCTS**

#### **Article 306. Taxpayers**

1. Payers of the uniform tax for producers of agricultural products (referred to hereinafter as the “uniform tax for agricultural producers”) shall be legal entities and peasant (owner-operated) farms established on the basis of farming partnerships and/or production cooperatives for which land is the main means of production (referred to hereinafter as “agricultural producers”).

The uniform tax for agricultural producers shall not apply to the raising and delivery of animals (in the agricultural sector) if one of the following conditions is present: 1) more than 50 percent of the main feed base (according to feed unit norms established by the Republic of Tajikistan government) of the livestock is provided by outside feed deliveries (not from products obtained from the agricultural producer’s own land); 2) the average annual number of standard livestock units, in accordance with the coefficients for the conversion of livestock into standard units established by the Republic of Tajikistan government, per hectare of the agricultural producer’s land exceeds the norms established by the Republic of Tajikistan government.

2. The uniform tax for agricultural producers shall apply only to that part of the activities of agricultural producers which is related to the production and supply of agricultural products (agricultural activity).

3. In the event that agricultural producers are engaged in other, non-agricultural activities, they shall be subject to taxation following the generally established procedure as provided under this Code and shall maintain separate accounting records of income and expenditures related to their agricultural and non-agricultural activities.

The value of agricultural products produced by an agricultural producer and used by the producer as raw material for further processing shall be determined on the basis of the market price of the given agricultural products.

### **Article 307. Object of Taxation**

1. The object of taxation shall be the area of land held by an agricultural producer.
2. The amount of the uniform tax shall not depend on the results of an agricultural producer's economic activities, except in the case specified under item 7 of this article, and it shall be established in the form of stable payments per unit of land area on a yearly basis.
3. With respect to activity that is subject to the uniform tax (agricultural activity), agricultural producers shall be exempt from payment of the following taxes:
  - the value-added tax on deliveries of agricultural products grown on land subject to the uniform tax;
  - the highway user tax on deliveries of agricultural products grown on land subject to the uniform tax;
  - the corporate profit tax;
  - the minimum business income tax;
  - the land tax;
  - tax paid under the simplified system.
4. The amount of uniform tax shall be defined as the product of the area of agricultural land held by an agricultural producer and the established uniform tax rates.
5. Income earned by a member of an unincorporated peasant (owner-operated) farm in connection with the agricultural activity of the peasant (owner-operated) farm that is subject to the uniform tax for agricultural producers shall be exempt from the income tax.
6. A member of an unincorporated peasant (owner-operated) farm shall be subject to social insurance and shall pay the social tax to the budget on income that is exempt from the income tax in accordance with item 5 of this article, following the procedure and in amounts not less than those established by the Republic of Tajikistan government for individual entrepreneurs working on the basis of a patent that has been purchased, in accordance with item 2 of Article 260 and item 2 of Article 262 of this Code. The social tax shall be paid by such an agricultural producer within the deadlines established under Article 310 of this Code for the payment of the uniform tax.
7. In the event of natural disasters or catastrophes, the rates applicable to the uniform tax for agricultural producers may be lowered in a certain area or for certain taxpayers by a decision of the Republic of Tajikistan government.

### **Article 308. Uniform Tax Rates**

1. The rates applicable to the uniform tax for agricultural producers shall be set at four times the land tax rates provided for under Article 267 of this Code.

2. With respect to land actually used for the cultivation of raw cotton, the rates applicable to the uniform tax for agricultural producers shall be set at half the rates specified under item 1 of this article. Information on the area of land actually used for the cultivation of raw cotton shall be provided by a taxpayer to the tax authority with which it is registered before June 1 of the reporting (tax) year.

#### **Article 309. Procedure for Submission of a Tax Statement**

1. An agricultural producer shall submit to the tax authority serving the area where it is located (with which it is registered) a statement of the amount of uniform tax for agricultural producers due in the current year and a statement of the amount of social tax due in the current year following the form and in accordance with the procedure established by the authorized government body.

2. Agricultural producers engaged in activities that fall outside the scope of those subject to the uniform tax for agricultural producers (that is, activities that fall outside the scope of the production and delivery of agricultural products) shall submit tax reporting materials to the tax authority serving the area where it is located (with which it is registered) following the forms and according to the procedure and deadlines established in accordance with the provisions of this Code.

Agricultural producers engaged in activities that are subject to taxation only with respect to the uniform tax for agricultural producers shall not submit the tax reporting materials referred to above.

3. Agricultural producers of raw cotton shall submit a revised statement of the amount of uniform tax for agricultural producers due in the current year to the appropriate tax authority before June 1 of the current year. The payment of the amount of tax due as of June 15 shall take into account an adjustment of the tax payment made as of March 15 of the current year.

#### **Article 310. Deadlines for Payment of the Uniform Tax**

The uniform tax for agricultural producers for the current tax year shall be paid in the amount and within the deadlines established under subitem 2) of item 1 of Article 270 of this Code.

### **SECTION XV. SALES TAX (ON COTTON FIBER AND PRIMARY ALUMINUM)**

#### **CHAPTER 43. SALES TAX (ON COTTON FIBER AND PRIMARY ALUMINUM)**

##### **Article 311. Payers of the Tax**

Payers of the sales tax on cotton fiber and primary aluminum (referred to hereinafter as the “sales tax”) shall be legal entities and individuals engaged in the delivery of cotton fiber and primary aluminum produced in the Republic of Tajikistan (referred to hereinafter as “taxable goods”) to the domestic and foreign markets.

## **Article 312. Object of Taxation**

The object of taxation shall be the value of taxable goods delivered, pledged as security, sold under futures (forward) contracts, and provided as customer-supplied raw materials, and the export of taxable goods outside the Republic of Tajikistan (referred to hereinafter as “taxable transactions”).

## **Article 313. Tax Base**

1. The value of taxable goods sold (delivered), calculated on the basis of the price of the taxable goods in effect on the date a taxable transaction takes place, taking into account the quality, type, and grade, in the respective international (regional) commodity exchange identified by the Republic of Tajikistan government, shall be used to determine the tax base.

2. Legal entities and individuals engaged in the resale of taxable goods shall pay the sales tax in the form of the difference between the tax amounts calculated on the basis of the prices used for taxation on the date of sale of the taxable goods to buyers and the date of their purchase from their own suppliers.

## **Article 314. Tax Rates**

The sales tax rates for calculating the amount of tax shall be determined as a percentage of the exchange price of the taxable goods in the following amounts:

- 1) 10 percent for cotton fiber;
- 2) 3 percent for primary aluminum.

## **Article 315. Procedure for Calculation of the Tax and Payment Deadlines**

1. The amount of tax payable shall be calculated by sellers independently on the basis of the exchange prices in effect on the date a taxable transaction takes place, taking into account the quality, type, grade, and volume of taxable goods, as well as the tax rates. The method used to effect the taxable transaction shall be indicated in tax payment documents.

2. In the event of the resale of taxable goods, the tax shall be determined taking into account the price on the date of purchase and on the date of sale, and the volume of the taxable transaction.

3. If the seller does not have an exchange price on the day of sale, the tax shall be calculated on the basis of available data on the exchange price of the taxable goods on the date closest to the day of sale. The amount of tax shall be revised by the taxpayer when data are received about the exchange price of the taxable goods sold as of the date of sale.

4. The tax shall be paid prior to the delivery of the taxable goods no later than three days after funds have been posted to the seller's bank account, or in the case of a cash settlement, receipt of funds by the seller's cashier's office, and in the case of the unrequited transfer or exchange of taxable goods, or their transfer as customer-supplied raw materials or as security, before they are shipped, delivered, or transferred.

5. When taxable goods are exported outside the Republic of Tajikistan, the tax shall be paid prior to their crossing the customs frontier of the Republic of Tajikistan. Persons who allow the transfer of taxable goods or their export outside the country without payment of the sales tax shall be held accountable in accordance with the legislation of the Republic of Tajikistan. In the case of exports, taxable goods shall not be subject to further taxation after the tax has been paid.

**Article 316. Crediting of the Sales Tax on Cotton Fiber and Primary Aluminum Against the Value-Added Tax on Deliveries of Products of their Processing to the Domestic Market of the Republic of Tajikistan**

1. With respect to deliveries to the Republic of Tajikistan domestic market of goods that are products of the direct processing of cotton fiber and primary aluminum (referred to hereinafter as “processing products”) by residents of the Republic of Tajikistan, it shall be permitted to apply the sales tax paid on the purchase of cotton fiber and primary aluminum as a credit against the VAT that is payable on deliveries of processing products to the Republic of Tajikistan domestic market.

2. In the case of deliveries of processing products for export and to the Republic of Tajikistan domestic market, the credit in accordance with item 1 of this article shall be applied following the procedure established under Articles 228, 229, and 230 of this Code.

When using the proportional method, the amount of sales tax applied as a credit shall be determined based on the proportion of deliveries of processing products to the domestic market in the total amount of deliveries of processing products (to the domestic market and for export).

When determining the amount of sales tax to be applied as a credit using the separate method, a payer of the value-added tax shall maintain separate accounting records of expenditures and sales tax on cotton fiber and primary aluminum used for the production and delivery of processing products to the Republic of Tajikistan domestic market and for export.

3. When processing products are exported, the sales tax shall not be applied as a credit against the VAT that is payable.

4. If the difference between the amount of VAT that is payable on domestic deliveries of processing products and the corresponding amount of sales tax is negative, the sales tax that has been paid shall not be reimbursed (refunded) from the budget.

A positive difference between said amounts shall be payable to the budget.

5. An instruction on the procedure for applying the credit provided for under this article shall be issued by the authorized government body in consultation with the Republic of Tajikistan Ministry of Finance.

**Article 317. Monitoring Payment of the Tax**

Tax authorities shall monitor the payment of the sales tax to the budget in full and in a timely manner.

**SECTION XVI. MINIMUM BUSINESS INCOME TAX**

## **CHAPTER 44. MINIMUM BUSINESS INCOME TAX**

### **Article 318. Taxpayers**

1. Payers of the minimum business income tax shall be:

- 1) resident enterprises;
- 2) foreign enterprises engaged in commercial activity in the Republic of Tajikistan through their permanent establishments.

2. Taxpayers referred to under this article shall be referred to as enterprises in this chapter.

### **Article 319. Object of Taxation**

The object of taxation shall be gross income (excluding the value-added tax that has been assessed and the sales tax) received (receivable) during the reporting period.

### **Article 320. Tax Concessions**

Enterprises that are exempt from the profit tax in accordance with Article 145 and other provisions of this Code shall not be subject to this tax.

### **Article 321. Tax Rate and Procedure for Transferring the Tax to the Budget**

1. The minimum business income tax rate shall be equal to 1 percent of the object of taxation.
2. The tax period for the minimum business income tax shall be a calendar year.
3. Final settlements with the budget with respect to the minimum business income tax based on the results for a tax year shall be effected no later than April 10 of the year following the tax year.

### **Article 322. Minimum Business Income Tax Return**

1. The annual minimum business income tax return for a tax reporting year shall be submitted before April 1 of the year following the tax reporting year.
2. The form and procedure for the submission of minimum business income tax returns shall be established by the authorized government body.

### **Article 323. Crediting of the Corporate Profit Tax Against Payment of the Minimum Business Income Tax**

The corporate profit tax assessed for a tax reporting period shall be applied as a credit against the minimum business income tax assessed for the same tax period. If the profit tax amount is less than the minimum business income tax amount, the profit tax shall not be paid. If the profit tax amount exceeds the minimum business income tax amount, the profit tax shall be payable to the

budget in the amount by which the profit tax exceeds the minimum business income tax. In any case, the minimum business income tax shall be payable to the budget in full.

## **SECTION XVII. LOCAL TAXES**

### **CHAPTER 45. GENERAL PROVISIONS**

#### **Article 324. General Provisions**

1. Local Councils of Peoples Deputies shall establish local taxes in the area under their jurisdiction as provided for under Article 6 of this Code and on the basis of the provisions of this Code.

2. The provisions of the General Part of this Code shall apply with respect to local taxes.

3. Local Councils of People's Deputies shall have the right within the limits of the local tax rates provided for under this Code to differentiate the levels of rates for various categories of taxpayers and/or objects of taxation, to exclude certain categories of persons from the group of taxpayers, and/or to exclude certain elements from the tax base, except as otherwise provided under this Code.

4. Decisions of local Councils of People's Deputies regarding local taxes must be consistent with the provisions of this Code and shall be subject to official publication in periodicals that are available to the general public and are distributed within the respective territory, and they shall enter into force in accordance with item 2 of Article 2 of this Code.

5. Instructions on the application of local taxes shall be issued by the chairmen of the respective cities and regions in consultation with the authorized government body and the Republic of Tajikistan Ministry of Finance.

### **CHAPTER 46. REAL ESTATE TAX**

#### **Article 325. Taxpayers**

Payers of the real estate tax shall be individuals and legal entities that own real estate or persons who have possession of real estate that is an object of taxation in accordance with Article 326 of this Code.

#### **Article 326. Object of Taxation**

The following types of property shall be recognized as objects of taxation: residential buildings, apartments, summer homes, garages, and other buildings, constructions, and structures (referred to hereinafter as "real estate").

#### **Article 327. Tax Base**

1. The tax base shall be the area of all of the floors of a piece of real estate, adjusted by coefficients in accordance with the provisions of this article.



2. The area under the first floor of a piece of real estate shall be determined in accordance with an exterior measurement of the dimensions of the real estate or, if it is not possible to obtain an exterior measurement of the dimensions of the real estate, based on the total usable area of the interior premises of the piece of real estate, multiplied by a coefficient of 1.25.

3. If a piece of real estate has a basement, it shall be taken into account when determining the tax base only in the event that the height between the basement floor and the ceiling is at least 2 meters. When calculating the tax base, the area of such basement space shall be treated as equal to 50 percent of the area determined in accordance with item 2 of this article.

4. If a piece of real estate has an attic, it shall be taken into account when determining the tax base only in the event that the height between the attic floor and the lowest point of the ceiling is at least 2 meters. When calculating the tax base, the area of such attic space shall be treated as equal to 50 percent of the area determined in accordance with item 2 of this article.

5. When calculating the tax base, the area of the second and third floors of a piece of real estate shall be treated as equal to 100 percent of the area determined in accordance with item 2 of this article.

6. When calculating the tax base, the area of the fourth and fifth floors of a piece of real estate shall be treated as equal to 90 percent of the area determined in accordance with item 2 of this article.

7. When calculating the tax base, the area of the sixth and higher floors of a piece of real estate shall be treated as equal to 80 percent of the area determined in accordance with item 2 of this article.

8. If the height between the floor and the lowest point of the ceiling on any of the floors of a piece of real estate is in the range of 4 to 6 meters, when calculating the tax base the area of this floor shall be treated as equal to 150 percent of the area determined in accordance with item 2 of this article, adjusted by the floor coefficients expressed as a percentage in accordance with items 3–7 of this article.

9. If the height between the floor and the lowest point of the ceiling on any of the floors of a piece of real estate is greater than 6 meters, when calculating the tax base the area of this floor shall be treated as equal to 200 percent of the area determined in accordance with item 2 of this article, adjusted by the floor coefficients expressed as a percentage in accordance with items 3–7 of this article.

10. The size (dimensions) of a piece of real estate shall be determined on the basis of the relevant technical or other documentation for this property or on the basis of a measurement taken by the tax authority serving the area in which the property is located, in accordance with the procedure established by the authorized government body in consultation with the Republic of Tajikistan State Committee for Architecture and Construction.

11. When calculating the tax base for individuals, the area of free-standing nonresidential premises (garages, sheds, and the like) shall be treated as equal to 50–70 percent, and the area of premises for housing animals shall be treated as equal to 20–50 percent of the area determined in accordance with items 1–10 of this article.

## **Article 328. Concessions**

Real estate that is owned by (on the balance sheet of) a budgetary organization and is used directly by said budgetary organization for the performance of its chartered tasks, and has not been leased to or placed in the possession of another person (with the exception of leasing or transfer to a budgetary organization), shall not be subject to this tax.

## **Article 329. Tax Rate**

1. The real estate tax rate shall be set in the range of 10 times to 50 times the land tax rates in accordance with Article 266 and 267 of this Code.

2. For the purposes of the real estate tax, the land tax rates for the Murgab Zone shall be treated as being equal to the average land tax rates for Gorno-Badakhshan Autonomous Oblast.

## **Article 330. Procedure for Calculation and Payment of the Tax**

1. The amount of real estate tax payable by individuals shall be calculated by the tax authorities serving the area in which the real estate is located, following the procedure and form established by the authorized government body, on the basis of a real estate data base set up by tax authorities.

On the basis of real estate data as of January 1 of the current year, legal entities shall independently calculate the amount of real estate tax for the current calendar year following the procedure and the form established by the authorized government body, shall submit said calculation to the tax authority serving the area in which the real estate is located, and shall pay the amount of real estate tax due for the current calendar year before April 1 of the current year.

The amount of real estate tax due shall be calculated as the product of the tax base, determined in accordance with Article 327 of this Code, and the tax rate in accordance with Article 329 of this Code.

2. The amount of real estate tax payable by individuals shall be calculated on the basis of real estate data as of January 1 of the current year.

3. The amount of real estate tax due shall be determined only for finished construction projects that are actually in use, even if they have not been placed on the respective state register and the corresponding technical or other documentation has not been prepared for them.

4. Tax authorities shall notify individuals of the amount of real estate tax that has been assessed following the form and the procedure established by the authorized government body before July 1 of the current year.

5. The amount of real estate tax payable by individuals that has been assessed for the current tax year and is indicated in a notice from a tax authority must be paid to the budget before October 1 of the current year.

6. If a notice of the amount of real estate tax assessed does not reach an individual before July 1 of the current year for any reason, the individual shall be required on his own to notify the tax authority serving the area in which the real estate is located in order to obtain a tax assessment notice from the tax authority, and to pay the amount of tax due within the deadline established under item 5 of this article.

## **CHAPTER 47. TAX ON OWNERS OF MOTOR VEHICLES**

### **Article 331. Taxpayers**

A taxpayer shall be any person who owns a motor vehicle that is subject to registration in the Republic of Tajikistan at offices of the State Automobile Inspectorate under the Republic of Tajikistan Ministry of Internal Affairs.

### **Article 332. Object of Taxation**

1. The object of taxation shall be any motor vehicle listed in group 87 (under codes 8702–8705 and 8711) of the foreign economic activity commodity nomenclature.

2. Failure to register motor vehicles with offices of the State Automobile Inspectorate under the Republic of Tajikistan Ministry of Internal Affairs, which are subject to registration in the Republic of Tajikistan, as well as the inoperability or non-operation for other reasons of motor vehicles that have gone through said registration (are registered), shall not be grounds for nonpayment of the tax owed by owners of said motor vehicles. Only motor vehicles that have been removed from registration with offices of the State Automobile Inspectorate under the Republic of Tajikistan Ministry of Internal Affairs following the procedure and on the grounds established by the relevant regulatory legal acts shall be excluded from objects of taxation.

### **Article 333. Exemption from Payment of the Tax**

The following shall be exempt from the tax:

- 1) machinery and mechanisms mounted on caterpillar tracks;
- 2) grain harvesters and special combines with engines, including cotton harvesters;
- 3) buses and trolleybuses used by public transport enterprises for transporting passengers in cities;
- 4) motorized wheelchairs and motor vehicles with manual controls belonging to disabled persons.

### **Article 334. Tax Base**

The tax base shall be the engine capacity of a motor vehicle expressed in horsepower.

### **Article 335. Tax Rates**

Tax rates shall be differentiated by types of motor vehicles and shall be set as follows per year (per horsepower of engine capacity):

<b>Name of object of taxation</b>	<b>Tax as a percentage of the minimum monthly wage in effect on the day the tax is paid</b>
Motorcycles and motor scooters	1.0 percent
Passenger cars	2.0 percent
Buses (up to 12 seats)	2.5 percent
Buses (13–30 seats)	3.0 percent
Buses (more than 30 seats)	3.5 percent
Trucks and other motor vehicles with a carrying capacity of up to 10 metric tons	4.0 percent
Trucks (with a carrying capacity of 10 to 20 metric tons)	4.5 percent
Trucks (with a carrying capacity of 20 to 40 metric tons)	5.0 percent
Trucks (with a carrying capacity of more than 40 metric tons)	5.5 percent

### **Article 336. Procedure for Payment of the Tax**

1. The tax shall be payable to the appropriate local budget based on the location of the motor vehicle's registration no later than the deadlines established for the registration, re-registration, or annual technical inspection of motor vehicles. The deadlines for the annual technical inspection of motor vehicles shall be established by the State Automobile Inspectorate under the Republic of Tajikistan Ministry of Internal Affairs in consultation with the authorized government body and the Republic of Tajikistan Ministry of Finance. Violation of the payment deadline shall be grounds for the assessment of interest following the procedure and in the amounts established under this Code. In the event of the re-registration of a motor vehicle, the tax shall not be paid if the previous owner paid the tax for the given year.

2. Registration, re-registration, and technical inspections shall not be performed without the presentation of documents confirming payment of the tax for the current year. A taxpayer shall not have the right to operate a motor vehicle without payment of the tax on owners of motor vehicles for the current year.

3. In the absence of a document confirming performance of an annual technical inspection, the State Automobile Inspectorate under the Republic of Tajikistan Ministry of Internal Affairs must request documents from owners of motor vehicles confirming payment of the tax.

4. A statement of the amount of tax payable for the current year shall be submitted by legal entities to the tax authority with which they are registered before April 1 of the current year. The form of the statement of assessed tax shall be established by the authorized government body. Tax authorities shall maintain a record of motor vehicles with a breakdown by legal entities that are owners of motor vehicles and the amount of tax assessed on them following the form and procedure established by the authorized government body.

5. Each year, before April 1 of the year following the reporting year, the State Automobile Inspectorate under the Republic of Tajikistan Ministry of Internal Affairs shall submit to the authorized government body a report on the motor vehicles registered with State Automobile Inspectorate offices as of December 31 of the reporting year, on the number of motor vehicles that have gone through the annual technical inspection, and the amount of tax paid for the reporting year, following the form and the procedure established by the authorized government body in consultation with the Republic of Tajikistan Ministry of Internal Affairs.

6. The authorized government body and territorial tax authorities shall monitor taxpayers, as well as offices of the State Automobile Inspectorate under the Republic of Tajikistan Ministry of Internal Affairs, to ensure that the tax on owners of motor vehicles is paid in full and in a timely manner.

## **CHAPTER 48. RETAIL SALES TAX**

### **Article 337. Taxpayers**

Payers of the retail sales tax (referred to hereinafter in this chapter as the “tax”) shall be individuals and legal entities engaged in the retail sale of goods.

### **Article 338. Object of Taxation**

The object of taxation shall be the retail sale of goods, including the sale of food through public food service establishments, on the territory of a city (region).

For the purposes of this chapter, the retail sale of goods shall refer to the sale of goods for cash, including the use of funds on bank cards to pay for goods.

### **Article 339. Tax Base**

The tax base shall be the value of the retail sale of goods. In this case the value of the retail sale of goods shall be determined on a cash basis from free (market) prices, including all taxes, including the value-added tax and excise taxes on excisable goods, but not including the retail sales tax.

### **Article 340. Tax Rate**

The tax rate shall be set at 3 percent of the free (market) prices, and the retail price of goods shall be the free (market) price, plus the tax amount.

### **Article 341. Tax Period**

The tax period shall be a calendar quarter.

### **Article 342. Procedure for Determination of the Tax Base, Calculation of the Tax, Submission of a Return, and Payment of the Tax**

1. The value of goods sold through retail outlets shall be determined by a taxpayer independently on the basis of the read-outs from cash registers with fiscal memory, other accounting

documents, or entries in a sales ledger, the form and procedure for the maintenance of which, including the use of computer technology, shall be established by the authorized government body and shall be reflected in the quarterly retail sales tax return.

2. The value of goods sold through retail outlets for a specific taxpayer or group (category) of taxpayers of the same type may also be determined on the basis of a time-study survey performed by the respective tax authorities following the procedure established under this Code.

3. When the estimated value of goods sold through retail outlets is determined using the results of a time-study survey, the appropriate tax authority shall conclude an agreement with a taxpayer defining the specific amounts, procedure, and conditions for payment of the tax to the budget in the coming tax periods before the end of the current tax year. An agreement may not be changed before the end of the current tax year.

4. A return indicating the amount of tax due for a reporting quarter shall be submitted to the appropriate tax authority before the 15<sup>th</sup> of the month following the reporting quarter, and the tax shall be paid to the budget within this same deadline.

5. If payment of the tax in the current tax year is made pursuant to an agreement between the respective local tax authority and a taxpayer that was concluded on the basis of the results of a time-study survey performed in the current tax year, a return shall not be submitted before the end of the current tax year. If there is no change in the basic parameters of operations and if a taxpayer wishes to conclude a similar agreement for the year following the current year (the coming tax year), the taxpayer shall inform the respective local tax authority to this effect in writing before December 31 of the current tax year.

If under an agreement for the coming tax year, concluded before April 1 of that coming year, a taxpayer agrees to pay as tax to the budget in each tax period of the coming year a sum equal to one-fourth of the annual tax amount for the previous year, plus the average annual inflation coefficient used in the drafting of the Republic of Tajikistan Law "On the State Budget" for the coming year, a time-study survey shall not be performed and a return shall not be submitted in that coming tax year. A taxpayer may not be denied the opportunity to conclude such an agreement and an agreement that has been concluded may not be changed before the end of the tax year for which it was concluded, with the exception of cases in which the basic parameters of the taxpayer's operations have changed by more than 50 percent.

A taxpayer shall have the right to pay the tax in accordance with the mechanism provided for under this item for no more than two calendar years following the year in which the last time-study survey was performed.

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