

Pursuant to Article 88, item 2 of the Constitution of the Republic of Montenegro I hereby enact the

**DECREE**  
**PROMULGATING THE LAW ON TAX ADMINISTRATION**  
**(Official Gazette of the Republic of Montenegro, No 65/01 of 31 December 2001, 80/04 of 29 December 2004, 29/05 of 9 May 2005; Official Gazette of Montenegro, No. 20/11 of 15 April 2011 and 28/12 of 5 June 2012)**

I hereby promulgate the Law on Tax Administration, adopted by the Parliament of the Republic of Montenegro on its second sitting of the second regular session in 2001, on 27 December 2001.

Number: 01-3876/2  
Podgorica, 28 December 2001  
President of the Republic of Montenegro  
Milo Đukanović, m.p.

## **LAW ON TAX ADMINISTRATION**

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### **I GENERAL PROVISIONS**

#### **General Provisions**

##### **Article 1**

This Law governs the rights and obligations of the tax authority and taxpayers in the procedure of assessment, collection and audit of taxes and other duties (hereinafter referred to as: the tax).

##### **Article 2**

- (1) State bodies and bodies of local self-government units shall be obliged to act in accordance with this Law when deciding on the taxpayer's rights and obligations.
- (2) This Law shall relate to individuals (citizens), legal entities, organizations, entrepreneurs, tax intermediaries and other persons, state bodies and bodies of local self-government units, when they are taxpayers, or when they calculate and pay taxes for a taxpayer, or when they have other obligations related to the assessment and collection of liabilities of the taxpayer.

##### **Article 3**

The provisions of laws governing the administrative procedure and inspection supervision shall apply accordingly to the issues not governed by this Law.

#### **Meaning of Specific Terms**

##### **Article 4**

Specific terms as used in this Law shall have the following meaning:

- “Tax authority” shall mean a body of the state administration or a body of the local self-government unit in charge of the activities related to the assessment, collection and audit of taxes;
- “Tax and other duties” shall mean taxes, contributions, fees, charges and other monetary payments determined by law;
- “Taxpayer” shall mean a person who is subject to the obligation to pay taxes under the tax and other laws;
- “Tax Payer or Intermediary” shall mean a person that is obliged, under tax regulations, to collect taxes from another person either by withholding or in another manner, and transfer those taxes to the appropriate tax account;
- “Tax representative” shall mean a person authorized in accordance with law to conduct part or all activities of the taxpayer pertaining to the fulfilment of tax liabilities;
- “Tax agent” shall mean a person authorized in writing by the taxpayer to conduct activities pertaining to the fulfilment of tax liabilities in accordance with tax regulations in his name and for his account;
- “Books and records” shall represent the documentation that is prescribed by a special law the taxpayer is obliged to keep on his operations, and serves for the purpose of tax liability assessment;
- “Person” shall mean: a legal person, a part of a legal person, organization, entrepreneur and natural person obliged to act in accordance with this Law;
- “Order for transfer of funds” shall mean a document used for transfer of funds from the taxpayer’s account to accounts for payment of taxes;
- “Principal place of business in the Republic” of a taxpayer (legal person and entrepreneur) shall mean the place where the share of average number of employees and book value of property of the taxpayer is greater than in any other place of business;
- “Tax liability” shall include tax, interest and costs of the procedure.

## **II COMPETENCY OF THE TAX AUTHORITY**

### **Article 5**

- (1) The competent Republic administration body (hereinafter: the tax authority) shall carry out activities regarding assessment, collection and audit of taxes introduced by the Republic.
- (2) The competent body of local government shall carry out activities regarding assessment, collection and audit of taxes introduced by a local self-government unit.
- (3) Notwithstanding paragraph 2 of this Article, the tax authority, at the request of a local self-government unit, may carry out the activities regarding the assessment, collection and audit of surtax on personal income tax and consumption tax.

### **Tax Authority Authorizations**

#### **Article 6**

- (1) In discharging competencies prescribed by the law, the tax authority shall have the authorisation to:
  - 1) perform inspection supervision, undertake collection measures, other actions and activities within its competence under this or other laws;
  - 2) decide on the rights of taxpayers;

- 3) carry out registration of business organizations and taxpayers and maintain a registry of business organizations and a tax registry;
  - 4) assess tax in the manner and in accordance with the procedure determined by law;
  - 5) require that taxpayers and other legal entities submit documentation and provide other information necessary for assessment of tax liability;
  - 6) summon the persons to participate in the tax procedure;
  - 7) enter and inspect the business premises where business books and records or other objects necessary for application of tax regulations are located or may be located;
  - 8) **exempt** business books and records and other objects necessary for application of tax regulations in accordance with this Law;
  - 9) impose penalties for tax violations prescribed by this or other tax regulations;
  - 10) use services of experts and expert witnesses, natural and legal persons, in the procedure of assessing tax liabilities when the expertise is necessary;
  - 11) initiate and conduct a first-instance administrative and misdemeanor procedure;
  - 12) plan and deliver training of employees;
  - 13) maintain tax bookkeeping;
  - 14) notify taxpayers of the course of inspection audit and their rights and obligations in that procedure;
  - 15) provide expert help to taxpayers in application of tax regulations;
  - 16) provide the taxpayers with a copy of tax return free of charge;
  - 17) keep tax secrets;
  - 18) treat the taxpayers and other persons with due respect;
  - 19) bring criminal charges, economic offence charges or request for initiation of misdemeanor procedure;
  - 20) forward the information, including also the tax secrets revealed in the course of criminal investigation or during gathering other information in cases when there is a reasonable doubt of a misdemeanor or criminal action, to the authorities in charge of law enforcement;
  - 21) apply international treaties and agreements on double taxation avoidance and other conveniences in the payment of taxes;
  - 22) prepare reports on the conditions in the tax area;
  - 23) give initiatives to the Ministry of Finance for adoption of regulations and other acts regulating the tax system and tax policy;
  - 24) cooperate with other bodies and organizations in the country and abroad regarding the issues of tax crimes, in accordance with international treaties or agreements;
  - 25) undertake measures necessary for safety of tax officers;
  - 26) undertake measures aimed at prevention of corruption of officers while acting in official capacity;
  - 27) organize functioning of a unique information system in the tax area;
  - 28) ensure the implementation of positions and conclusions of the Government in the tax area;
  - 28a) control and publish financial statements of business organizations;
  - 29) perform other activities prescribed by law and other regulations.
- (2) The manner of maintaining the tax bookkeeping referred to in paragraph 1, item 13 of this Article shall be prescribed by the ministry in charge of financial activities.

### III GENERAL PROVISIONS ON TAX PROCEDURE

#### Summons

#### Article 7

- (1) The tax authority shall be entitled to summon any person in case when it deems that such person's presence is needed in the procedure of implementation of tax regulations.
- (2) The tax authority may summon persons for the purposes of interrogation, testimony, expert witnessing, presentation of documents, books and records and objects necessary for the implementation of tax regulations, submission of decisions or conclusions, or for notices that cannot be delivered to such person by mail or in another adequate manner.
- (3) The persons shall be summoned by the means of written summons, unless otherwise prescribed by this Law.
- (4) The person shall be summoned upon the order of the head of the tax authority, or the person authorized by him/her.
- (5) In cases when persons are summoned for the purposes of interrogation, testimony, expert witnessing, or presentation of documents, books and records, the tax authority shall be obliged to deliver the summons referred to in paragraph 3 of this Article no later than 3 business days before the day set forth in the summons for taking such actions.
- (6) The summons referred to in paragraph 3 of this Article shall include:
  - 1) name of the tax authority that issued the summons;
  - 2) first and last name, or firm of the person that is being summoned and tax identification number (hereinafter referred to as: the TIN);
  - 3) place, day and hour when the summoned person should arrive;
  - 4) subject matter and capacity in which the person is being summonsed (party in the proceeding, witness, expert witness, interpreter, etc.);
  - 5) auxiliary means that the summoned person should obtain, or bring as evidence.
- (7) In case when the person is summoned for presentation of documents, books, records and other objects, the summons shall state which books, records, documentation or other objects need to be presented.
- (8) The summons must state whether the summoned person is obliged to appear in person or may send a proxy that shall represent him, and shall be warned about the consequences in case of failure to respond to the summons or inform the authority that issued the summons that he/she is prevented from coming.
- (9) Persons younger than 18 years shall be summoned through their parents or another legal representative.
- (10) In justifiable cases, the person that was summoned may request from the tax authority to alter the place or time of interrogation, testimony, expert witnessing, interpretation or presentation of documents stated in the summons.
- (11) As a rule, persons shall be summoned during the working hours of the tax authority and in cases of urgent and pressing measures, a person may be summoned after the working hours and on non-business days.

### **Obligations of the Summoned Person**

#### **Article 8**

- (1) The summoned person shall be obliged to comply with the summons.
- (2) If the summoned person is prevented from complying with the summons because of illness or other justifiable reason, the person shall be obliged to inform thereof the tax authority that issued the summons immediately after receiving the summons, if possible, and if not, the summoned person shall be obliged to appear at the tax authority after cessation of the reason and justify his/her absence.
- (3) In cases when procedural costs incur due to unjustifiable failure of the summoned person to comply with, the tax authority shall determine that the summoned person bears such costs.
- (4) The head of the tax authority shall decide on the need to contact a competent body for the purpose of undertaking measures for arresting, pronouncing a penalty or paying procedural costs, in the form of a conclusion that may be appealed.

### **Interrogation of a Party**

#### **Article 9**

- (1) For the purpose of this Law, any person registered with the competent tax authority as a taxpayer shall be considered as a party.
- (2) The party may be interrogated in the tax procedure upon the tax authority's summons or at his/her own request.
- (3) The party shall be interrogated by a tax inspector of the tax authority (hereinafter referred to as: the tax inspector) conducting the procedure for assessment, audit, collection or investigation activities, when he/she deems it necessary for the purpose of establishing decisive facts and circumstances important for clarifying a tax matter, or enabling parties to realize and protect their rights and interests.
- (4) The tax inspector conducting the procedure shall determine the course of an investigative procedure, in accordance with the circumstances of each particular case, ensuring that the party is provided with the right to: present facts that may have impact on resolving the tax matter; offer proofs for establishing these facts; contest the statements contrary to his statements; give statements on all circumstances and facts presented in investigative procedure, on proposals and offered proofs; participate in the presentment of evidence and questioning of other parties, witnesses and expert witnesses through an authorised officer, or directly if the allowed by such officer; as well as to be informed about the results of the presentation of evidence and make a statement about it.
- (5) In the course of investigative procedure, the tax inspector conducting the procedure may decide to interrogate the party about all or individual facts and circumstances important for that tax matter.
- (6) As a rule, the party shall give verbal statements in the course of interrogation, but the party may also submit statements in writing.

- (7) The proxy of the party shall be entitled to participate in the interrogation proceedings of the party. The party, his/her proxy and the tax authority shall be entitled to record the entire course of the interrogation on a magnetophon tape.
- (8) The authorized official conducting the procedure shall not be entitled to extort evidence from the party by force or deceit, or to force the party to prepare or sign written statements or documents.
- (9) Prior to interrogation of the party, the tax inspector conducting the procedure shall be obliged to warn the party about the criminal and material liability for giving a false statement.

### **Interrogation of Witnesses**

#### **Article 10**

- (1) Under this Law, any person acquainted with the facts subject to testimony and capable to testify about these facts shall be considered as a witness.
- (2) A person participating in the procedure in the capacity of the tax inspector may not be considered as a witness.
- (3) A person who would violate confidentiality of state, military or official secret by his/her statement may not be interrogated as a witness until the competent body releases him/her from such duty.

#### **Article 11**

A witness may refuse to testify:

- 1) If the answer to the posed question would expose him/her and his/hers spouse to criminal persecution;
- 2) If answering the posed question would violate the obligation or right to keep business, professional, artistic or scientific secret. The witness shall prove the existence of the secret before a competent court in the event of doubt;
- 3) About something that the party confided as client to his attorney, who is summoned in the procedure as a witness;
- 4) About something that the party or another person confided to the witness as a religious confessor.

#### **Article 12**

- (1) Witnesses shall be interrogated individually, without the presence of witnesses that will be interrogated later on.
- (2) The interrogated witness must not leave the premises where the interrogation takes place without the authorization of the tax inspector conducting the procedure.
- (3) The tax inspector conducting the procedure may re-interrogate the already interrogated witness and confront the witnesses whose statements are contradictory.
- (4) The person who cannot comply with the summons due to his/her illness or physical disability shall be interrogated in his/her apartment, or place of residence.

### **Article 13**

- (1) At the beginning of interrogation, the witness shall be warned that he/she is obliged to speak the truth, that he/she must not withhold any information and that criminal charges may be brought against him/her for giving a false testimony.
- (2) Personal data shall be obtained from the witness in the following order: first and last name, TIN (if assigned), profession, permanent residence or temporary residence, place of birth, age, marital status, place of employment.
- (3) The authorized tax inspector conducting the procedure shall instruct the witness to which questions he may refuse to give an answer.
- (4) After that, the witness shall be interrogated about the subject matter and shall be invited to give a statement about his/her knowledge about that matter.
- (5) It shall be forbidden to ask the witness suggestive and leading questions in the course of interrogation.
- (6) The witness shall always be asked to state where he/she has gained the knowledge related to what he/she is testifying about.

### **Article 14**

- (1) If the witness does not know the language in which the proceeding is conducted, he/she shall be interrogated via an interpreter.
- (2) If the witness is deaf, questions shall be posed in writing, and if the witness is dumb, he/she shall be asked to respond to questions in writing.
- (3) If interrogation cannot be performed in the aforementioned manner, a person that is able to communicate with the witness shall be summoned as an interpreter.

### **Related Persons**

#### **Article 15**

- (1) Related persons shall be considered the persons having special mutual relations that may have a direct impact on the conditions or economic results of transactions between them.
- (2) The special relations referred to in paragraph 1 of this Article shall include individual relations between:
  - 1) the persons having at least 25% of share in the capital of another person;
  - 2) one person that has a direct or indirect interest in another person which is a company, if such an interest is at least 25%;
  - 3) one person that is subordinate to the other person in terms of his business position and that other person, or one person that is under control (directly or indirectly) of the other person and that other person;
  - 4) the persons representing subsidiaries or are under direct or indirect control of a third person;
  - 5) the persons that directly or indirectly control a third person and that third person, if each person's voting right is at least 25%.

- (3) The related person referred to in paragraph 1 of this Article shall also be the family member of the taxpayer. The family member shall be any person who is defined as such by the law governing family relations.

### **Tax Secret Article 16**

- (1) Tax secret shall mean any information or datum about the taxpayer at the disposal of the tax authority, except for information and data:
- 1) for which the taxpayer states in writing that they are not considered as tax secret;
  - 2) that cannot be related to a particular taxpayer, and cannot be identified in any other manner;
  - 3) pertaining to the existence of tax debt if the mortgage, or fiduciary right used as security is registered in the public books;
  - 4) on registration of the taxpayer, TIN, name (firm) and principal place of business;
  - 5) value of immovable property;
  - 6) published by the Tax Administration on quarterly basis in the list of tax debtors.
- (2) Data considered as tax secret, at request of the competent state authority, may be available to that authority in accordance with law.
- (3) The Government of Montenegro shall stipulate the conditions and criteria for publication of the list of the tax debtor within 90 days as of the day this Law enters into force.

### **Cooperation with local self-government Article 16a**

The tax authority and a local self-government unit shall be obliged to exchange official data required for discharge of their functions in accordance with law.

### **Minutes**

#### **Article 17**

- (1) Minutes shall be taken on the course of interrogation of a summoned person, the course of inspection audit and important verbal statements of a party, witnesses, expert witnesses or third person in the procedure.
- (2) The tax inspector conducting the procedure or a person he authorizes shall keep the minutes, provided that this person is employed with the tax authority.
- (3) The minutes shall be prepared in as many copies as there are participants in the procedure, plus one copy that shall be kept by the tax authority.
- (4) The following data shall be included in the minutes: name of the tax authority that is performing the action, the place where the action is taken, day and hour when the action is taken, the case with respect to which the action is taken, and names of the officials, present parties, their agents, representatives or proxies.
- (5) Minutes shall contain a precise and brief description of the course and contents of actions taken, as well as of statements given. The minutes should be limited solely to what is



related to the tax matter subject of the procedure. All documentation, documents and other objects used in the procedure shall be included in the minutes, and, if necessary, attached to the minutes.

- (6) The statements of the party, witnesses and expert witnesses who participate in the procedure shall be entered in the minutes as precisely as possible, in their own words when necessary. All conclusions adopted by the tax inspector conducting the procedure during such procedure shall also be recorded in the minutes.
- (7) If the interrogation of the party, witnesses or expert witnesses is conducted through an interpreter, the language used by the interrogated person and the name of interpreter shall be entered in the minutes.
- (8) The minutes shall be taken during the procedure. If the procedure cannot be concluded the same day, each day shall be separately entered in the same minutes and duly signed. If the procedure on which the minutes are taken could not have been finished without interruptions, a note on interruptions shall be made in the minutes.

### **Article 18**

- (1) Minutes must be taken duly, be legible and nothing shall be erased from the minutes.
- (2) Parts of the minutes that are crossed out prior to the closing of the minutes must be kept legible and certified with the signature of the tax inspector conducting the procedure.
- (3) Nothing shall be altered or added to the already signed minutes, and the additions shall be entered in the appendix to the minutes.

### **Article 19**

- (1) Before closing the minutes, the minutes shall be read to the persons that participated in the procedure, whereby such persons have the right to review the minutes themselves and lodge their remarks.
- (2) The tax inspector or person who took the minutes shall be obliged to note, at the closing of the minutes, that the minutes were read and that there were no remarks lodged, or in cases there were remarks, contents of the remarks shall be briefly entered in the minutes. The minutes shall be signed by the persons who participated in the procedure, and certified by the tax inspector conducting the procedure by his signature, as well as by the person who took the minutes, if applicable.
- (3) If the minutes consist of more than one page, each page of the minutes shall be marked with an ordinal number. The tax inspector conducting the procedure and the person whose statement has been written at the end of the page shall certify each page by their signatures at the bottom of each page.
- (4) Amendments to the already closed minutes shall be signed and certified again.
- (5) In case when the person who should sign the minutes is illiterate or cannot write, a literate person shall affix his/her signature to the minutes. Such person cannot be the official conducting the procedure or the person who took the minutes.

- (6) It shall be entered in the minutes if a person refuses to sign the minutes or leaves the premises before the minutes are closed, and the reason for failing to sign the minutes shall be stated.

### **Article 20**

- (1) The minutes taken in accordance with the provisions of this Law shall be considered as a public document. The minutes shall be considered as an evidence of the course and contents of the procedure and statements given in the procedure, except for the parts of the minutes on which the interrogated person made remarks that they were not properly taken.
- (2) Party to the procedure may lodge remarks on the minutes within three days as of the day of receiving the minutes. The tax authority shall decide on the remarks to the minutes in the form of a decision ruling on the principal subject matter.

### **Acts in the Tax Procedure**

#### **Article 21**

- (1) Tax act shall mean any document initiating, amending, altering or completing an action in the tax procedure.
- (2) The tax act referred to in paragraph 1 of this Article shall mean the decision, conclusion, minutes on inspection audit, order for performance of an inspection audit, minutes of interrogation, summons and other acts.
- (3) Tax acts by which certain rights and obligations in the tax-legal area are decided shall be the decision and the conclusion.

### **Form and Contents of Tax Act**

#### **Article 22**

- (1) The tax act shall be adopted in a written or verbal form.
- (2) The tax inspector may adopt a verbal tax act, based on the minutes, and order its immediate execution, in case there is a reasonable doubt that the collection of taxes shall be forestalled.
- (3) After the verbal tax act is announced it must be issued in the written form no later than within three days as of the day of its adoption.
- (4) The tax act referred to in Article 21 of this Law must contain:
  - 1) the name of the tax authority, number and date;
  - 2) the name or firm of the person it is submitted to;
  - 3) legal and factual basis;
  - 4) signature of the tax inspector;
  - 5) seal impression.
- (5) Tax act imposing a prestation or sufferance must also contain the warning about the consequences in case of failure to act accordingly.

### **Submission of Acts** **Article 23**

An act shall be considered submitted:

- 1) to a legal person, if it has been submitted to a legal representative or proxy of the legal person, if the tax inspector left it at the address of the legal person stated in the registration application form or in the last tax return, or if the document has been sent by registered mail to the last known address of the legal person or in electronic form;
- 2) to a natural person, if it has been submitted to that person or his/her legal representative or proxy, or if the tax inspector has left it at the address of that person stated in the registration application form or in the last tax return, or if the document has been sent by registered mail to the last known address or place of residence of that person or in electronic form.

### **Inspection of Premises Where Books and Records and Other Objects Important for Determining Tax Liability Are Kept** **Article 24**

- (1) The tax inspector shall be entitled to enter into and inspect premises where:
  - 1) Books and records or other objects necessary for determination of tax liability are kept or may be kept;
  - 2) Any activity that is subject to taxation takes place or may take place.
- (2) The tax inspector referred to in paragraph 1 of this Article may enter an apartment or any other place without the consent of its holder and search the place on the basis of a court order.
- (3) The search shall be performed in the presence of two witnesses.

## **IV RIGHTS AND OBLIGATIONS OF TAXPAYERS**

### **Rights of Taxpayers** **Article 25**

- (1) The taxpayer shall be entitled to:
  - 1) be accurately and timely informed about all issues that enable him/her to declare and pay tax liabilities;
  - 2) request from the tax authority to keep the gathered data on assessment of tax liability as the tax secret and use them or disclose them only to the institutions and bodies in the manner and under the procedure prescribed by this Law;
  - 3) request re-examination and re-assessment of his/her tax liability in the manner prescribed by this Law;
  - 4) receive, free of charge, information from the tax authority about the tax regulations, rights and obligations arising from them;
  - 5) receive a copy of tax return and other tax forms;
  - 6) be treated with due respect by the tax authority;
  - 7) represent his/her personal interests before the tax authorities, in person or through his/her proxy;
  - 8) use tax relief in accordance with tax regulations;

- 9) have access to data on assessment and collection of tax liability kept by the tax authority and request changes of the incorrect and amendments to incomplete data;
  - 10) be present during the inspection audit;
  - 11) also use other rights determined by this Law.
- (2) The taxpayers whose rights referred to in this Article are violated shall have the right to protection that is exercised by the complaint lodged with the competent court.
- (3) If the court determines that the taxpayer's rights have been violated, the tax authority shall bear compensation and expenses of the court procedure.

### **Obligations of Taxpayer Article 26**

The taxpayer shall be obliged to:

- 1) submit a registration form to the competent tax authority;
- 2) accurately calculate taxes and submit tax return to the tax authority within the deadline and in the manner determined by tax regulations;
- 3) report to the competent tax authority every change of the principal place of business, permanent or temporary residence, and other data from the taxpayers' registry;
- 4) keep business books and records in the prescribed manner and keep them in accordance with law;
- 5) settle its tax liability in the manner and within the deadlines determined by law and other regulations adopted on the basis of the law;
- 6) submit documents and other data necessary for assessment of tax liability at request of the tax authority;
- 7) enable undisturbed work of the tax authority officers in performance of their legal authorizations;
- 8) perform other obligations determined by tax regulations.

## **V IDENTIFICATION AND GENERAL REGISTRATION OF THE TAXPAYER**

### **Article 27**

- (1) General registration of the taxpayer with the competent tax authority shall be performed on the basis of a registration application by registration in the tax registry, within the deadline and in the manner prescribed by this Law.
- (2) The following persons shall be obliged to submit the registration application:
- 1) the legal person or organization generating revenues in the Republic or outside the Republic;
  - 2) the natural person generating revenues or owning property in the Republic or outside the Republic;
  - 3) the foreign legal person or organization generating revenues in the Republic;
  - 4) the foreign natural person generating revenues or owning property in the Republic.
- (3) The tax authority shall, for the purpose of identification of taxpayers, issue a decision on registration by which the TIN are assigned to legal persons and natural persons.

- (4) TIN shall be a unique and sole number of a legal person or natural person for all types of taxes and shall be kept in the case of a change of headquarters, permanent residence or temporary residence of the taxpayer.
- (5) TIN shall be entered into:
  - 1) the act that the taxpayer submits to the tax authority, state authorities and local government authorities;
  - 2) the act that the tax authority submits to a taxpayer;
  - 3) the order by which the taxpayer pays his tax liability.
- (6) The ministry in charge of financial activities shall prescribe the form and contents of the registration application.

### **Article 28**

- (1) The tax authority shall keep the registry of taxpayers.
- (2) The registry of taxpayers shall mean a set of data on the taxpayer comprised of the registration folders and collection of documents. The registration folder shall consist of the registration sheets where all the data that are being registered are entered. The collection of documents shall mean a chronological order of documents and acts based on which the registration into the registration folder has been done.
- (3) The persons referred to in Article 27 paragraph 2 of this Law shall submit the following, along with the registration application:
  - 1) identification proof (act on registration of a legal person or entrepreneur, identity card, passport, driver's license);
  - 2) statement about the number of family members;
  - 3) ownership certificate;
  - 4) proof of employment.

### **Place and Time of Registration**

#### **Article 29**

- (1) Registration application for the persons referred to in Article 27, paragraph 2, items 1 and 3 of this Law shall be submitted to the tax authority on the basis of the principal place of business of such persons.
- (2) Registration application for the persons referred to in Article 27, paragraph 2, items 2 and 4 of this Law shall be submitted on the basis of the permanent, or temporary residence of such persons.
- (3) Registration application for the person referred to in Article 27, paragraph 2, item 4 of this Law who does not have a permanent or temporary residence on the territory of the Republic shall be submitted to the headquarters of the tax authority.
- (4) Notwithstanding paragraph 1 of this Article, legal persons categorized as large taxpayers, shall submit the registration application in the headquarters of the tax authority.
- (5) Criteria for determining large taxpayers shall be prescribed by the ministry in charge of financial activities, at the proposal of the tax authority.

### **Article 30 (Official Gazette of the Republic of Montenegro, No 80/04)**

- (1) The persons referred to in Article 27, paragraph 2, items 1 and 3 of this Law may have only one principal place of business.
- (2) The persons referred to in paragraph 1 of this Article of this Law shall be obliged to notify in writing the regional office of the tax authority they are registered with of a change in the principle place of business within 5 business days as of the day of the change occurrence.

### **Article 31**

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### **Article 32 (Official Gazette of the Republic of Montenegro, No 80/04)**

- (1) The persons referred to in Article 27, paragraph 2, items 1 and 3 of this Law shall submit the registration application within 5 business days as of the day of registration with the court or other registry.
- (2) The persons referred to in Article 27, paragraph 2, items 2 and 4 of this Law shall submit the registration application within 5 business days as of the day of generating taxable income, registration with adequate registry, or acquisition of property that is subject to taxation.
- (3) If the persons referred to in this Article fail to submit the registration application within the prescribed deadline, the tax authority shall submit the application for those persons on the basis of the data at its disposal.

### **Article 33**

The persons referred to in Article 27 of this Law shall be obliged to inform the tax authority of all the changes occurred during the operations that are related to the data entered into the registry of taxpayers, within 15 days as of the day of the change occurrence.

### **Obligations of Administrative and Judicial Bodies in Charge of Registration**

#### **Article 34**

- (1) The court keeping the registry of legal persons, organizations and entrepreneurs shall be obliged to inform the competent tax authority on registration, change in the status or bankruptcy of a legal person, organization and entrepreneurs within five business days as of the day of undertaking such activities.
- (2) Local government authorities keeping vital records and state authorities keeping the records on permanent and temporary residence shall be obliged to inform the tax authority on birth, death, registration of or change in permanent or temporary residence of citizens, within five business days as of the day of birth, death, registration of or change in permanent or temporary residence.
- (3) The Bar Association, professional associations, as well as other bodies and organizations competent for registration of persons performing specific activities in adequate registry, shall be obliged to submit to the tax authority, within five business days as of the day of registration, a notification on registration, cancellation of registration and deletion from the registry, as well as on other changes important for assessing taxes.

## **Termination of Registration**

### **Article 35**

The tax authority shall be obliged to make changes in the tax registry within five business days as of the day of receiving the notification referred to in Article 34 of this Law, or to adopt a decision on termination of registration within 30 days.

## **VI TAX RETURN**

### **Article 36**

- (1) The tax return, under this Law, shall mean a document prepared and submitted to the tax authority on a prescribed form.
- (2) The tax return must consist of a general and a specific part. The general part of the tax return shall consist of the data on the taxpayer from the vital registry, whereas the specific part shall consist of the data important for assessment of a tax liability.
- (3) The taxpayer shall also be obliged to submit, together with the tax return, any documentation important for the assessment of the tax liability prescribed by tax regulations.
- (4) The taxpayer shall submit the tax return to the tax authority where he is registered in the registry of taxpayers, unless otherwise prescribed by this Law.
- (5) Tax return shall be submitted for each type of taxes separately in the manner and within deadlines prescribed by tax laws.
- (6) The taxpayer shall submit the tax return directly or by mail.
- (7) The taxpayer may submit the tax return on a disc or in another form that enables computer data processing.
- (8) The taxpayer or his/her proxy shall sign the tax return under the penalty of perjury. The liability, in that case, shall also be borne by the expert who prepared the tax return or its part. The expert shall be obliged to sign the tax return and include his/her TIN.
- (9) The ministry in charge of financial activities shall prescribe the form and contents of the tax return, at the proposal of the tax authority.

### **Submission of the Tax Return by the Tax Authority**

#### **Article 37**

- (1) The tax authority shall be authorized to submit the tax return for the taxpayer within three days as of the day of finding out that the return was not submitted within the prescribed deadline.

- (2) The tax authority shall be authorized to complete for a taxpayer an incomplete tax return and correct wrongly completed tax return immediately upon finding out the omissions and mistakes in the submitted return.
- (3) The tax authority shall submit a copy of the tax return referred to in paragraphs 1 and 2 of this Article to the taxpayer.

### **Amended Tax Return**

#### **Article 38**

- (1) Taxpayer who finds out that the tax return he submitted contains a mistake or omission shall be entitled to submit an amended tax return in which the mistake or the omission is corrected.
- (2) The amended tax return submitted within 10 days as of the expiry of the deadline for its submission shall be considered as timely submitted.

#### **Article 39**

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### **Tax Return for Withholding Tax**

#### **Article 40**

- (1) Tax return for withholding tax shall mean the report that the Tax Payer or intermediary submits to the tax authority.
- (2) The collective tax return shall contain data on calculated and paid withholding tax by one Tax Payer or intermediary for all receivers of income.
- (3) The individual tax return shall contain data on calculated and paid withholding tax by a single Tax Payer or intermediary for each receiver of income.
- (4) The collective tax return shall be submitted on the same day when the payment of income is executed.
- (5) The individual tax return shall be submitted once a year, no later than by 31<sup>st</sup> January of the current year for the previous year.
- (6) Tax Payer, or intermediary shall be obliged to issue the person from whose income the withholding tax was paid a certificate on paid tax, which includes the data on gross income, costs, taxable income, tax relief and paid withholding tax, upon the expiry of the year and no later than by 31<sup>st</sup> January.
- (7) The ministry in charge of financial activities shall prescribe the form and contents of the tax return referred to in paragraph 1 of this Article, at the proposal of the tax authority.

### **Authorization of the Tax Authority to Extend the Deadline for Submission of the Tax Return**

#### **Article 41**



- (1) The head of the Tax authority may approve, at the request of a taxpayer, the extension of the deadline for submission of the tax return prescribed by law, for the period not exceeding 90 days upon the expiry of the deadline.
- (2) The extension of the deadline referred to in paragraph 1 of this Article may be approved in the case of illness, absence from the country and other circumstances that the taxpayer could not have influenced.
- (3) The request referred to in paragraph 1 of this Article shall be submitted in writing within the deadline prescribed for submission of the tax return, whereby the reason for failure to meet the deadline must be proved.
- (4) The request referred to in paragraph 3 of this Article shall be decided on in the form of a decision, within 7 days as of the day of receiving the request.
- (5) The extension of the deadline in accordance with this Article shall not affect the time when payment of taxes is due and calculation of interest for that period.
- (6) If the deadline for submission of tax return expires, and the request referred to in paragraph 1 of this Article is rejected, the tax return must be submitted the following day from the day of submission of the decision on rejecting the request.

## **VII TAX LIABILITY**

### **Article 42**

- (1) Tax liability shall mean the liability of the taxpayer to pay tax, interest and costs of the procedure, individually or collectively, in the manner prescribed by law.
- (2) The tax liability referred to in paragraph 1 of this Article for specific tax, costs of the procedure or interest shall be considered due within the deadline prescribed by law.

### **Tax Liability of Legal Person or Organization under Bankruptcy**

#### **Article 43**

Tax liability of a legal person or organization under bankruptcy shall be paid in the manner prescribed by the law governing business organization insolvency.

### **Tax Liability in Case of Status Changes of Legal Person or Organization**

#### **Article 44**

- (1) In case of status changes of a legal person or organization, tax liability shall be paid by a legal successor.
- (2) When there are several legal successors, tax liability shall be settled in the manner prescribed by law governing business organization forms.

## **Tax Liability of Deceased Persons, Persons who Lost Business Capacity or Are Missing**

### **Article 45**

- (1) The heirs of a deceased person shall pay the deceased person's tax liability up to the value of inherited property, proportionally to their share in inheritance.
- (2) Legal representative or executor of the will of the person who is declared missing by court shall pay the missing person's tax liability from his property.
- (3) Legal representative of the person who lost his/her business capacity by a court decision shall pay tax liability from the property of that person.

### **Article 46**

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### **Article 47**

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### **Article 48**

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### **Article 49**

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## **VIII PAYMENT OF TAX LIABILITY**

### **Article 50**

- (1) The taxpayer shall pay tax liability within the deadlines and in the manner prescribed by tax laws.
- (2) The payment of tax liability shall be executed, as a rule, through payment system participants through lodgements to adequate revenue deposit accounts.
- (3) The day of the payment of tax liability shall mean the day when the payment of the tax liability is received into the adequate revenue deposit account.
- (4) The ministry in charge of financial activities shall prescribe the revenue deposit accounts for tax payments.

### **Order for Payment of Tax Liability**

#### **Article 51**

- (1) The order for payment of tax liability shall mean a financial document submitted by the taxpayer on the prescribed form.
- (2) When submitting the order, the taxpayer shall be obliged to designate the tax liability the order relates to.

- (3) The payment of tax liability referred to in paragraph 2 of this Article shall be executed in the following order:
  - 1) tax;
  - 2) interest;
  - 3) costs of the procedure.
- (4) If the taxpayer fails to designate the type of the tax liability the payment relates to, the payment shall be executed in the order referred to in paragraph 3 of this Article.

## **IX ASSESSMENT OF TAX LIABILITY**

### **Article 52**

- (1) The taxpayer shall make the tax assessment by himself when the tax law prescribes self-assessment.
- (2) Tax authority shall assess tax liability when the taxpayer fails to calculate or incorrectly calculates taxes and when it is prescribed so by tax law.
- (3) The assessment of tax liability referred to in paragraph 2 of this Article shall be made in the form of a decision.

### **Tax Decision**

#### **Article 53**

- (1) The tax authority shall adopt the tax decision referred to in paragraph 3, Article 52 of this Law, on the basis of business books and records of the taxpayer.
- (2) If the tax authority cannot adopt the decision referred to in paragraph 1 of this Article on the basis of business books and records of the taxpayer, it shall adopt the decision on the basis of evaluation of the tax base.
- (3) When evaluating the tax base referred to in paragraph 2 of this Article, the tax authority shall take the following into account:
  - 1) available proper business documentation, if it is not recorded;
  - 2) available proper business documentation on operations within a certain period shorter than the taxation period (daily, weekly or monthly);
  - 3) data and facts on realized turnover (daily, weekly or monthly) determined by inspection audit;
  - 4) data obtained by comparison with other taxpayers performing the same or similar activity, in the same or similar location, under approximately same conditions;
  - 5) other relevant data and facts.
- (4) The ministry in charge of financial activities shall prescribe in more details the manner for assessment of tax base by evaluation, at the proposal of the tax authority.

### **Form and Contents of Tax Decision**

#### **Article 54**

- (1) The tax decision shall be adopted in the written form and it shall be designated as such.
- (2) The tax decision shall contain:
  - 1) name of the tax authority, reference number and date of the decision;
  - 2) introduction, operative part and explanation;
  - 3) instruction on legal remedy,
  - 4) signature of the authorized person and seal of the tax authority.
- (3) The operative part shall contain in particular: the name (firm) of the taxpayer, TIN, type of tax, tax base, tax rate, amount of the assessed tax, tax period, tax relief, the revenue deposit account, payment order, payment deadline, interest, interest rate and the note that the appeal shall not stay the enforcement of the decision.
- (4) An appeal may be lodged with the second instance body against the tax decision referred to in paragraph 1 of this Article within 15 days as of the day of receiving the decision.
- (5) The appeal shall not stay the enforcement of the decision.

### **Payment of Tax Liability According to Decision Article 55**

Tax liability assessed under the tax decision shall be due for payment within 10 days as of the day of submission of the decision, unless otherwise prescribed by tax law.

### **Recording of Tax Liability Article 55a**

- (1) Tax authority shall record the tax liability assessed in the manner referred to in Article 52 of this Law for each taxpayer.
- (2) Tax liability shall be recorded upon the receipt of a tax return and submission of the tax decision.

## **X ENFORCED COLLECTION OF TAXES**

### **Article 56**

- (1) Enforced collection procedure shall be undertaken when a taxpayer fails to pay his tax liability when submitting the tax return or when the tax decision becomes enforceable.
- (2) The tax authority shall initiate the enforced collection procedure by adoption of the conclusion on enforced collection of tax liability.
- (3) The taxpayer shall bear the costs of enforced collection.
- (4) The Government shall prescribe the amount of costs of enforced collection.

### **Article 57**

- (1) The conclusion on enforced collection shall contain *inter alia*:
  - 1) tax return reference, or enforcement order and date when the tax return is recorded, or when the order becomes enforceable;
  - 2) the amount of tax debt according to maturity, amount of interest and costs of the procedure;
  - 3) order to the taxpayer to pay his tax debt within 10 days;
  - 4) case reference and means of enforced collection;
  - 5) number of the account to which the payment shall be made;
  - 6) the taxpayer's debtor's reference;
  - 7) more detailed identification of immovable property in accordance with the data from the public book;
  - 8) note that costs of the enforced collection procedure shall be covered by the taxpayer;
  - 9) name of the Tax Payer and his registered office.
- (2) If the enforced collection is made against wages, pensions and other personal earnings of the taxpayer, the conclusion on the enforced collection shall also be submitted to his Tax Payer.

### **Article 58**

- (1) Appeal may be lodged against the conclusion on enforced collection within three days as of the day of its delivery.
- (2) The appeal shall not stay the enforcement of the conclusion.

### **Article 59**

- (1) The following may be subject to enforced collection:
  - 1) monetary assets of the taxpayer;
  - 2) monetary claims of the taxpayer;
  - 3) property (movable and immovable) of the taxpayer.
- (2) Enforced collection may be carried out against one or several items referred to in paragraph 1 of this Article.

### **Article 60**

- (1) In the procedure of enforced collection of a tax liability, a security interest may be imposed on the property of the taxpayer for the purpose of securing the tax claim.
- (2) The security interest referred to in paragraph 1 of this Article shall be imposed in the manner envisaged by the law governing pledge or mortgage.

### **Enforced Collection from Monetary Assets and Claims of Taxpayer**

#### **Article 61**

- (1) Transfer of funds from the taxpayer's account to the account to which tax liabilities are paid shall be used to carry out enforced collection from monetary assets of the taxpayer.

- (2) Enforced collection from the monetary assets of the taxpayer shall be executed in the manner and pursuant to the procedure prescribed by the law governing enforced collection procedure.
- (3) The conclusion on the enforced collection shall be submitted to the Central Bank of Montenegro for the purpose of its execution.

#### **Article 62**

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### **Collection of Tax Liabilities from Property**

#### **Article 63**

- (1) Enforced collection of tax liability against the property of the taxpayer shall mean the seizure and sale of the taxpayer's property (movable or immovable) and use of proceeds obtained by sale or other procedure for collection of the tax liability.
- (2) Property of the taxpayer that may be seized and sold shall include the property and property-based rights that belong to the taxpayer, regardless whether he or another person physically possesses that property.
- (3) The conclusion on the enforced collection shall be submitted to the taxpayer whose property is to be seized or to another person if that person possesses the property of the taxpayer or is his debtor on another basis.

#### **Article 64**

- (1) Tax inspector shall carry out the seizure in the presence of two witnesses. The taxpayer shall be entitled to be present during the seizure procedure.
- (2) The seizure shall consist of inventory-taking and appraisal of property.
- (3) Any person possessing the property to be seized shall be obliged to surrender or pay the amount reflecting the value of that property to the tax inspector at his/her request.
- (4) In case when a person other than the taxpayer holds the taxpayer's property subject to seizure, the property may be seized only on the basis of a court decision adopted in the enforcement procedure.
- (5) For adopting the decision referred to in paragraph 4 of this Article, the tax authority shall also enclose with the request submitted to the court the proofs of the existence of tax debt, that the person possesses cash or other means from which the tax could be collected, and that the collection attempt was unsuccessful.
- (6) The seizure procedure shall last until the tax liability is paid, or the procedure of enforced collection is terminated.

#### **Article 65**

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### **Article 66**

- (1) The tax inspector shall take minutes on the seizure including, which includes the following information:
  - 1) the name of the tax authority and the name of the tax inspector conducting the collection procedure;
  - 2) last and first name, firm, permanent residence or headquarters of the taxpayer, TIN and data on other persons witnessing the seizure;
  - 3) time and place of the seizure;
  - 4) amount of tax debt, interest and costs of the seizure procedure;
  - 5) name, reference and description of seized objects;
  - 6) value of the seized objects according to the performed appraisal;
  - 7) last and first name, address, or headquarters of the person to whom the property is given into custody;
  - 8) statement that the taxpayer and the custodian of seized objects have been warned of the consequences of divesting of or damaging the seized property;
  - 9) objection of the taxpayer and other persons to the procedure of appraisal and seizure, the persons performing the appraisal, appraised amount or other objections, or objections of other persons.
- (2) In cases when the presence of the police is required, their presence shall be recorded in the minutes on the seizure.
- (3) The tax inspector conducting the procedure, the taxpayer, his proxy or authorized person or a member of his household, proxy or authorized person, debtor of the legal entity, witnesses, appraisers and other officials witnessing the seizure shall sign the minutes.
- (4) If the taxpayer or his proxy or authorized person, or the representative of authorized person or the debtor legal person refuses to sign the minutes, the note thereof shall be entered into the minutes.
- (5) The taxpayer and other persons from whom the property is seized shall each be provided with a copy of the minutes.

### **Article 67**

- (1) The tax inspector shall be obliged to notify about conducted inventory all persons pointed out as owners of the inventoried property or part of that property, and instruct them that they may file an extracting complaint with the competent court, for the purpose of proving the ownership right on the respective property, within 8 days from the day of receiving the notification.
- (2) The tax inspector shall deliver verbally the notification referred to in paragraph 1 of this Article if those persons witness the inventory taking procedure, and shall enter it into the minutes on the inventory and appraisal of movable property, whereas the absent persons shall be notified in writing.
- (3) If the notified persons referred to in paragraph 2 of this Article prove that they have filed the extracting complaint with the court within eight days, the collection procedure shall be suspended in respect of the property covered by the extracting complaint.

### **Article 68**

- (1) Timely filed extracting complaint with the court shall postpone the seizure and sale of the inventoried movable property the complaint relates to until the termination of the dispute, and that property shall remain for safekeeping with the taxpayer.
- (2) The taxpayer shall be obliged to safekeep the property referred to in paragraph 1 of this Article in the unaltered condition until the termination of the dispute in respect of extracting complaint.

#### **Article 69**

- (1) If it is determined in the extracting complaint procedure that the person who filed the extracting complaint is not the owner, and the taxpayer divests of, destroys or damages the property, criminal charges shall be brought to the prosecutor of relevant jurisdiction.
- (2) In the case referred to in paragraph 1 of this Article, for the purpose of securing the collection of debt, a new inventory and appraisal of the property shall be made without any delay.

#### **Article 70**

- (1) The tax authority shall be held responsible for the seized property. If monetary assets are seized, the tax authority shall deposit them to the appropriate account of the budget within one business day as of the day of seizure.
- (2) The tax authority that implemented the seizure of the property shall publish the advertisement of the sale of the property in the public information media and on the bulletin board of the tax authority, within 5 days as of the day of seizure.
- (3) Officials of the Tax authority, spouses, ancestors and descendants of the officials, and the ancestors and descendants of officials' spouse may not participate directly or indirectly in the public bidding.
- (4) The taxpayer whose property is seized in accordance with this Law may, prior to the sale of the property, settle the tax liability and costs of the seizure. The tax authority shall return the seized property to the taxpayer the following day from the day of the settlement of the tax liability.
- (5) In case when the seized property is perishable or when the Tax authority estimates that there are exceptionally important circumstances justifying urgent sale, the sale may be executed through direct negotiations.
- (6) Proceeds generated through the sale of the seized property shall be used for the settlement of the tax liability in the order referred to in Article 51 of this Law.
- (7) The ministry in charge of financial activities shall prescribe in more details the sale of property, at the proposal of the tax authority.

#### **Article 71**

The provisions of the law governing the enforcement procedure shall be accordingly applied to exemptions, security procedure, inventory of the property and other issues related to enforced collection that are not regulated by this Law.



## **Article 72**

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# **XI INSPECTION AUDIT**

## **General Provisions**

### **Article 73**

Inspection audit shall mean a procedure of verification and establishment of facts important for taxation of the taxpayer and other persons, conducted by the tax authority in accordance with authorizations prescribed by laws regulating specific types of taxes.

### **Subject Matter of Inspection audit**

#### **Article 74**

- (1) Inspection audit shall include the verification of all or specific facts relevant for taxation.
- (2) Inspection audit shall include the verification of one or several types of taxes for one or more taxation periods.
- (3) In case of control of an entrepreneur, the inspection audit may also include the facts not related to the business activity of the entrepreneur.
- (4) Inspection audit of corporations or partnerships shall also include the verification of relations between the owners of entities and respective entities relevant for taxation.
- (5) Inspection audit shall also include the inspection of financial reporting obligation, in accordance with the law governing the accounting and auditing area.

### **Period of Inspection Audit**

#### **Article 75**

- (1) Inspection audit may be performed for a period during which the right to tax liability assessment has not fallen under the statute of limitations.
- (2) Inspection audit of taxpayers must be continued from the last taxation period covered by the previous inspection audits.
- (3) One taxpayer may not be subject to inspection audit for the same type of tax and for the same time period more than once a year.

### **Order for Inspection Audit**

#### **Article 76**

- (1) Tax authority shall determine the subject matter and period of inspection audit by an order for inspection audit (hereinafter referred to as: the order).

- (2) The order shall be issued in writing. In addition to the data referred to in Article 22 of this Law, the order shall include: the period for which the audit is performed, type of tax, place and time of the audit commencement, name of the tax inspector, invitation for the taxpayer to participate in the procedure of inspection audit.

#### **Article 77**

- (1) The order shall be submitted to:
- 1) the large taxpayer 30 days prior to the commencement of the inspection audit;
  - 2) other taxpayers 15 days prior to the commencement of the inspection audit.
- (2) Notwithstanding paragraph 1 of this Article, if the submission referred to in paragraph 1 of this Article would jeopardize the purpose of inspection audit, the order shall be submitted to the taxpayer immediately prior to the commencement of the inspection audit.
- (3) The tax authority may postpone the commencement of inspection audit if the taxpayer submits an objection within 3 days as of the day of receiving the order, and therein states the justified reasons for postponement of the inspection audit, except for the cases referred to in paragraph 2 of this Article.
- (4) The tax authority shall adopt the decision upon the objection in the form of a conclusion that may not be appealed.

### **Forms of Inspection Audit**

#### **Article 78**

- (1) Inspection audit shall be exercised through office and field controls.
- (2) The tax inspector shall perform inspection audit activities.

#### **Article 79**

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### **Control of Tax Return**

#### **Article 80**

- (1) Tax return shall be controlled in the premises of the tax authority where the taxpayer is registered.
- (2) The control of the tax return shall mean the verification of its accuracy, and accuracy and completeness of the documentation submitted together with the tax return. During the verification of the tax return, all data possessed and obtained by the tax authority shall be used.
- (3) Tax inspectors shall verify the tax return, and the taxpayer may also be present during the control.
- (4) If a tax inspector determines during the control that the tax return is incomplete or incorrectly completed, the tax inspector shall complete or remove the mistakes on the basis of the submitted documentation. If the inspector determines that the tax return and

the attached documents are incorrect, he shall forward the tax return together with the documentation to the tax inspector in charge of office control for further procedure.

### **Office Control**

#### **Article 81**

- (1) Office control shall be conducted in the premises of the tax authority where the taxpayer is registered.
- (2) During the office control procedure accuracy of data stated on the tax return, tax balance and other records of the taxpayer shall be verified by comparing them with the data from the tax bookkeeping and official records at the disposal of the tax authority.
- (3) The tax inspector may invite a taxpayer to participate in the procedure of office control.

### **Field Control**

#### **Article 82**

- (1) Field control shall be conducted in the business premises of the taxpayer or in another location specified by the head of the tax authority conducting the control.
- (2) During the control, the tax inspector shall use the data from the tax return, documentation and statements of the taxpayer, and documentation and data collected by the tax authority.
- (3) One field control shall last up to 90 business days. The head of the tax authority may exceptionally extend this deadline.

#### **Article 83**

- (1) The tax inspector, in the procedure of gathering proofs for assessment of tax liability, may also use certain indication.
- (2) The indication, for the purpose of paragraph 1 of this Article, shall mean certain signs, data or information that may serve to the tax authority for assessing the tax liability for all types of taxes.
- (3) The indication referred to in paragraph 2 of this Article shall relate to:
  - 1) type and nature of the taxpayer's operations,
  - 2) movement of funds through the taxpayer's account in a bank or another financial institution and the amount of the funds in such accounts,
  - 3) ratio between the taxpayer's expenditures and revenues,
  - 4) property of the taxpayer acquired or used for personal use and other evidence of property including apartments, houses, business premises, vehicles, means of labour, club memberships, number of domestics and similar,
  - 5) analysis of changes in the value of the taxpayer's property,
  - 6) the amount of rental fee for immovable property where the taxpayer works or lives,
  - 7) the amount of capital in the taxpayer's company,
  - 8) generated turnover of the taxpayer,
  - 9) number of taxpayer's employees,
  - 10) type and number of taxpayer's business clients,

- 11) profit or income of other persons conducting a similar or identical activity as the taxpayer under the same or similar conditions,
- 12) difference between the purchased raw materials and other materials and those that were actually used in the production process;
- 13) all other evidence that could serve for determining the tax liability amount.

### **Time for Inspection Audit**

#### **Article 84**

- (1) Inspection audit shall be conducted during the working hours of the taxpayer and exceptionally also after expiration of the working hours, if imposed so by the purpose of the audit.
- (2) If a commenced action in the procedure of inspection audit may not be completed during the taxpayer's working hours and the taxpayer does not agree with the continuation of the control after the expiration of the working hours, the tax inspector may temporarily close the business premises or warehouses.
- (3) The measure of temporary closure referred to in paragraph 2 of this Article may last only until the beginning of the taxpayer's working hours on the first following business day. The conclusion shall be adopted on the temporary measure referred to in paragraph 2 of this Article, which may not be appealed.

#### **Article 85**

- (1) In addition to the obligations referred to in Article 26 of this Law, during the inspection audit procedure, the taxpayer shall be obliged to participate, at request of the tax inspector, in determining the facts relevant for taxation, for the purpose of providing data, presenting books and records and other documents.
- (2) If the taxpayer is not able to be present during the control, he shall authorize a person to carry out obligations referred to in paragraph 1 of this Article on his behalf. The tax inspector may request data from employees of the taxpayer or other persons.
- (3) The persons referred to in paragraph 2 of this Article shall be obliged to make the data and documentation at their disposal available to the tax inspector.

### **Minutes on Inspection Audit**

#### **Article 86**

- (1) The minutes shall be taken on the course of inspection audit.
- (2) The minutes referred to in paragraph 1 of this Article shall contain, in addition to the data referred to in Article 17 of this Law, the following information: subject matter of the control, description of activities, facts and proofs that are used in the procedure and other data on the course and result of the audit, in particular facts important for the change of tax liability and aggregate amount of the determined changes of tax liabilities.
- (3) The minutes on inspection audit shall be submitted to the taxpayer within 3 days as of the day the audit is completed. Objections may be given to the minutes within 3 days from the day of submission of the minutes.

- (4) If the objections contain new facts and proofs due to which the facts determined in the minutes or previous legal opinions should be changed, the tax inspector shall make additional minutes on such new facts and proofs or new legal opinions. Objections may not be given to the additional minutes.

## **Measures of Inspection Audit**

### **Article 87**

When a tax inspector determines during the inspection audit that this Law or another tax regulation is breached, he shall have the obligation and authorization to order the following measures:

- 1) submission of necessary documentation and data;
- 2) temporary seizure of documentation, equipment and means of labour;
- 3) enforced opening or closure of premises for the purpose of conducting the inspection audit;
- 4) prohibition to dispose with funds on the account;
- 5) prohibition to conduct activity or certain jobs for a specified period of time;
- 6) temporary forfeiture of unlawfully acquired property gain;
- 7) temporary seizure of raw materials, processed materials, semi-finished products, final products and goods when there are no proofs of the manner of acquisition of goods, when the goods are traded by a non-registered person or person not having the proof of goods origin, when the goods are traded without the prescribed mark, when the goods are transported without the appropriate documentation, and when the goods are sold outside the business headquarters or another place determined by a competent state authority;
- 8) bring charges for a crime or economic offence to the competent authority and submit the request for initiation of misdemeanour procedure;
- 9) impose on-the-spot fines;
- 10) undertake other measures for which he is authorized by law and other tax regulations.

### **Article 88**

- (1) When the tax inspector orders the measure of seizing the objects subject to control that may serve as evidence or are used, intended or generated as a result of illegal activities, he shall be obliged to determine the place and manner for safekeeping these objects.
- (2) The person entrusted with safekeeping the objects referred to in paragraph 1 of this Article shall be obliged to take over these objects and safekeep them until the final decision in respect of the charge or request of the tax inspector, and issue a certification of safekeeping the taken objects to the tax inspector.

### **Article 89**

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### **Article 90**

- (1) The tax inspector shall order the measures referred to in Article 87 of this Law in the form of a decision.
- (2) Notwithstanding paragraph 1 of this Article, the tax inspector may order the measures referred to in Article 87 of this Law in the minutes on completed control or verbal

decision when he estimates that in such a manner the damage of greater value would be prevented and when it is in the public interest.

- (3) In the case referred to in paragraph 2 of this Article, the tax inspector shall be obliged to adopt a written decision within three days.
- (4) The tax inspector shall adopt the decision referred to in paragraph 1 of this Article on the basis of facts determined in the minutes and additional minutes on inspection audit.
- (5) The decision referred to in paragraph 1 of this Article shall also contain, in addition to the data referred to in Article 54 of this Law, a deadline for execution of the measure determined by the tax inspector adopting the decision.

#### **Article 91**

If new facts and circumstances are determined in the course of inspection audit indicating that the taxpayer failed to assess his tax liability in a proper manner, the tax authority shall, on the basis of the minutes on inspection audit, determine the tax liability in the form of a decision.

#### **Article 92**

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#### **Article 93**

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#### **Article 94**

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### **XIII INTEREST**

#### **Article 95**

- (1) Interest at the rate of 0.03% on daily basis shall be paid on the amount of unpaid or underpaid taxes, starting from the day following the maturity date.
- (2) Interest shall not be paid on the amount of default interest.

#### **Article 96**

- (1) The taxpayer shall be entitled to interest on the amount of overpaid taxes at the rate referred to in Article 95 of this Law.
- (2) The interest shall be calculated from the day of receiving the request for refund of overpaid taxes.
- (3) If the ground for tax refund is a rescinded, amended or cancelled decision or another act on borrowing, the interest shall be calculated from the day of payment of taxes.

## **XIV TAX DEDUCTIONS AND REFUNDS**

### **Article 97**

- (1) If the taxpayer executes the payment in the amount exceeding the amount of a tax liability, the tax authority shall be obliged to return to the taxpayer the exceeding amount with associated interest, or direct this amount for settlement of taxes for the following tax period, with the consent of the taxpayer, in accordance with this Law.
- (2) The tax authority shall be obliged to inform the taxpayer on the overpaid amount within 8 days as of the day of overpayment.
- (3) The tax authority shall be obliged to refund the exceeding amount of the tax liability within 5 business days as of the day of receiving the request for the refund.

### **Article 98**

- (1) The amount of debt of the taxpayer having the tax debt shall be reduced by the overpaid amount referred to in Article 97 of this Law, in the order of priority referred to in Article 51 of this Law.
- (2) The tax debt referred to in paragraph 1 of this Article shall be considered paid on the day when the tax is overpaid.

### **Article 99**

Deleted

## **XV STATUTE OF LIMITATIONS**

### **Statute of Limitations for the Right to Tax Assessment**

#### **Article 100**

The right to tax liability assessment shall fall under the statute of limitations within 5 years from the expiration of the year for which such a liability should have been assessed.

### **Statute of Limitations for the Right to Tax Collection**

#### **Article 101**

- (1) The right to tax collection shall fall under the statute of limitations within 3 years upon the expiration of the year for which the tax is assessed.
- (2) The right to collection of interest and procedural costs shall fall under the statute of limitations within the deadline referred to in paragraph 1 of this Article.
- (3) Any official action undertaken by the tax authority shall suspend the statute of limitations for the right to tax collection.

- (4) Statute of limitations shall not run during the procedure before the court or in the case when a taxpayer who is a natural person is outside of the Republic for an uninterrupted period longer than six months.
- (5) In cases when the taxpayer is under bankruptcy procedure, the statute of limitations referred to in paragraph 1 of this Article shall be prolonged for six months from the day of the termination of the procedure.
- (6) If the extension of the deadline for the payment of tax liability is approved to the taxpayer, the statute of limitations for the right to collect shall be prolonged for that period.

### **Statute of Limitations for the Right to Tax Refund Article 102**

The right to refund of overpaid tax liability shall fall under the statute of limitations within 3 years from the expiration of the year in which the overpayment was made.

### **Ultimate Statute of Limitations Article 103**

The right to assessment, collection and refund of taxes shall always fall under the statute of limitations within 10 years from the expiration of the year in which the tax was supposed to be assessed, collected or in which the overpayment was made.

### **Article 104**

Deleted

## **XVII PENALTY PROVISIONS**

### **Tax Offences**

### **Article 105**

- (1) A pecuniary fine ranging from 550 euro to 11,000 euro shall be imposed on a taxpayer – legal person for an offence, if:
  - 1) fails to submit a registration application to the tax authority within the prescribed deadline (Article 32);
  - 2) fails to notify the tax authority on changes relating to the data registered in the tax registry within the prescribed deadline (Article 33).
- (2) A pecuniary fine ranging from 150 euro to 6,000 euro shall be imposed on a taxpayer – entrepreneur for an offence, if:
  - 1) fails to submit a registration application to the tax authority within the prescribed deadline (Article 32);
  - 2) fails to notify the tax authority on changes relating to the data registered in the tax registry within the prescribed deadline (Article 33).



- (3) A pecuniary fine ranging from 55 euro to 550 euro shall be imposed for the offence referred to in paragraph 1 of this Article on the taxpayer – natural person and responsible person in the legal person.

#### **Article 105a**

A pecuniary fine ranging from 30 euro to 2,000 euro shall be imposed for the offence on the Tax Payer or intermediary if fails to submit a withholding tax return within the prescribed deadline (Article 40).

#### **Article 106**

Deleted

#### **Article 107**

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#### **Article 108**

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#### **Article 109**

Deleted

#### **Article 110**

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#### **Article 111**

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### **XVIII FINAL AND TRANSITIONAL PROVISIONS**

#### **Article 112**

Detailed regulations for implementation of this Law shall be adopted within 6 months as of the day this Law enters into force.

#### **Article 113**

If the procedure for realization of the taxpayer's rights is in progress, it shall be finalized in accordance with the provisions of the applicable Law if that is more favourable for the taxpayer.

#### **Article 113a**

Article 6, paragraph 1, item 3 f this Law shall apply from the day of establishment of the Central Registry of Business Organisations in the Tax Administration in accordance with the law governing the business organisations.

The tax authority shall carry out the control and publication of financial statements referred to Article 6, paragraph 1, item 28 of this Law and supervision over the mandatory financial reporting referred to in Article 74, paragraph 5 of this Law as of the day of establishment of this competency for the Tax Administration in accordance with the law governing the accounting and auditing.

### **Article 113b**

Application of Articles 105 and 105a of this Law shall be postponed until the day of commencement of application of the Law on Misdemeanours (Official Gazette of Montenegro, No 1/11 and 6/11).

### **Article 114**

On the day this Law enters into force the Law on Public Revenue Operations (Official Gazette of the Republic of Montenegro, No. 3/92, 3/94, 42/94, 13/96 and 45/98) shall be repealed.

### **Article 115**

On the day of commencement of the application of this Law, the provisions of the following laws related to the tax procedure shall be repealed:

- 1) The Law on Citizens' Income Tax (Official Gazette of the Republic of Montenegro, No. 30/93, 3/94, 13/94, 42/94, 1/95, 13/96 and 45 / 98);
- 2) The Law on Corporate Profit Tax (Official Gazette of the Republic of Montenegro, No. 3/92, 30/93, 3/94, 42/94 and 45/98);
- 3) The Law on Property Taxes (Official Gazette of the Republic of Montenegro, No. 3/92, 30/93, 3/94, 42/94, 20/95 and 22/95);
- 4) The Law on Sales Tax (Official Gazette of the Republic of Montenegro, No. 4/94, 13/94, 42/94, 13/96 and 45/98);
- 5) The Law on Social Insurance Contributions (Official Gazette of the Republic of Montenegro, No. 23/93, 3/94, 42/94, 13/96 and 45/98);
- 6) The Law on Public Revenue System (Official Gazette of the Republic of Montenegro, No. 31/93, 3/94, 42/94, 13/96 and 45/98).

### **Article 116**

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 it shall apply from 1 January 2002.

**The consolidate text of the Law does not include the following provisions of the Law on Amendments and Supplements to the Law on Tax Administration (Official Gazette of the Republic of Montenegro No 80/04):**

### ***TRANSITIONAL AND FINAL PROVISIONS***

#### ***Article 76***

*Until the secondary legislation for implementation of this Law is adopted, the applicable secondary legislation shall apply.*

#### ***Article 77***

*On the day of application of this Law, the following secondary legislation shall be repealed:*

- Rulebook on the Manner and Procedure of Registration of Security Interest on Immovable Property (Official Gazette of the Republic of Montenegro, No 2/02);*
- Methodological Instruction on the Manner and Procedure of Inspection Audit (Official Gazette of the Republic of Montenegro, No 33/02);*
- Rulebook on Conduct of Tax Authority Employees (Official Gazette of the Republic of Montenegro, No 33/02).*

#### ***Article 78***

*The Legislative Committee of the Parliament of the Republic of Montenegro shall be authorized to determine the consolidated text of this Law.*

#### ***Article 79***

*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 it shall apply from 1 January 2005.*

**The consolidate text of the Law does not include the following provisions of the Law on Amendments and Supplements to the Law on Tax Administration (Official Gazette of Montenegro No 20/11):**

#### ***Article 7***

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