

Pursuant to Article 88 Item 2 of the Constitution of the Republic of Montenegro I hereby pass the

## DECREE PROMULGATING THE LAW ON TAX ON INCOME OF NATURAL PERSONS

I hereby promulgate the Law on Tax on Income of Natural Persons, adopted by the Parliament of the Republic of Montenegro at the second sitting of the second regular session in 2001 on 27 December 2001.

Number: 01-3873/2  
Podgorica, 28 December 2001  
The President of the Republic of Montenegro  
Milo Đukanović, m.p.

## LAW ON TAX ON INCOME OF NATURAL PERSONS (LAW ON PERSONAL INCOME TAX)

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Consolidated text

### I BASIC PROVISIONS

#### 1. General provisions Article 1

- (1) This Law introduces the obligation of payment of the tax on income of natural persons (hereinafter referred to as the income tax).
- (2) The revenues resulting from the income tax shall belong to the Budget of Montenegro and budgets of local self-government units in proportion regulated by special laws.

#### 2. Taxpayer Article 2

- (1) A taxpayer of the income tax shall be a resident or non-resident natural person who generates income from sources stipulated by this Law.
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- (2) Where two or more natural persons jointly generate income, each of these persons shall be a taxpayer proportionally to his/her share in generated income.

### Resident Article 3

- (1) A resident natural person (hereinafter referred to as the resident), under this Law, shall be a natural person who:
- 1) Has habitual residence or centre of business and vital interests in the territory of Montenegro;
  - 2) Resides in the territory of Montenegro for more than 183 days in the tax year.
- (2) The resident of Montenegro shall also be a natural person who was assigned outside of Montenegro to conduct business for a natural person or legal entity who is a resident of Montenegro, or for an international organization.

### 3. Object of Taxation Article 4

- (1) Object of taxation of a resident shall be the income the resident generates in Montenegro and outside Montenegro.
- (2) Object of taxation of a non-resident natural person (hereinafter referred to as the non-resident) shall be the income that the non-resident generates in Montenegro.

### 4. Revenues Exempt from Income Article 5

Income shall not include revenues generated on the following basis:

- 1) regulations on rights of disabled persons;
  - 2) child allowances and special assistance for supplies for newborn children;
  - 3) basic rights in the area of social protection;
  - 4) assistance in the event of destruction or damage of property as a result of natural disasters or other extraordinary events;
  - 5) compensations paid from health insurance, except for wage compensation;
  - 6) inheritances and gifts;
  - 7) organized social and humanitarian assistance;
  - 8) state awards established by law;
  - 9) pensions, except for pensions obtained in accordance with the law governing the wages of the state and public officials, and disability allowances;
  - 10) lotteries and games of chance;
  - 11) goods, life, and property insurance.
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## 4a Earnings not Subject to the Income Tax

### Article 5a

- (1) The income tax shall not be paid on allowance arising from personal earnings, or allowances for increased expenses of employees up to the amount set in a regulation of the Government of Montenegro (hereinafter referred to as the Government), and so as follows:
- 1) deleted;
  - 2) deleted;
  - 3) per diems for official travel in country;
  - 4) costs of use of own vehicle for official purposes.
- (2) The income tax shall not be paid on earnings generated in respect of:
- 1) deleted;
  - 2) Per diem for official travel abroad up to the amount stipulated for users of the State Budget;
  - 3) Allowances for increased cost of field work and visits (field work allowance), up to the amount of €100 a month, in case accommodation and meals are not provided for;
  - 4) Family separation allowances up to €100 per month;
  - 5) Sympathy assistance in case of death of an employee, member of his/her immediate family, and retired worker up to €1,500;
  - 6) Sympathy assistance in case of a serious illness, healthcare rehabilitation, procurement of medicaments, and health treatment of an employee or member of his/her immediate family up to €1,000;
  - 7) Severance payment in case of retirement up to €1,000;
  - 8) Severance payment in case of termination of employment in case of redundancy up to minimum amount determined by the law governing labour relations;
  - 9) Scholarships and loans to pupils and students up to €200 a month;
  - 10) Awards to pupils and students for the achieved results during education, as well as awards received in competitions within the educational system;
  - 11) Tuitions or other documented expense for the education of an employee in case that the education and vocational training is related to the field of activity of the employer;
  - 12) Allowances for meals – subsistence allowance paid to the amateur sportsmen by sport clubs up to €300 a month;
  - 13) Allowances during the unemployment paid by the extra-budgetary funds;
  - 14) Damage compensation resulting from consequences of accidents at work place according to the decision of the court or court settlement if the compensation is set as a lump sum amount;
  - 15) Trade union welfare assistance paid out from the trade union membership fee funds to union members;
  - 16) Gifts to children of an employee, up to 15 years of age, annually up to €50 per child;
  - 17) Jubilee awards for:
    - 10 years of work up to €100,
    - 20 years of work up to €200,
    - 30 years of work up to €300,
    - 40 years of work up to €400;
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- 18) Remuneration paid to members of the Army of Montenegro and other persons sent to international forces, peace missions and other activities abroad in accordance with the law governing the use of the Army of Montenegro in international forces and participation of members of civil defence, police and employees in state administration authorities in peace missions and other activities abroad up to the amount as set by the Government.

## 5. Persons Exempt from Taxation

### Article 6

The following persons shall not pay the income tax:

- 1) members of foreign diplomatic missions in Montenegro, and members of their households, if they are not citizens of Montenegro;
- 2) members of consular representative offices, as well as members of their households, if they are not citizens of Montenegro;
- 3) officials and experts of technical assistance programs of the United Nations Organization and its specialized agencies;
- 4) honorary consuls of foreign countries, but only for earnings received by a country, which has appointed them to render the honorary consul service;
- 5) officials, experts, and administrative staff of international organizations if they are not citizens of Montenegro or do not have habitual residence in Montenegro.

## 6. Tax Period

### Article 7

- (1) Tax period for which the income tax shall be calculated shall be a calendar year, with the exemption of cases when a business activity terminates or commences during the year.
- (2) The income tax shall be calculated upon the expiry of the calendar year or other period for tax assessment according to the tax base realized during that period.

## 7. Tax Base

### Article 8

- (1) A tax base for the income tax of a resident shall represent the taxable income of the taxpayer generated during the tax period, reduced by the amount of loss carried forward.
- (2) A tax base for the income tax of a non-resident shall represent the taxable income of the taxpayer generated during the tax period.

## 8. Deleted

### Article 9

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## 9. Tax Rate

### Article 10

- (1) Tax rate of the income tax shall be 9% of the tax base.
- (2) Notwithstanding paragraph 1 of this Article, the income tax rate on personal earnings exceeding average monthly gross wage for the previous year in Montenegro according to the data of the authority competent for statistics affairs (hereinafter referred to as: the average wage) shall be 11% on the amount of earnings exceeding the average wage.

### Article 11

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## II INCOME

### 1. Sources of Income

#### Article 12

- (1) The income tax shall be paid on revenues from all sources except those that are exempt under this Law.
- (2) Sources of revenues referred to in paragraph 1 of this Article shall include revenues generated in respect of:
- 1) personal earnings;
  - 2) self-employment activity;
  - 3) property and property-based rights;
  - 4) capital;
  - 5) capital gains;
- (3) Income shall represent the sum of taxable revenues referred to in paragraph 2 of this Article generated in the tax period.

### 2. Taxable Income

#### Article 13

- (1) Taxable income shall represent the difference between the income referred to in Article 12 of this Law and recognized expenditures (expenses) incurred by the taxpayer in generating and maintaining the income.
- (2) The expenditures referred to in paragraph 1 of this Article must be documented, unless regulated otherwise by this Law.
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### III TYPES OF REVENUES

#### 1. Revenues from Personal Earnings

##### Article 14

- (1) Personal earnings shall be considered to be revenues that a taxpayer generates from employment.
- (2) Personal earnings shall also be considered to be revenues generated on other basis that correspond to labour relation, in accordance with this Law.
- (3) Personal earnings shall be considered to be, including but not limited to, the following:
  - 1) wages or wage compensations generated in accordance with regulations governing labour relations;
  - 2) deleted;
  - 3) earnings in respect of remunerations and other earnings that are paid by the employer to the employee in addition to wage, above the amount set by this Law;
  - 4) reimbursement of costs for business travels, meals, and accommodation in connection to these travels, moving expenses and reimbursement for the use of own vehicle for official purposes. above the amount set by this Law;
  - 5) earnings of members of representative and executive bodies of the state, or the local government;
  - 6) earnings of members of assemblies, managing boards, supervisory boards, and other similar bodies of legal entities, members of trustees and committees that such bodies have, bankruptcy administrators and lay judges without capacity of court officials;
  - 7) all other earnings arising from labour relation and earnings corresponding to labour relation (temporary or occasional work, and other).
- (4) Personal earnings shall be also considered to be earnings generated in the form of coupons, money certificates, shares or goods, by making or providing benefits, waiving of debt, as well as by covering the taxpayer's expenditures by monetary compensation or through a direct payment.
- (5) The amount of the personal earnings referred to in paragraph 4 of this Article shall represent:
  - 1) par value of coupons, money certificates and shares;
  - 2) price which would be achieved through the sale of the goods in the market;
  - 3) consideration which would be achieved in the market for services or benefits made to the taxpayer;
  - 4) monetary amount of expenditures covered.

##### Article 15

Taxable income from revenues based on personal earnings shall represent the amount of gross earnings referred to in Article 14 of this Law.

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## 2. Revenue from Self-Employment Activity

### Article 16

- (1) Revenue from self-employment activity shall be considered to be the revenue generated by an economic activity, freelance professions, professional and intellectual services, as well as revenue from other self-employed activities that are not the core activity of the taxpayer, but are performed occasionally in order to generate revenue, unless they are taxed otherwise in accordance with this Law.
- (2) Freelance profession referred to in paragraph 1 of this Article shall be considered to be a professional activity of natural persons who are insured under the compulsory social insurance on those grounds in accordance with regulations governing the compulsory social insurance.
- (3) Activities of the freelance profession referred to in paragraph 1 of this Article shall be considered to be the self-employment activity of: healthcare workers, veterinaries, lawyers, notaries, auditors, engineers, architects, advisers, consultants, interpreters, scientists, writers, journalists, artists, athletes, and other similar activities.
- (4) Revenue from self-employment activity shall be also considered to be revenue from agriculture and forestry, if a person generating such revenue is chargeable to the value added tax.
- (5) The provisions of the law governing accounting shall apply to the persons generating revenues from self-employment activity with regard to the manner of keeping business records and preparation of financial statements, unless otherwise prescribed by this Law.

### Taxable Revenue

#### Article 17

- (1) Taxable revenue from a self-employment activity shall represent the taxable profit of the taxpayer.
- (2) Taxable profit referred to in paragraph 1 of this Article shall be determined by adjusting the profit of the taxpayer stated in the income statement in the manner envisaged by this Law.

### Adjustment of Revenues

#### Article 18

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In order to determine a taxable profit, revenues in the amount set by an income statement, in accordance with the law governing accounting, shall be recognized except the revenues for which this Law stipulates a different manner of determination.

## Article 19

Taxpayer's revenues from dividends and shares in profit of other legal entities shall not be included in the tax base.

## Adjustment of Expenditures

### Article 20

- (1) In order to determine taxable profit, expenditures in the amount set by an income statement shall be recognized, in accordance with the law governing accounting, except the expenditures for which this Law stipulates a different manner of determination.
- (2) Notwithstanding paragraph 1 of this Article, standard expenditures shall be recognized to a taxpayer who generates revenue from self-employment activities other than his core activity, and who fails to document the expenditures, in the amount of 30% of the generated revenue.

### Article 21

The following shall not be recognized as expenditures:

- 1) expenses not incurred for the purpose of performing a business activity;
- 2) expenses that cannot be documented;
- 3) interest for default in payment of taxes and contributions;
- 4) interest paid to non-residents, if paid at the rate higher than the customary commercial rate;
- 5) expenses for payments to a non-resident head-office;
- 6) earnings of employees or other persons based on distribution of the profit;
- 7) pecuniary fines and penalties;
- 8) contributions paid to political organizations.

### Article 22

Expenses incurred for materials and the acquisition value of merchandise sold shall be recognized in the amounts calculated by applying the average cost method or FIFO method in accordance with the law governing accounting.

### Article 23

- (1) Depreciation of permanent fixed assets shall be recognized as an expenditure in the amount set in the manner envisaged under this Law.
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- (2) Permanent fixed assets referred to in paragraph 1 of this Article shall include tangible and intangible assets, with a life exceeding one year and having the value exceeding 200 euro.
- (3) Fixed assets referred to in paragraph 2 of this Article shall be classified into five groups with the following depreciation rates:
- |             |     |
|-------------|-----|
| - I group   | 5%  |
| - II group  | 15% |
| - III group | 20% |
| - IV group  | 25% |
| - V group   | 30% |
- (4) Depreciation of permanent fixed assets classified in the first group shall be determined by applying the straight-line rate for each asset separately.
- (5) Depreciation of fixed assets classified in other groups (from the second to the fifth) shall be determined by applying the declining-balance rate to the value of assets classified by groups.
- (6) The ministry competent for finance shall adopt a more detailed regulation on the classification of permanent fixed assets by groups and methods for determining the depreciation.

#### Article 24

Expenses incurred for healthcare, education, scientific, religious, cultural, sports and humanitarian purposes, as well as for the environmental protection shall be recognized as expenditures to a maximum of 3% of the total revenue.

#### Article 25

Business entertainment expenses shall be recognized as expenditure in the amount up to 1% of the total revenue, provided that they are incurred for improvement of operations, that they are documented, and that their recipient is not a related party.

#### Article 26

Membership fees for chambers, alliances, and associations shall be recognized as expenditure to the maximum of 0.1% of the total revenue, except for the membership fee the amount of which is prescribed by a law, which shall be recognized in the amount prescribed by law.

#### Article 27

- (1) Adjusted doubtful claims (written off value) shall be recognized as an expenditure, provided that:
- 1) is proven beyond doubt that such claims were previously included in the revenues of the taxpayer;
  - 2) such claim is written off from the taxpayer's books as uncollectable;
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3) the taxpayer presents required evidences of unsuccessful collection of such claims.

(2) Doubtful claims, which are recognized as expenditure, and then collected, shall be included in revenues of the taxpayer at the time of their collection.

## Article 28

Reserve funds of the taxpayer shall not be recognized as expenditures.

## Article 29

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## Article 30

Interests and appurtenant costs due to a creditor with the status of a related party shall be recognized as an expenditure in the amount not exceeding interest costs in the open market, if such costs do not exceed the actually paid amount.

## Article 31

The difference between interest calculated on the arm's length basis and amount of the interest actually received shall be included in the tax base of the recipient of such interest.

## Tax Holidays

### Article 32

(1) A taxpayer who commences an activity in economically underdeveloped municipalities shall have the assessed tax for the period of the first eight years reduced by 100%.

(2) Total tax holiday referred to in paragraph 1 of this Article for a period of eight years may not exceed 200,000.00 euro

(3) The first year within which the right to tax holiday referred to in paragraph 1 of this Article is exercised shall commence as of the day of registration in the appropriate register, in accordance with law.

(4) For the purpose of paragraph 1 of this Article, a taxpayer shall not be deemed to be a person that ceased to exist within the period of three years preceding the commencement of business activity, or terminated its operations in the same or similar business activity.

(5) If in the period referred to in paragraph 1 of this Article the taxpayer is a beneficiary of the state aid in accordance with special regulation, or has exercised right to a tax holiday on the account of newly employed persons in accordance with a special

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regulation and/or Article 32b of this Law, the total amount of the tax holiday cannot exceed the amount referred to in paragraph 2 of this Article.

- (6) Notwithstanding paragraph 5 of this Article, the taxpayer who is a beneficiary of the state aid granted as a result of facing difficulty in operations, in accordance with a special regulation governing granting of the state aid, shall not be entitled to the tax holiday referred to in paragraphs 1 to 5 of this Article
- (7) The tax holiday or relief referred to in paragraphs 1 to 5 of this Article shall not apply to a taxpayer operating in the sector of primary production of agricultural products, transport, shipbuilding, fisheries, steel, trade, and hospitality industry, except for primary hospitality facilities.

#### Article 32a

- (1) The right to tax holiday referred to in Article 32 of this Law shall be exercised based on a request of a taxpayer lodged with the competent tax authority within 30 days as of the day of registration with the appropriate register in accordance with law.
- (2) For a period of using the tax relief, the taxpayer referred to in paragraph 1 of this Article shall be obliged to lodge with the competent tax authority a statement on any other state aid received during previous fiscal years, including relieves referred to in Article 32b of this Law.
- (3) The taxpayer shall lodge the statement referred to in paragraph 2 of this Article along with a tax return for the Income Tax or along with the request for lump sum payment of tax.
- (4) The tax authority shall render a decision on the request referred to in paragraph 1 of this Article.
- (5) The ministry competent for finance shall stipulate in more details the detailed manner for use of the tax relief referred to in Article 32 of this Law, form and content of request and statement referred to in paragraphs 1 and 2 of this Article.

#### Article 32b

- (1) The taxpayer referred to in Article 32 of this Law, who for an unlimited period or for at least five years employs a person shall be exempt from the obligation to pay the assessed and withheld tax from wages of such employee for a period of four years from the day a labour relation is established.
  - (2) The employed person referred to in paragraph 1 of this Article shall be deemed to be a person registered with the Employment Office of Montenegro for a period exceeding three months with whom the employer has entered into a labour contract in accordance with the law governing labour-based rights and obligations of employees and having a habitual residence in an underdeveloped municipality.
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- (3) The employed person referred to in paragraph 2 of this Article shall not be deemed to be a person who was employed with the person being a founder or related party with the employer prior to establishing a labour relation, regardless of interruption in the labour relation.
- (4) The tax relief referred to in paragraph 1 of this Article shall be exercised provided that there is a net increase in the number of employees if compared to the average number of employees of that employer for the previous 12 months.
- (5) If a taxpayers terminates the labour relation with newly employed person before expiry of five years from the day of the labour relation is established, except upon a request of the employee, it shall be obliged to pay the tax that would have paid if not using the tax holiday referred to in paragraph 1 of this Article within 30 days as of the labour relation termination.
- (6) Notwithstanding paragraph 5 of this Article, the employer is not obliged to refund the tax that would have paid if not using the tax holiday referred to in paragraph 1 of this Article in case of severe breach of labour relations by the employee, as prior proven in a procedure stipulated by the law governing labour and labour relations.

### Tax Losses Article 33

Losses resulting from business transactions may be carried forward to offset profit generated in the future period, but not exceeding five years.

## 3. Revenue from Property and Property-based Rights

### Revenues Article 34

Revenues from property and property-based rights shall be considered to be:

- 1) revenues generated by lease of movable and immovable property;
- 2) revenues from time limited assignment of copyrights, industrial property rights, and other property rights.

### Expenditures Article 35

- (1) Expenditures in respect of property and property-based rights shall be considered to be actual expenses incurred by generating such revenues, provided that they are documented.
  - (2) If expenditures referred to in paragraph 1 of this Article are not documented, standard expenditures shall be recognized in the amount of 30% of generated revenues from the property and property-based rights.
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(3) Notwithstanding paragraph 2 of this Article, in cases of lease of rooms, apartments, holiday houses and apartments to travellers and tourists, standard expenses shall be recognised in the amount of:

- 50% of generated revenues if a sojourn fee has been paid;
- 70% of generated revenues if a contract is entered into with a tourism agency or local tourism organisation and if on such grounds has 60 days annually of an average filled to capacity.

## Taxable Revenue Article 36

Taxable revenue from property and property-based rights shall represent a difference between the revenues referred to in Article 34 and expenditures referred to in Article 35 of this Law, incurred during the same tax period.

## 4. Revenues from Capital Article 37

(1) Revenue from capital shall be considered to be:

- 1) Revenues from interests;
- 2) Share in profits realized by the members of management and employees in money or shares;
- 3) Revenues from the use of property and services by the owners and co-owners of the capital for their private needs;
- 4) Dividends and shares in profit.

(2) Revenue from capital shall be also considered to be earnings from shares and holdings in capital of members of management and employees of a for-profit corporation received or bought under preferential conditions.

(3) Expenditures shall not be recognized when determining the taxable income from capital.

## 5. Capital gains and losses

### Article 37a

(1) A capital gain shall be the revenue generated through sale of property, precisely immovable property, interest in a legal entity, and securities (hereinafter referred to as the property).

(2) Taxable revenue in respect of capital gain shall be a difference between the sale and acquisition price of the property referred to in paragraph 1 of this Article.

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- (3) Negative difference referred to paragraph 1 of this Article shall be considered to be a capital loss.
- (4) Immovable property referred to in paragraph 1 of this Article shall be considered to be; land, buildings, residential and business units of buildings, and other building structures.

#### Article 37b

Capital gain from an immovable property shall be a difference between the sale and acquisition price of the immovable property.

#### Article 37c

- (1) Sale price of the immovable property referred to in Article 37b of this Law shall be considered to be a contracted price, reduced by documented expenses for reconstruction and costs of sale of such immovable property.
- (2) If the contracted price referred to in paragraph 1 of this Article is lower than the market one, the competent tax authority shall determine the sale price.
- (3) In the event of exchange of immovable property, the sale price shall be considered to be the price of the immovable property being exchanged.
- (4) Market price of an immovable property shall be market value of the immovable property determined in accordance with regulations governing taxation of immovable property.

#### Article 37d

- (1) The acquisition price of the immovable property referred to in Article 37b of this Law shall be considered to be the price at which the taxpayer acquired the immovable property, or the price of the immovable property established by the tax authority, at the time of acquisition of such immovable property, in accordance with the law governing the tax on turnover of immovable property.
  - (2) The acquisition price of the immovable property constructed by the very obligor shall be the amount of construction costs of such immovable property.
  - (3) If the taxpayer acquired the immovable property as a gift or inheritance, the acquisition price shall be deemed to be the price at which the gift giver or testator acquired such immovable property.
  - (4) The acquisition price of the immovable property referred to in paragraphs 1, 2, and 3 of this Article shall be adjusted annually with the increase of retail prices from the day of acquisition to the day of sale of the immovable property in accordance with the data of the administration authority competent for statistical affairs.
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- (5) If the acquisition price cannot be established in the manner referred to in paragraphs 1, 2, and 3 of this Article, the acquisition price shall represent 80% of the sale price.

#### Article 37e

- (1) Capital gain from interest in a legal entity shall be the difference between the sale and acquisition value of the interest.
- (2) The sale or acquisition value of the interest shall be the amount set in a purchase and sale contract.
- (3) Notwithstanding paragraph 2 of this Article, the acquisition value of the interest acquired by the establishment shall be the amount of the founder's investment and amount of increase of the founder's investment

#### Article 37f

- (1) The securities referred to in Article 37a of this Law shall be: shares and other equity securities.
- (2) The acquisition price of securities listed on a stock exchange shall be considered to be the documented price the obligor actually paid.
- (3) The acquisition price of securities not listed on a stock exchange shall be considered to be the documented price the obligor actually paid, and if the taxpayer fails to document the actually paid price, the acquisition price shall be deemed to be the par value of securities.
- (4) If the taxpayer bought several times securities from the same issuer with different acquisition prices, the acquisition price shall be determined, in case of calculation of the capital gain, according to the order of acquisition of securities by applying the FIFO method.
- (5) The acquisition value of shares paid as dividends from the profit shall represent the value at which the taxpayer acquired such shares.

#### Article 37g

Capital gain from sale or transfer of property shall not be taxed if:

- the immovable property served to the taxpayer as only and principal place of residence (habitual residence);
- transfer of property was made between spouses and directly linked with a marriage, divorce or inheritance of property;
- transfer of property was made by a gift to heirs in a first level of kinship.

#### Article 37h

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Capital loss resulting from divesting property can be deducted from the capital gain resulting from divesting property when realised in the same tax period.

Article 37i

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Article 38

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Article 39

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Article 40

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Article 41

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## IV CALCULATION AND PAYMENT OF THE INCOME TAX

### 1. Calculation and Payment of the Income Tax in the Tax Return

Article 42

- (1) The income tax shall be calculated annually.
- (2) The taxpayer himself shall calculate the income tax in the tax return.
- (3) The income tax shall be calculated at the rate referred to in Article 10 of this Law.
- (4) The income tax shall be determined in accordance with the tax base referred to in Article 8 of this Law, provided that the amount of the tax paid in the form of advance instalments for all sources of revenue is deducted from the total calculated tax.
- (5) The income tax shall be paid at the same time with the tax return filing.
- (6) If the taxpayer has paid during the year, in the form of advance instalments, higher amount of taxes than he is obliged to under the tax return, the excess paid amount of tax shall be returned at his request or shall be included in the advance installment for the next tax period.

Tax Return  
Article 43

- (1) Taxpayer of the income tax shall be obliged, upon the expiration of the tax period, to file a tax return to the competent tax authority.
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- (2) The tax return shall be filed at the end of April of the current year for the previous year.
- (3) The ministry competent for finance shall stipulate the form and contents of the tax return.
- (4) A resident who generates income from the following sources shall be obliged to file the tax return:
  - 1) self-employment activity chargeable to tax for actual revenue;
  - 2) property and property-based rights;
  - 3) capital gains;
  - 4) abroad;
  - 5) on the account of personal earnings generated with two or more employers or payers of earnings whereat total monthly gross amount exceeds the average wage.
- (5) A non-resident shall submit a tax return for revenues generated in Montenegro, which are not subject to a withholding tax payment.
- (6) The tax return shall be filed in one copy directly, via mail or electronically.

## 2. Double Taxation Avoidance

### Article 44

- (1) To a resident taxpayer, who generates income outside of Montenegro and pays an income tax in another country, the tax credit in the amount equal to the income tax paid in such country shall be approved.
- (2) The tax credit referred to in paragraph 1 of this Article cannot exceed the amount that would have been obtained by applying provisions of this Law to the income generated in another country.

### Article 45

- (1) Agreement on double taxation avoidance shall supersede the provisions of this Law.
- (2) The ministry competent for finance shall stipulate the form, content, and the procedure for issuing a certificate on residency, for taxation purposes.

## 3. Payment of Tax on Personal Earnings

### Article 46

- (1) A tax on personal earnings shall be calculated, withheld, and paid by the employer, or payer of such earnings.
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- (2) The tax on personal earnings shall be calculated, withheld, and paid at the time of each payment of such earnings, according to the regulations applicable on the day of the payment.
- (3) Advance installment for the tax on personal earnings shall be calculated from the tax base made up of the amount of gross personal earnings generated within a specific calculation period.
- (4) Advance installment for the tax on personal earnings shall be calculated by applying the rate of 9% to the tax base referred to the paragraph 3 of this Article.
- (5) Advance installment for the tax on personal earnings exceeding the average wage shall be calculated at the rate of 11% on the amount of earnings exceeding the average wage.
- (6) A non-resident organisation that does not have a diplomatic immunity and has a registered office or permanent establishment in Montenegro shall be obliged to calculate the tax on personal earnings paid to its employees in accordance with the provisions of paragraphs 1 to 3 of this Article and pay it at the same time with the payment of personal earnings.
- (7) A resident taxpayer employed in a diplomatic or consular representative office of a foreign country, in an international organization, in an office or organisation that has a diplomatic immunity on the territory of Montenegro shall be obliged to calculate himself the tax on such earnings in the manner set forth in paragraphs 1 to 3 of this Article and pay it within 5 days from the day of receiving them.
- (8) A resident taxpayer, who generates earnings from another country, shall calculate himself the tax on such income in the manner set forth in paragraphs 1 to 3 of this Article and shall pay it within 5 days from the day of receiving them.

#### Article 46a

The Pension and Disability Insurance Fund of Montenegro shall calculate, withhold, and pay the tax on pensions of the state and public officials at the event of payment of the pension.

#### Article 47

- (1) The employer shall submit to the employee data on the paid personal earnings arising from the wage and on the withheld and paid income tax for such personal earnings, by 31 January of the current year for the previous year.
  - (2) The employer shall be obliged to submit to the competent tax authority reports and other records relevant for calculation of the tax on personal earnings, the content and submission deadlines of which shall be prescribed by the minister competent for finance.
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- (3) The obligation referred to in paragraph 2 of this Article shall relate also to the persons referred to in Article 46, paragraphs 6 and 7 of this Law.
- (4) The payer of earnings (revenues) shall provide to the recipient of revenues the data on paid other personal earnings referred to in Article 14 of this Law, on the withheld and paid income tax until 31 January of the current year for the previous year.

#### 4. Advance Payment of the Tax on Revenues from Self- Employment Activity Article 48

- (1) During the year, a taxpayer shall pay the tax on revenue from a self-employment activity in the form of monthly advance instalments, the amount of which shall be determined based on the amount of the income tax from the self-employment activity as set in the tax return for the previous year.
- (2) The advance installment referred to in paragraph 1 of this Article shall be paid until the end of the current month for the previous month, in the amount of 1/12 of the tax liability for the previous year.
- (3) The advance installment of the paid tax referred to in paragraph 2 of this Article shall be considered to be a credit with respect to the tax liability as set in the tax return.
- (4) A taxpayer, who starts to carry out the activity during the year, shall determine the advance installment for the tax on revenue from self-employment activity on the basis of the estimate of generation of revenues for that year.
- (5) Notwithstanding paragraph 1 of this Article, the tax on revenues generated from other self-employment activities referred to in Article 16, paragraph 1 of this Law shall be calculated, withheld, and paid by the payer of revenue at the event of each payment at the rate of 9% on the tax base that represents a difference between the generated revenues and expenditures referred to in Article 20 paragraph 2 of this Law.

#### Lump Sum Taxation of the Revenue from Self-Employment Activity Article 49

- (1) Obligor of the tax on revenues from self-employment activity whose total turnover for the year that precedes the year for which the tax is assessed or whose planned turnover in cases of commencement of the activity is less than 18,000 euro may be allowed, at his request, to pay the tax in an annual lump sum amount.
  - (2) The ministry competent for finance shall prescribe detailed criteria for determining the amount of the tax referred to in paragraph 1 of this Article and the tax scale for payment of the tax.
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- (3) The tax referred to in paragraph 1 of this Article shall be paid monthly until the end of the current month for the previous month in the amount of 1/12 of a tax liability set by the tax scale referred to in paragraph 2 of this Article.
- (4) The request referred to in paragraph 1 of this Article shall be submitted by the end of the current year for the following year, and in the case of commencement of the activity during the year, the request shall be submitted within 5 days from the day of registration to carrying out of the activity.
- (5) The obligors referred in the paragraph 1 of this Article shall be obliged to keep business records on generated turnover.
- (6) If a tax authority estimates that the request referred to in paragraph 1 of this Article is grounded, it shall render a tax decision within 15 days from the day the request is submitted.
- (7) Notwithstanding paragraph 3 of this Article, taxpayers who perform seasonal self-employment activity, for a period not exceeding six months, shall pay the tax by the fifth of the month for the current month.
- (8) Notwithstanding paragraph 1 of this Article, a taxpayer engaged in the following activities: lawyer, notary, auditing, accounting, healthcare, consulting, designing, land surveying, public enforcement officers, other professional and intellectual professions, hairdressing, billiard clubs, entertainment games, retail and wholesale trade, hospitality industry, hotel industry, financial intermediation, and real-estate related activities, except for trade and hospitality industry carried out at stands/booths, in a temporary facility, similar prefabricated or movable facility; cannot be entitled to pay the tax in the annual lump sum amount.

#### 4a. Advance Payment of Tax on Revenues from Property and Property-based Rights

##### Article 49a

- (1) Advance payment of a tax on revenues from property and property-based rights during the year, shall be calculated, withheld, and paid by the payer of revenue (legal entity or entrepreneur), at the event of each collection of revenue, and at the same time with collection, by applying the rate of 9% to the taxable revenue referred to in Article 36 of this Law.
- (2) In case of direct generation of revenues from property and property-based rights, the income tax shall be paid at the same time when an annual tax return is filed.

### 5. Payment of Tax on Revenues from Capital

#### Article 50

- (1) The payer of revenues from capital shall be obliged to calculate, withhold, and pay the tax on revenue from capital at the same time with the payment of revenue.
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(2) The tax on revenues from capital shall be calculated at the rate of 9%.

(3) Notwithstanding paragraph 2 of this Article, the tax rate on revenues from interest paid to non-residents shall be 5%.

## 6. Payment of Tax on Capital Gains

### Article 50a

The tax on capital gains shall be calculated annually at the rate of 9% and shall be paid at the same time with the submission of an annual tax return

### Article 50b

Deleted

### Article 51

Deleted

## 7. Regulations for Implementation of this Law

### Article 52

The ministry competent for finance shall adopt detailed regulations for the implementation of this Law.

## 8. Application of Other Regulations

### Article 53

The law governing the tax procedure shall apply accordingly to relations not specially regulated by this Law (appellate procedure, enforced collection procedure, interest rates, and other).

## IVa PENALTY PROVISIONS

### Article 53a

(1) A pecuniary fine ranging from 2,000 euro to 20,000 euro shall be imposed for an offence on a legal entity if:

- 1) as a payer of revenues chargeable to the income tax, fails to calculate, calculates incorrectly, fails to withhold or fails to pay the tax on revenues, together with each payment of revenues (Articles 46, 46a, 49a, and 50);
  - 2) as an employer or payer of personal earnings, fails to submit to the tax authority and the employee, within the prescribed deadline, data on paid personal earnings of employees, withheld and paid tax for such personal earnings or
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reports and other records relevant for calculation of the tax on personal earnings (Article 47);

- (2) A pecuniary fine ranging from 500 euro to 1,000 euro shall be also imposed for the offence referred to in paragraph 1 of this Article on a responsible person in the legal entity, state body, state administration authority or local self-government and local administration authority.
- (3) A pecuniary fine ranging from 1,000 euro to 6,000 euro shall be imposed for an offence on an entrepreneur if:
- 1) fails to submit to the competent tax authority the tax return until the end of April of the current year for the previous year, calculates incorrectly, or fails to pay the tax together with submission of the tax return (Article 42 and Article 43 paragraphs 1 and 2);
  - 2) fails to pay within the prescribed deadline the advance installment of tax on revenues from self-employment activity (Article 48);
  - 3) fails to pay within the prescribed deadline the tax liability assessed as a lump sum amount (Article 49, paragraphs 3 and 7);
  - 4) fails to keep business records on realized turnover (Article 49, paragraph 5);
- (4) In addition to the pecuniary fine, a preventive measure to prohibit the performance of an activity, for the period from one to three months, may also be imposed for the offence referred to in paragraph 3 of this Article on an entrepreneur.

#### Article 53b

On-the-spot pecuniary fine of 200 euro shall be imposed on a natural person for the offence referred to in Article 53a, paragraph 3, item 4 of this Law.

#### Article 53v

- (1) A pecuniary fine ranging from 250 euro to 2,000 euro shall be imposed for an offence on a taxpayer natural person, if:
- 1) fails to file the tax return for the income tax to the competent tax authority by the end of April of the current year for the previous year, incorrectly calculates or fails to pay the tax at the same time with the filing of the tax return (Article 42 and Article 43, paragraphs 1 and 2);
  - 2) fails to calculate and fails to pay the tax within the prescribed deadline as a resident taxpayer employed with a diplomatic or consular representative office of a foreign country, international organization, office or organization that holds diplomatic immunity on the territory of Montenegro and as a resident taxpayer who generates earnings from other country (Article 46, paragraphs 6 and 7);
  - 3) fails to calculate, incorrectly calculates, fails to withhold or fails to pay the tax on revenues at the event of each collection and at the same time with collection of revenues (Article 49a).
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## V TRANSITIONAL AND FINAL PROVISIONS

### Article 54

Taxpayers that acquired the right to use tax relieves and tax holidays in accordance with the provisions of the Law on Tax on Income of Citizens (Official Gazette of the Republic of Montenegro, 30/93, 3/94, 13/94, 42/94, 13/96, and 45/98) shall continue to use them until they expire.

### Article 55

Earnings from unemployment allowances, compensation for retirement severance payment or redundancy severance payment up to the minimum amount set forth by the General Collective Bargaining Agreement or regulation of the Government shall not be taxable until 1 January 2005.

### Article 56

Relief for dependents referred to in Article 9 of this Law shall apply from 1 January 2007.

### Article 57

Notwithstanding Article 40 paragraph 1 of this Law, the acquisition price of immovable property acquired by the obligor before 1 January 2003 shall consist of the value of such immovable property, which shall be used as a tax base for payment of the tax on immovable property set forth on 1 January 2003.

### Article 58

The tax on capital gains from securities shall not be paid until 1 January 2005.

### Article 58a

The tax on capital gains shall be paid from 1 January 2011.

### Article 59

Taxation of revenues from agriculture and forestry and revenues from self-employment activity based on the established lump-sum net revenue (lump sum payers) for the year 2002 shall be carried out in accordance with the Law on Tax on Income of Citizens (Official Gazette of the Republic of Montenegro 30/93, 3/94, 13/94, 42/94, 13/96, and 45/98).

### Article 60

Notwithstanding Article 14 of this Law, personal earnings generated based on allowance for meals during work, allowance for winter supply and holiday allowance

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paid to employees whose salaries are provided from the budget of Montenegro shall not be taxed until 2003.

#### Article 60a

The taxpayers who have exercised the right to a tax relief for carrying out a production activity in underdeveloped municipalities until the day this Law enters into force shall continue to use it in accordance with this Law.

#### Article 60b

Provision of Article 43 paragraph 4 item 5 of this Law shall apply on personal earnings generated by a resident in the period from 8 February 2013 to 31 December 2019.

#### Article 60c

Provisions of Article 10 paragraph 2 and Article 46 paragraph 5 of this Law shall apply until 31 December 2019.

#### Article 60d

The taxpayer who was paying a lump-sum amount tax during 2013 and who is carrying out an activity for which the right to pay the tax in the annual lump sum amount is not recognised in accordance with Article 49 paragraph 8 of this Law, shall be obliged to submit an assessment of revenues generation for 2014 by 15 January 2014 in order for monthly instalments for the tax on revenues from a self-employment activity for that year to be calculated and paid.

#### Article 60e

As of the day this Law enters into force, provisions of Article 136 of the Law Amending and Supplementing Laws Governing Pecuniary Fines for Offences (Official Gazette of Montenegro, No 40/11) shall cease to have effect.

#### Article 61

The Law on Tax on Income of Citizens (Official Gazette of the Republic of Montenegro 30/93, 3/94, 13/94, 42/94, 13/96 and 45/98) shall cease to have effect as of the day of application of this Law.

#### Article 62

This Law shall enter into force on the eighth day as of the day of its publication in the Official Gazette of the Republic of Montenegro, and shall apply as of 1 July 2002.

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The consolidated text of the Law does not include provision of the Law Amending the Law on Personal Income Tax (Official Gazette of Montenegro, No 83/16 of 31 December 2016):

“Article 6

This Law shall enter into force on the day of its publication in the Official Gazette of Montenegro, and shall apply from 1 January 2017.”

The consolidated text of the Law does not include provision of the Law Amending and Supplementing the Law on Personal Income Tax (Official Gazette of Montenegro, No 79/15 of 31 December 2015):

“Article 11

This Law shall enter into force on the day following the day of its publication in the Official Gazette of Montenegro, and shall apply from 1 January 2016.”

The consolidated text of the Law does not include provision of the Law Amending and Supplementing the Law on Personal Income Tax (Official Gazette of Montenegro, No 60/14 of 31 December 2014):

“Article 11

This Law shall enter into force on the day following the day of its publication in the Official Gazette of Montenegro, and shall apply from 1 January 2015.”

The consolidated text of the Law does not include provisions of the Law Amending and Supplementing the Law on Personal Income Tax (Official Gazette of Montenegro, No 62/13 of 31 December 2013):

“Article 13

This Law shall enter into force on the day following the day of its publication in the Official Gazette of Montenegro, and shall apply from 1 January 2014.”

The consolidated text of the Law does not include provisions of the Law on Supplements to the Law on Personal Income Tax (Official Gazette of Montenegro, No 06/13):

Article 3

This Law shall enter into force on the on the eighth day as of the day of its publication in the Official Gazette of Montenegro, and shall apply until 31 December 2013.

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The consolidated text of the Law does not include provisions of the Law on Amendments and Supplements to the Law on Personal Income Tax (Official Gazette of Montenegro, No 14/12):

#### Article 12

This Law shall enter into force on the day of its publication in the Official Gazette of Montenegro.

The consolidated text of the Law does not include provisions of the Law on Amendments and Supplements to the Law on Tax on Income of Natural Persons (Official Gazette of Montenegro, No 86/09):

#### Article 19

This Law shall enter into force on the eighth day as of the day of its publication in the Official Gazette of Montenegro, and shall apply as of 1 January 2010.

The consolidated text of the Law does not include provisions of the Law on Amendments and Supplements to the Law on Tax on Income of Natural Persons (Official Gazette of the Republic of Montenegro, No 78/06):

#### Article 29

Notwithstanding Article 3, paragraph 2, item 8 of this Law, the paid severance payment in case of termination of the employment due to the redundancy up to the amount of 24 average wages in the Republic, for 2007 and 2008, shall not be subject to payment of the income tax.

#### Article 30

Notwithstanding Article 7, Article 22 paragraph 2 and Article 27 of this Law, the rate of the income tax for 2007 and 2008 shall amount to 15%, and 12% for 2009.

#### Article 31

This Law shall enter into force on the eighth day as of the day of its publication in the Official Gazette of the Republic of Montenegro, and shall apply as of 1 January 2007.

The consolidate text of the Law does not include the following provisions of the Law on Amendments and Supplements to the Law on Tax on Income of Natural Persons (Official Gazette of Montenegro No 37/04):

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## Article 22

Notwithstanding Article 13 of this Law, until 1 December 2004 the advance installment of the tax on personal earnings shall be calculated by using the following tax scale:

Amount of monthly taxable income (in euro)	Amount of tax
Up to 65.00	0%
From 65.00 to 218.00	0 euro + 16% on the amount exceeding 65.00 euro
From 218.00 to 381.00	24.40 euro + 20% on the amount exceeding 218.00 euro
Over 381.00	57.00 euro + 24% on the amount exceeding 381.00 euro

## Article 23

On the day this Law enters into force, the Rulebook on Adjustment of Amount of Taxable Income of Natural Persons with the Growth of Retail Prices for 2003 (Official Gazette of the Republic of Montenegro No 4/04) shall cease to have effect.

## Article 24

This Law shall enter into force on the eighth day as of the day of its publication in the Official Gazette of the Republic of Montenegro, and shall apply as of 1 July 2004.

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