

# **TAX PROCEDURE AND TAX ADMINISTRATION ACT**

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## Part One

### BASIC PROVISIONS

#### Heading One

#### SUBJECT-MATTER OF THE ACT

##### Article 1

This Act shall govern the procedure of assessing, collecting and controlling public revenues to which this Act applies (hereinafter: tax procedure), the rights and obligations of taxpayers, registration of taxpayers and tax-related criminal offences and petty offences.

This Act shall establish the Tax Administration as an administrative organ within the Ministry of Finance and govern its competence and organisation.

#### Forms of Public Revenues

##### Article 2

This Act shall apply to all public revenues collected by the Tax Administration, unless otherwise provided in a different tax statute (hereinafter: tax).

This Act shall also apply to interest rates regarding taxes due but unpaid and costs of enforced tax collection (hereinafter: secondary tax duties).

##### Article 2a

This Act shall also apply to tax and secondary tax levies collected by local self-government units (hereinafter: local-self government unit).

When ascertaining, collecting and controlling taxes and secondary tax duties from paragraph 1 of this Article, and also when filing motions for initiating tax petty offence proceedings, the competent local self-government organ has the rights and obligations vested in the Tax Administration in accordance with this Act, except for rights and obligations related to:

- 1) identification and registration of taxpayers;
- 2) assessing the tax base by parity and cross-assessment methods;
- 3) discovering tax crimes;
- 4) ruling on tax matters in second instances;
- 5) Erased ("RS Official Gazette", N. 53/10);
- 6) other Tax Administration rights and obligations as prescribed in Article 160 paragraph 9), 11b) and 12), Article 161, 164 and 167-170 of this Act.

##### Article 2b

Provisions of this Act governing the competences of Tax Administration tax inspectors and tax enforcers shall apply accordingly to the competences of the local-self government tax enforcers in the procedure for assessing, collecting and controlling original self-government unit revenues to which this Act applies.

The provisions of this Act governing the transfer of property rights of movables and immovables to the Republic of Serbia in the procedure of enforced collection of public revenues pertaining to the budget of the Republic of Serbia shall apply accordingly to the transfer of property rights of movables and immovables to the local self-government unit of Serbia in the procedure of enforced collection of original public revenues of the local self-government unit.

## Relation to Other Statutes

### Article 3

If issues from the subject-matter regulated by his statute are regulated in other statutes in a different manner, the provisions of this Act shall apply.

Unless otherwise provided by this Act, tax procedure is conducted according to the principles and provisions of the statute regulating general administrative procedure.

## Heading Two

### PRINCIPLES OF TAX PROCEDURE

#### Principle of Legality

### Article 4

Tax Administration shall be under the obligation to realise all rights and obligations from tax-law relation in accordance with law.

In cases where Tax Administration is authorised to exercise discretion, it is under the obligation to act in accordance with the purpose of such powers and within the framework of the law.

Tax Administration shall be under the obligation to establish all facts relevant for passing a legal and correct decision, paying equal attention to facts to the advantage and to the disadvantage of the taxpayer.

#### Principle of Temporal Validity of Tax Regulations

### Article 5

Tax liability is assessed on the basis of regulations in force at the time it originated, unless certain provisions of the law are prescribed to apply retroactively, in accordance with the Constitution and law.

Actions in tax procedure are governed by regulations in force at the time they are being taken.

#### Principle of Free Access to Facts

## Article 6

Prior to passing an act assessing the taxpayer's rights and obligations, the Tax Administration is under the obligation to make available to taxpayer, at personal request, the legal and factual grounds for the passing of such act.

### Principle of Confidentiality in Tax Procedure

## Article 7

The following shall, in terms of this Act, be considered and kept as strictly confidential:

1) each document, information, data or other fact on taxpayer obtained by officials and other persons taking part in tax procedure in the course of tax procedure, tax petty offence procedure or court procedure;

2) data on technical inventions or patents and all other data on technological procedures applied by the taxpayer obtained by officials and other persons taking part in tax procedure in the course of tax procedure, tax petty offence procedure or court procedure.

Breach of confidentiality jeopardises the interest of taxpayers and the public interest of the Republic of Serbia, which override the interest for access to information of public interest that are confidential, the disclosure of which may result in grave legal or other consequences to the interests protected by this statute.

All officials and other persons taking part in tax procedure, tax petty offence procedure or court procedure are bound by confidentiality.

Confidentiality also refers to persons from paragraph 1 of this Article after the termination of employment or capacity in which they obtained knowledge on documents, facts and/or data from paragraph 1 of this Article.

Confidentiality is breached if documents, facts and/or data from paragraph 1 of this Article are used or published without authorisation.

Confidentiality is not breached:

- 1) by action to which taxpayer agrees in writing;
- 2) if a particular document, fact or data cannot be linked to an individual taxpayer;
- 3) if a particular document, fact or data are disclosed in the course of tax procedure, tax petty offence procedure or court procedure;
- 4) if the information in question is the taxpayer's tax identification number (TIN);
- 5) if a particular document, fact or data are used by competent authorities in the procedure of discovering criminal offences or petty offences;
- 6) if a particular document, fact or data, in accordance with the provisions of Article 187 of this Act, is served to an authorised official of a foreign country tax authority in the procedure of exchange of information and providing legal aid;
- 7) if a tax warrantor is granted access to data on the taxpayer relevant for regulating the obligation arising from his relation with the taxpayer;
- 8) if a particular document, fact or data is relevant for the existence of tax debt, when lien is entered as a measure for securing tax collection.

### Principle of Acting in Good Faith

## Article 8

Parties to tax procedure shall be under the obligation to act in good faith. Frequency and duration of tax control shall be limited to the extent necessary.

## Principle of Establishing Facts

### Article 9

Tax facts are established in accordance with their economic nature.

If a simulated legal operation is used to conceal a different legal operation, the latter shall be used to determine the tax base.

When incomes and property are obtained in a manner contrary to regulations, Tax Administration shall determine the tax liability in accordance with the statute governing the corresponding type of tax.

### Heading Three

## PARTIES TO TAX PROCEDURE

### Contents of the Tax-law Relation

### Article 10

Tax-law relation is a public law relation including the rights and obligations of Tax Administration, on the one hand, and natural or legal person, on the other, in tax procedure, and it regulates:

1) the obligation to pay tax, secure tax liability and pay secondary tax duties of a natural or legal person and the Tax Administration's right to demand the fulfilment of these obligations;

2) obligation of the natural or legal person, in accordance with law, to determine tax, that is, to pay the withholding tax on behalf of the taxpayer, to keep the prescribed books, file tax returns, submit the requested documents and data to Tax Administration, not to make payments in a manner different than that prescribed, allow inspection of one's business operation to a Tax Administration official and other obligations to act, to restrain from action or to tolerate, prescribed by law, for the purpose of timely and correct payment of tax, and the right of the Tax Administration to demand the fulfilment of these obligations.

In the tax-law relation from paragraph 1 of this Article, the natural or legal person shall have the right to:

1) refund of overpaid or incorrectly collected tax and/or secondary tax duties, as well as to reimbursement tax when so prescribed by a different tax statute;

2) reimbursement of tax;

3) use tax credit in regards to tax liability and/or secondary tax duty obligation;

4) use overpaid or incorrectly collected tax and/or secondary tax duties to service obligations due on other grounds, through transfer to another account.

If the person from paragraph 2 of this Act opts for reimbursement of overpaid or incorrectly collected tax and or/secondary tax duties, as well as for tax refund, the Tax Administration shall be under the obligation to pass a ruling upon request without delay, not later than 15 days upon receiving such request.

Tax credit shall be the amount for which the tax liability is reduced.

Other rights of natural and/or legal person and obligations of the Tax Administration are regulated by this statute.

## Tax Administration in Tax Procedure

### Article 11

Tax administration shall perform public administration operations related to the conducting of tax procedure in first and second instance, keeping of single taxpayers' register and tax accounting, discovering of tax crimes and petty offences and their perpetrators, filing motions for initiating tax petty offence procedure, as well as other operations provided for by this Act..

Tax Administration is independent in performing the operations from paragraph 1 of this Article on the entire territory of the Republic of Serbia (hereinafter: Republic) and is organised so as to ensure functional unity in implementing tax regulations.

## Taxpayers and Other Tax Debtors

### Article 12

Tax debtor is a natural or legal person owing a specific action from the tax-law relation from Article 10 of this Act.

Taxpayer is the tax debtor who is under the obligation to pay tax and/or secondary tax duty.

Other tax debtors are:

1) tax warrantor, who is responsible for the payment of taxpayers tax debt, if the taxpayer fails to pay such debt once it becomes due;

2) person paying the taxpayer's incomes (hereinafter: withholding agent) who is under the obligation to calculate and after deduction pay the prescribed tax to such income, in the name and on behalf of the taxpayer, to the appropriate account;

3) tax agent, who is under the obligation to suspend and after deduction pay the assessed tax from the account of the tax debtor (taxpayer or withholding agent), on the basis of their transfer order, and to the appropriate account;

4) other natural and legal persons owing any action from tax-law relation from Article 10 of this Act.

Taxpayers and other tax debtors (hereinafter: taxpayers) are parties to tax procedure.

## General Provisions on Representation

### Article 13

The taxpayer may participate in tax-law relation through an authorised representative or statutory representative, unless otherwise provided by this Act.

A taxpayer participating in the tax-law relation personally is also entitled to authorised representative, and if the authorised representative participates in tax-law relation on his behalf, he shall have the right to participate personally.

## Tax Representative

### Article 14

Taxpayer's authorised representative (hereinafter: tax representative) is a person who, within the limits of the authority granted, performs operations related to taxpayer's tax liabilities in the name and on behalf of the taxpayer (receives tax documents, files tax returns, pays tax, etc.).

Taxpayer who is not a resident of the Republic of Serbia (hereinafter: non-resident) who does not have a permanent establishment on the territory of the Republic, that is, who gains incomes or acquires property on the territory of the Republic outside of operations of its permanent establishment shall be under the obligation to inform the Tax Administration, at its seat, of the person appointed its' tax representative within ten days from the day of gaining income or acquiring taxable property on the territory of the Republic of Serbia.

If a non-resident gains incomes taxable with a withholding tax, for which there is no obligation of filing a tax return, there shall be no obligation to appoint a representative.

Statutory Representative, Partnership Shop Manager,  
Temporary Inheritance Custodian

#### Article 15

Statutory representatives of natural persons (parents of a minor, guardians of a ward who does not have business capacity) and of legal persons (natural person recorded as such in a court register) as well as the manager of a partnership shop and temporary inheritance custodian shall fulfil the tax-related obligation of the person they represent.

If a partnership shop does not have a manager or if temporary inheritance custodian is not appointed, the tax-related obligations from paragraph 1 of this Article shall be fulfilled by partners, that is, by heirs, as joint and several tax debtors.

*Ex Officio* Representative

#### Article 16

Tax Administration appoints *ex officio* a representative from among tax advisors or attorneys-at-law to:

- 1) a taxpayer the seat of which is not located in the place and at the address given in the registration form prescribed by the act from Article 27 paragraph 5 of his Act or in the registration application for VAT, as prescribed by regulations relating to value added tax;
- 2) non-resident who failed to inform the Tax Administration of his tax representative within the time limit prescribed in Article 14, paragraph 2 of this Act;
- 3) unknown owner of property subject to tax procedure;
- 4) taxpayer who evidently avoids participating in tax procedure, even though participation in person is mandatory.

If the taxpayer is a natural person who does not have business capacity and who does not have a statutory representative, the Tax Administration shall appoint an *ex officio* representative from among persons from paragraph 1 of this Article and inform the social service thereof.

The conclusion on appointing the *ex officio* representative is served to the representative and published on the Tax Administration bulletin board.

Appeal shall not be permitted against the conclusion from paragraph 3 of this Article.

Remuneration and reimbursement of costs of the *ex officio* representative are paid by the Tax Administration, according to the tariff prescribed by the minister competent for finance (hereinafter: the Minister).

Tax Administration is entitled to refund of funds from paragraph 5 of this Article from the taxpayer.

Tax Advisor

#### Article 17

Tax advisor is a person advising the taxpayer in tax procedure.

If the tax advisor also acts as the taxpayer's tax representative, he/she must also be authorised to perform operations from Article 14 of his Act.

Performance of tax advising activity is regulated by a separate statute.

#### Heading Four

### TAX LIABILITY

#### Notion and Origination of Tax Liability

##### Article 18

The obligation to pay tax from Article 10 paragraph 1 subparagraph 1 of this Act (hereinafter: tax liability) shall be the duty of the taxpayer to pay the assessed tax, under the conditions prescribed by this Act or other tax statute.

The taxpayer is liable for fulfilling the tax liability from the moment when the facts arise that under tax law constitute a tax liability.

Provisions on tax liability shall also apply to the obligation to pay secondary tax duties, unless otherwise provided by this Act.

#### Fulfilment of Tax liability

##### Article 19

Fulfilment of tax liability shall consist of payment of due amount of tax owed.

Tax liability is fulfilled by the taxpayer directly, except in cases when this Act or other tax law prescribes that a different person is responsible for fulfilling the taxpayer's tax liability.

#### Fulfilment of Tax liability in Cases of Liquidation or Bankruptcy

##### Article 20

Tax liability of a legal person being liquidated is fulfilled by the liquidator from the legal persons' pecuniary funds, including incomes from the sale of property.

Tax liability of an establishment of a legal person being liquidated is directly fulfilled by the legal person to which the establishment pertains, and if the legal person is also being liquidated, the tax liability shall be fulfilled by the liquidator.

If a legal person being liquidated does not have sufficient pecuniary assets to fulfil the tax liability in total, income from sale of property included, the remaining tax debt shall be paid by the founders, that is, members of the legal person, if they are, in accordance with law, legal persons' internal statute or articles of association jointly and severally liable for legal persons' obligations.

Fulfilment of tax liability in case of taxpayer's bankruptcy is regulated by statute governing bankruptcy.

#### Fulfilment of Tax Liability in Case of Changes in Status

## Article 21

Tax liability of a legal person that ceases to exist due to status change is fulfilled by its legal successor, regardless of whether or not the successor knew before the completion of the change in status that the legal predecessor had not, in part or in full, fulfilled its tax liability.

Secondary tax duties related to unfulfilled tax liability of a legal person that ceases to exist due to change shall be borne by the legal successor.

The time limit for fulfilling the tax liability of a legal person that ceases to exist due to change in status shall remain the same if the fulfilment of such obligation has been transferred to the legal successor.

Legal successor to which the tax liability of one or more legal persons that cease to exist in status change shall be:

1) in case of merger – legal person formed by merger of two or more legal persons, taxpayers;

2) in case of acquisition – the person acquiring one or more legal persons, taxpayers;

3) in case of division – legal persons formed by taxpayer's division.

If there are more legal successors, they shall all be jointly and severally liable for the legal predecessor's tax liability.

Change of organisational or ownership form of the legal person shall have no bearing on the fulfilment of tax liability.

### Fulfilment of Tax liability in Case of Death of Natural Person, Lack of Business Capacity or Declaration of a Missing Person Dead

## Article 22

Tax liability of a deceased person shall be fulfilled by heirs, up to the value of the property inherited and in proportion to the share of each individual heir, at the time of receipt of inheritance.

If the decedent has no heirs or if no heir accepts property, the decedent's tax liability shall be written off.

Tax liability of a natural person who does not have business capacity or of absent natural person whose residence is unknown shall be fulfilled by representative from the taxpayer's property.

If the property of person from paragraph 3 of this Article is not sufficient to settle the debt on the grounds of taxes and secondary tax duties, the part of debt not collected shall be written off.

If the reasons from paragraph 3 of this Article on the grounds of which the person was appointed a representative cease to exist, the ruling on writing off of debt shall be revoked, but interest shall not be calculated from the day the uncollected tax debt of such person has become due to the day the grounds ceased to exist.

### Termination of Tax liability

## Article 23

Tax liability ceases to exist by:

1) collection of tax (payment, compensation or surrender in lieu of payment, in accordance with law);

2) expiry of statute of limitation regarding tax;

3) writing off of tax;



4) in other manner prescribed by law.

## Heading Five

### RIGHTS AND OBLIGATIONS OF TAXPAYERS

#### Taxpayer's Rights

##### Article 24

In accordance with this Act, the taxpayer is entitled to:

1) receive from the Tax Administration, free of charge, information on tax regulation from which his/her tax liability is derived, and if he/she is ignorant, to obtain basic legal aid, which shall enable him/her to report and pay tax and calculate and pay secondary tax duties, in accordance with regulations;

2) obtain in writing the answer to a question put in the same form to the Tax Administration, concerning his/her tax situation;

3) demand that Tax Administration and its officials treat him/her with respect and regard;

4) have data on him/her collected in the course of tax procedure by Tax Administration kept confidential and used and/or made available to other persons in the manner prescribed in Article 7 of this Act;

5) have Tax Administration respecting his/her privacy;

6) have access to data on assessment and collection of tax kept on him/her by the Tax Administration and demand change of incomplete or incorrect data;

7) represents his/her own interests before the Tax Administration directly or through an authorised representative;

8) use tax reliefs in a prescribed manner;

9) obtain reimbursement and/or refund of overpaid or incorrectly collected tax in a prescribed manner and within prescribed time limits;

10) be present during on-site tax controls;

11) obtain reasoning of the acts passed in tax control procedure;

12) give information to tax authorities in tax procedure;

13) use legal remedies in tax procedure;

14) use other rights established by this Act and other statutes.

Taxpayer whose rights from paragraph 1 of this Article are violated shall be entitled to court protection.

If the court established that taxpayer's rights have been violated, the damages and costs shall be paid from the budget of the Republic, that is, from the budget of the local self-government unit.

#### Taxpayer's Obligations

##### Article 25

Taxpayer, in accordance with this Act, shall be under the obligation to:

1) submit application for registration to the Tax Administration, within the prescribed time limit, except for taxpayers the registration of which is charge of the Business Registers Agency, and also to report all subsequent changes of data in the application that are not otherwise reported to the Business Registers Agency;

2) file a tax return to the Tax Administration on a prescribed form, within the time limit and in a manner prescribed by tax regulations;

- 3) file documents and provide information requested by the Tax Administration, in accordance with tax regulations;
- 4) keep the prescribed books and records for taxation purposes;
- 5) correctly calculate tax personally, when so prescribed by statute;
- 6) pay tax in the manner, under the conditions and within time limits prescribed by law;
- 7) refrain from distracting and preventing officials taking part in tax procedure in performance of duty established by law;
- 8) inform Tax Administration on opening or closing of account with a bank, other financial organisation, postal savings bank or other organisation performing payment operations (hereinafter: bank) in the Autonomous Province of Kosovo and Metohija or abroad – within 15 days from the day the account is opened or closed;
- 9) be present during tax control;
- 10) perform other obligations established by this Act or other tax statutes.

## Heading Six

### IDENTIFICATION AND REGISTRATION OF TAXPAYERS

#### Tax Identification Number

##### Article 26

For the purpose of identifying taxpayers, Tax Administration shall assign a TIN to natural persons, entrepreneurs, legal persons and permanent establishments of a non-resident.

TIN cannot be assigned to a legal person the founder of which – a legal person or an entrepreneur - has due but unpaid obligations on public revenue grounds related to performance of business.

Notwithstanding paragraph 2 of this Article, the Tax Administration shall assign a TIN if the due but unpaid obligations on public revenue grounds amount to up to 100,000 dinars and provided such obligations are fulfilled within eight days from the day the request to be assigned a TIN is filed, or if an irrevocable bank guarantee or a bill of exchange guaranteed by a commercial bank are provided in that time limit.

TIN of legal persons, entrepreneurs and other entities the registration of which is in the competence of the Business Registers Agency is assigned via that Agency, within the time limit prescribed by statute governing the registration of business entities.

In regards to entities from paragraph 4 of this Article, registration application for assignment of TIN is filed through the Business Registers Agency, as a part of registration of establishment.

When deciding on the request for the assignment of TIN from paragraph 4 of this Article, the existence of obstacles for assignment of TIN from paragraphs 2 and 3 of this Article shall not be established.

If the Tax Administration, in the time limit from paragraph 4 of this Article, based on data from its records and records of other competent authorities, establishes that the application includes data that are invalid or that protective measure or measure of prohibition to conduct business have been pronounced against the founder in petty offence or criminal procedure, it shall pass, within the given time limit, a decision on denying the request for assignment of TIN.

If the Tax Administration establishes, in control procedure, that obstacles for assignment of TIN from paragraphs 2, 3 and 7 of this Article existed at the time the TIN was assigned, it shall temporarily withdraw the assigned TIN, until such obstacles are eliminated.

The Minister, in agreement with the minister competent for economy and regional development, shall regulate in more detail the contents of the registration application from paragraph 5 of this Article, as well as the manner, time limit and procedure of deciding upon request for assignment of TIN to entities from paragraph 4 of this Article.

In all other matters unregulated by provisions of this Act in regards to assignment and withdrawal of TIN to entities from paragraph 4 of this Article, the provisions of this Act governing assignment and withdrawal of TIN to other entities shall apply.

TIN is a unique and only number of a natural person, entrepreneur and legal person in regards to all public revenues and is retained until the termination of status of a taxpayer.

TIN is used in tax procedure and must be entered into:

1) act submitted by the taxpayer to Tax Administration, mandatory social insurance organisations, other state authorities and organisations and territorial autonomy and local self-government units;

2) act served to the taxpayer by the Tax Administration;

3) document by which the taxpayer pays tax and secondary tax duties;

4) warrant by which the bank is ordered to pay taxes and secondary tax duties;

5) act submitted by the taxpayer to organs and organisations competent for keeping the register and accounts, in terms of Articles 29 and 30 of this Act.

If the taxpayer fails to report all subsequent changes of data in the registration application, that is, fails to forward documents and provide information requested by the Tax Administration within five days from the day the change takes place, that is, within two days from receiving a request to forward documents and information, the Tax Administration shall, by a ruling, withdraw the assigned TIN until the obligation from Article 25 subparagraphs 1) to 3) of this Act are fulfilled, and a copy of such ruling shall be forwarded to the bank and organisation competent for enforced collection from the funds at taxpayer's account.

In case from paragraph 13 of this Article, the bank shall be under the obligation to suspend the enforcement of taxpayer's warrant for transfer of funds from the taxpayer's account from the moment the ruling is received, except for the purpose of fulfilling the obligation in regards to tax and secondary tax duties.

Authorities and organisations that, in accordance with regulations, keep records on natural and legal persons and issue public documents based on such records shall also use TIN.

Minister shall be authorised to prescribe other acts relevant for tax procedure, to which TIN is entered.

## General Provisions on Registration

### Article 27

Registration of taxpayers shall be conducted by the Tax Administration.

The following shall be under the obligation to have a TIN:

1) resident legal person;

2) state authority and organisation, territorial autonomy and local self-government unit, without the capacity of a legal person;

3) resident entrepreneur;

4) resident natural person (except for resident entrepreneur) who acquires income or has taxable property;

5) non-resident legal person's permanent establishment;

6) non-resident legal person appointing an authorised representative in accordance with the provision of Article 14 paragraph 2 of this Act;

7) non-resident natural person appointing an authorised representative in accordance with the provision of Article 14 paragraph 2 of this Act.

Non-resident legal person's permanent establishment from paragraph 2 subparagraph 5 of this Article is a non-resident legal person's permanent establishment as defined in statutes regulating corporate profit tax.

Provisions of this Act regarding legal persons shall also apply to establishment from paragraph 3 of this Article, unless otherwise provided by this Act.

Procedure, manner and time limits for assigning the TIN, contents and manner of keeping the single taxpayer's register, as well as the contents and form of registration application and proof of registration shall be regulated by a Minister's act.

## Place and Time of Registration

### Article 28

Resident legal persons the registration or entry into register of which is not in the competence of the Business Registers Agency or authority or organisation from Article 27 paragraph 2 subparagraph 2 of this Act shall submit the registration application to the Tax Administration according to seat.

Non-resident legal person's permanent establishment submits the registration application to the Tax Administration according to such establishment's seat.

Resident entrepreneur the registration of whom is not in the competence of the Business Registers Agency shall submit the registration application to the Tax Administration competent according to the shop's seat.

Non-resident legal person and non-resident natural person from Article 27 paragraph 2 subparagraphs 6 and 7 of this Act shall submit the application registration at the Tax Administration's seat.

Legal persons classified as large taxpayers (hereinafter: large taxpayers) are kept in the register of the Tax Administration organisational unit competent for large taxpayers.

Criteria for classification of large taxpayers, based on which the Tax Administration identifies and establishes the status of large taxpayers, as well as types of taxes for which the organisational unit from paragraph 5 of this Article performs operations from Tax Administration's competence, shall be prescribed by the Minister, at the proposal of Tax Administration director.

Legal person, non-resident legal person's permanent establishment and entrepreneur file the registration application within five days from the day of entry into court or other register.

Natural person shall file the registration application within five days from the start of acquiring income or taxable property.

Upon registration, the Tax Administration shall issue proof of registration to the taxpayer.

If a taxpayer fails to file a registration application, Tax Administration shall assign a TIN ex officio based on available data and circumstances.

## Obligations of Authorities and Organisations Competent for Entry into Register

### Article 29

Business Registers Agency shall forward to the Tax Administration notice on performed entry into the Register (foundation, linking and termination of legal entity, status changes and changes in form of organisation of such entity, data on business entity of importance to payment operations, data in regards to bankruptcy procedure and other data prescribed by law), as well as of any other ruling by which changes are made to founders, organisational form, name, business activity, amount of main capital or location of seat, or whereby any other change relevant for determining of tax is made.

Court, a local self-government unit, the Barr, professional associations, as well as other authority or organisation competent for entering into the corresponding register persons performing specific business activity shall be under the obligation to forward to the Tax Administration, within five days from entry, the notice on registration, annulment of registration and deletion from register, as well as on any other ruling whereby a change relevant for assessing tax is being made.

Authority keeping records on place of domicile, birth or death of natural persons shall be under the obligation to inform the Tax administration on data relevant for assessing tax within five days from registration or change of domicile, birth, death and declaration of a missing person dead.

Procedure, contents and manner of service of notice from paragraphs 1-3 of this Article shall be regulated in more detail by the Minister.

## Obligations of Banks upon Opening Accounts

### Article 30

A bank may open an account to a legal person, entrepreneur and a natural person provided they attach evidence of registration to the request for opening of account.

Evidence of registration shall not be required for opening a temporary account in the procedure of founding a legal person.

Bank shall be under the obligation to keep records of temporary accounts in electronic form, as prescribed by the Minister, for the purpose of linking the temporary account to the subsequently opened account from paragraph 1 of this Article.

### Heading Seven

## OTHER MAIN PROVISIONS

### Secondary Tax Duty

#### Article 31

Secondary tax duty arises when a person is responsible for a due tax liability of another taxpayer or for due secondary tax duty of another taxpayer.

Secondary tax duty relates to:

1) statutory representatives who have knowingly or without due attention failed to meet their obligation to realise the payment of tax for the taxpayer, even though the latter was able to do so – for the amount of unpaid tax unpaid;

2) persons contributing to or aiding in evasion of payment of another person's tax – for the amount of that person's tax debt the payment of which was evaded;

3) persons responsible for calculating and paying withheld tax – for the amount of tax withheld and not paid;

4) natural person who is the responsible person in a legal person, who calculates and pays withheld tax and fails to pay the withheld tax – for the amount of withheld tax not paid;

5) person who has received pecuniary assets, rights or obligations from taxpayer's property (hereinafter: property) by a transaction without consideration or with a consideration that is considerably lower than the price that could be achieved on the market, in the period of three years before the tax liability that has not been paid became due – for the amount of unpaid tax, and up to the value of property received, minus the amount the person had paid for it, at the maximum.

Provision of paragraph 2 subparagraph 5 of this Article shall apply to cases when the person has received property from a taxpayer – a legal person only if direct or indirect participation of such person in taxpayer's capital is or was at least 10%.

Unless otherwise provided, secondary tax duty shall include interest rate and costs of enforced collection.

## Conversion from Foreign Currency to Dinar

### Article 32

Transactions in foreign currency subject to taxation shall be converted to dinar:

1) at the official exchange rate of the central issuing bank, on the day the transaction was carried out;

2) at the market exchange rate based on the published data on the relative values of foreign currency against the U.S. dollar on the day the transaction was carried out, if the central issuing bank does not have available the exchange rate of the given currency against dinar.

The minister shall regulate in more detail the manner of establishing the market exchange rate from paragraph 1 subparagraph 2 of this Article.

## Part Two

### ON TAX PROCEDURE IN GENERAL AND FIRST INSTANCE PROCEDURE FOR ASSESSING AND COLLECTING TAX

#### Heading One

#### ON TAX PROCEDURE IN GENERAL

#### Initiation of Tax Procedure

### Article 33

Tax Procedure is initiated by the Tax Administration *ex officio*, and exceptionally, at party's request.

Tax procedure is initiated when the Tax Administration undertakes any action in order to conduct procedure.

If the Tax Administration establishes, at party's request, that the conditions for initiating tax procedure have not been met, in accordance with law, it shall pass a conclusion thereof, which can be appealed against.

## Tax Act and Tax Administrative Act

### Article 34

Tax act shall be a tax ruling, conclusion, tax control order, minutes on tax control and other act initiating, complementing, changing or finalising an action in tax procedure.

Tax administrative act, by which the Tax Administration decides on individual rights and obligations of the tax debtor form a tax-law relation, is a tax ruling and conclusion.

Appeal shall be permitted against a tax ruling passed in first instance tax procedure.

Appeal shall be permitted against conclusion, unless otherwise provided by this Act.

### Form and Content of Tax Act

#### Article 35

Tax administrative act is passed in written form.

Other tax acts are passed in writing when so prescribed by this Act or at taxpayer's request.

As an exception, Tax Administrations' authorised person may pass a tax act, otherwise passed in writing, in oral form and order its execution without delay, if the procedure of tax collection or control is jeopardized.

Oral tax act from paragraph 3 of this Article must be issued in writing within three days from the day it was passed at the latest.

### Service

#### Article 36

Tax acts in written form shall be served in a manner prescribed by this Act.

Tax acts shall be considered served when they are handed to the taxpayer, his/her statutory representative, tax representative or representative ex officio.

If the taxpayer is a natural person or an entrepreneur, tax acts shall be considered served when handed to a household member of age, in terms of statutes regulating personal income tax, or to an entrepreneur's employer.

In terms of this Act, service shall be deemed orderly even when persons from paragraph 2 and 3 of this Act refuse to receive or sign tax acts, if a person serving the acts makes an official note thereof.

If the service was not possible in the manner provided for in paragraphs 2-4 of this Act it shall be considered performed when the tax act is sent by registered mail via the post or by electronic means, via e-mail, to the taxpayer's address entered into the registration application or the last tax return.

Service performed in the manner provided for in paragraph 5 of this Article shall be considered performed on the expiry of the third day from the day the tax act was submitted to the post, that is, on the day noted in the e-mail return, if the tax act was sent by electronic means.

### Books and Records

#### Article 37

Taxpayers – legal persons, non-resident legal persons' permanent establishments and entrepreneurs shall be under the obligation to keep books and records for taxation purposes, in accordance with tax law.

Obligation from paragraph 1 of this Article also applies to resident taxpayer's permanent establishments abroad.

Taxpayer – legal person shall be under the obligation to forward, at Tax Administration's request and within the time limit it determines, books and records kept abroad or at the Autonomous Province of Kosovo and Metohija by persons over which the taxpayer has control or influence enabling him to ensure the service of such books and records.

If foreign regulations or the regulations of the Autonomous Province of Kosovo and Metohija prohibit service of books and records from paragraph 3 of this Article, the taxpayer from paragraph 3 of this Article shall be under the obligation to forward their certified copies.

If books and records from paragraph 3 of this Article were not kept in Serbian language, at the request of Tax Administration, the taxpayer shall also attach a certified translation, the cost of which shall be borne by the taxpayer.

Taxpayer who processes data by automatic data processing means shall be under the obligation to provide, at Tax Administration's request, an excerpt of data on a medium designated by the Tax Administration, as well as to provide access to the Tax Administration to the accounting system through documentations, and, when necessary, access to hardware and software.

#### Article 37a

Taxpayers – legal persons who perform processing and entry of data into books on the computer shall be under the obligation to provide, at the request of tax authority:

- 1) excerpt from data from their electronically kept books and records, in organised structured computer files, in a standard form enabling further simple data processing;
- 2) access to and insight into data in their electronically kept books and records;
- 3) access to and insight into software and hardware equipment and database used within the system for electronic keeping of books and records and enable the test of correctness of electronic programmes and electronic data processing.

Data and manner of insight into data from paragraph 1 of this Article must be provided in one of the following manners:

- 1) on electronic mediums;
- 2) by use of modern telecommunication services;
- 3) direct connection of the tax authority with the taxpayer's system (local connection);
- 4) indirect connection of the tax authority with the taxpayer's system through telecommunication means (remote connection).

In cases from paragraph 2 of this Article it is necessary to provide an adequate level of protection, preservation of confidentiality and integrity of data.

Taxpayers from paragraph 1 of this Article who process data electronically are under the obligation to:

- 1) keep in electronic form data processed or received in electronic form and enable access to them in electronic form;
- 2) enable readability of original data;
- 3) enable due keeping of data during the period prescribed by law;
- 4) enable access to electronically kept books and records, even when kept in electronic form by other persons or in a different state;
- 5) keep data in adequate form enabling inspection in reasonable time;
- 6) ensure authenticity of issued documents and the person that issued them, as well as the integrity of the contents of the issued documents.



Taxpayer – legal person shall be under the obligation to make available to the tax authority, at tax authority's request, documents providing a full description of the electronic system for keeping books and records. Such documents must include the following descriptions:

- 1) electronic solutions (base, build, run);
- 2) subsystem and files (contents, structure, relations);
- 3) functional procedures within electronic solutions;
- 4) control enabling correct and safe operation of electronic solutions;
- 5) control preventing unauthorised addition, change or deletion of entered electronic records.

Each change in electronic solutions (electronic programmes, procedures and databases) must be documented in accordance with the time the change took place, together with the cause, type, consequence and date of change.

Minister shall pass the act for implementation of this Article.

## Heading Two

### TAX RETURN

#### Notion of Tax Return

#### Article 38

Tax return is the taxpayer's report to the Tax Administration on acquired incomes, expenditures made, profit, property, trade of goods and services and other transactions relevant for determining tax.

Tax return shall be filed on a form, prescribed by the Minister, to which corresponding evidence is attached.

Taxpayer shall be under the obligation to personally sign the tax return, unless otherwise regulated by tax regulations.

If a taxpayer is under the obligation to personally sign a tax return, a signature by the tax representative, statutory representative or representative ex officio shall be accepted only if the taxpayer is prevented from personally signing the tax return for reasons of physical or mental illness or long absence.

If the reasons from paragraph 4 of this Article cease to exist, Tax Administration may require the taxpayer to sign the tax return personally.

If the tax return or part thereof was prepared by a tax advisor, he/she shall also be under the obligation to sign the tax return and enter his/her TIN.

Tax return is filed within the time limit prescribed by tax legislation, to the Tax Administration at the place where registration application has been filed, unless otherwise prescribed by tax legislation.

Notwithstanding paragraph 7, large taxpayers shall file the tax return to the Tax Administration organisational unit from Article 28 paragraph 5 of this Act for all types of taxes in regards to which this organisational unit performs operations from the Tax Administration competence.

Tax return is filed directly or via mail, and may also be sent by electronic means, in a manner prescribed by the Minister.

Notwithstanding paragraph 9 of this Article, as of March 1, 2008, large taxpayers shall be under the obligation to file their tax return solely by electronic means.

#### Extension of Time Limit for Filing the Tax Return

### Article 39

Tax Administration may grant, at taxpayer's request filed before the expiry of time limit for filing the tax return, an extension of time limit for submission for justified reasons (illness, absence from the country, accident, large-scale natural disaster and the like) until such reasons cease to exist, and six months after the expiry of the statutory time limit for filing the application at the longest.

Tax Administration decides on the request for extension by a conclusion, in the place where tax return is filed, within five days from receipt of request.

If the statutory time limit for filing the tax return has expired and the request from paragraph 1 of this Article has been denied, the tax return must be filed within five days from day of being served the conclusion on denying the request.

Appeal shall not be permitted against the conclusion from paragraph 2 of this Article.

### Altered Tax Return

#### Article 40

If the taxpayer establishes that the tax return he had filed to the Tax Administration includes an error or an omission he shall be under the obligation to file an altered tax return, in which the error or omission are eliminated, immediately, and at the latest by the expiry of the statute of limitations.

The initially filed tax return shall not be returned to the taxpayer.

Taxpayer may file an altered tax return two times at the most for the same tax period.

Under the conditions from paragraph 1 to 3 of this Article, it shall be considered that the error or omission from the initial tax return from paragraph 2 of this Article does not amount to a crime or petty offence from this Act.

Notwithstanding paragraphs 1 and 3 of this Article, taxpayer may not file an altered tax return after tax control procedure for the controlled tax period has been initiated.

Notwithstanding Article 38 paragraphs 8 and 9 of this Act, an altered tax return may not be sent by electronic means.

### Tax Return for Withholding Tax

#### Article 41

Tax return for withholding tax is a report filed by the withholding agent, that is, the tax agent, to the Tax Administration, including information on calculated and paid withholding tax, with a name and number of the payment account to which the tax has been paid.

Tax return for withholding tax is:

- 1) collective, when it includes information on calculated and paid withholding tax on the part of one withholding agent for all those receiving income, that is, on the part of one tax agent for all taxpayers or withholding agents for whom he holds accounts;
- 2) individual, when it includes information on calculated and paid withheld tax on the part of one withholding agent for each taxpayer or withholding agent for whom he holds accounts.

A collective tax return for withholding tax is filed to the Tax Administration once a month, within 5 days from the end of month, separately for each payment made during the past month.

Notwithstanding paragraph 3 of this Article, large taxpayers file collective tax return for withholding tax to the Tax Administration on the day the payment is made, and two days from the payment of income taxable by withholding tax at the latest.

Individual tax return for withholding tax for each taxpayer and/or withholding agent, marked by their TIN, is filed to the Tax Administration once a year, by January 31<sup>st</sup> at the latest, for the previous year.

Withholding agent and/or tax agent from paragraph 1 of this Article is under the obligation to issue to the taxpayer from the income and/or assets of which the withholding tax has been collected a certificate on paid withholding taxes, including data on gross income, costs, taxable income, reliefs and public revenues paid after the end of the year, and by January 31 at the latest.

Tax return form from paragraph 2 of this Article and form of certificate from paragraph 6 of this Article shall be prescribed by the Minister.

Minister may prescribe that tax return from paragraph 2 of this Article is filed in electronic form.

## Informational Tax Return

### Article 42

Informational tax return is a report including data of special importance for the fiscal interest of the Republic.

Data from paragraph 1 of this Article, persons under the obligation to forward such data and the time limit for filing informational tax returns shall be determined by the Minister.

## Heading Three

### ESTABLISHING FACTS

#### Presentation and Assessment of Evidence

### Article 43

Facts in tax procedure shall be established based on evidence.

The following may be used as evidence in tax procedure: tax return, tax balance, books and records, accounting statements, business documents and other documents and information at Tax Administration's disposal, collected from the taxpayer or third persons, witness statement, expert witness' finding, inspection and any other means for establishing facts.

Establishing of facts in tax procedure is also done in accordance with provisions of Articles 116-139 of this Act.

#### Service for the Documents for Inspection and Verification

### Article 44

Tax Administration may require the taxpayer and their parties to forward, within a time limit it specifies, books and records, accounting statements, business documents and other documents and evidence for inspection, for the purpose of establishing the state of facts.

Tax Administration shall decide whether documents from paragraph 1 of this Article are to be forwarded for inspection and verification purposes to its premises, that is, by electronic means, or will inspection and verification be conducted on the premises of the persons under the obligation of forwarding them.

## Providing Information

### Article 45

Taxpayer and other persons shall be under the obligation to provide, at the request of Tax Administration and within the time limit it specifies, all available information necessary for establishing the state of facts relevant for taxation.

The request for providing information shall include to whom and to what they relate, as well as a warning as to the consequences of withholding information or providing incorrect information.

Tax Administration shall be under the obligation to forward the request for providing information in writing, at the request of taxpayer and/or other person from paragraph 1 of this Article.

Taxpayer and other person from paragraph 1 of this Article shall be under the obligation to provide information in writing.

As an exception, Tax Administration shall order to the person under the obligation to fulfil the obligation from paragraph 1 to do so orally, at official premises, if information was not provided when requested or was given in writing, but has not clarified the state of facts.

Minutes shall be kept on oral information given at official premises.

Minutes from paragraph 6 of this Article shall include the names of persons present, place, date and content of information, and shall be signed by a Tax Administration official and by the person providing the information.

A copy of minutes shall be issued to the person providing information orally, at personal request.

## Withholding Information

### Article 46

Information on facts relevant for taxation can be withheld by:

- 1) taxpayer's family members, in terms of legislation governing personal income tax;
- 2) member of clergy, tax advisor, auditor and doctor in regards to what the taxpayer has confided in them or what they have learned in this capacity, which relates to the taxpayer's tax liability.

Information on facts relevant for taxation can also be withheld by assistants of persons from paragraph 1 subparagraph 2 of this Article, as well as persons participating in professional activity as a part of occupational training.

Persons from paragraph 1 of this Article shall decide on withholding information.

## Withholding Expert Opinion and Discovery of Documents

### Article 47

Cases and conditions under which information may be withheld, in accordance with this Act, shall also apply to withholding expert opinions and discovery of documents or objects.

A person keeping documents, books, other records and other object is not entitled to withhold them if the taxpayer would have been under the obligation to present them had he been keeping them himself.

## Expert Opinion

### Article 48

Tax Administration decides on the need for expert opinion.

If there is no danger of delay, Tax Administration shall inform the parties to tax procedure on the person it shall appoint as expert.

Experts are appointed from among tax advisors, and, if necessary, from among court experts of the corresponding profession.

A person who is connected to the taxpayer in accordance with legislation governing personal income tax and corporate income tax cannot be appointed expert in the given tax procedure.

Parties to tax procedure may require disqualification of an expert if there is justified doubt as to his bias or if his/her expert opinion may result in violation of business confidentiality or cause damage to a party's business.

Reasoned motion for disqualification is filed to the Tax Administration within three days from receiving the notice on appointment of expert.

Administrator of the Tax Administration organisational unit that has appointed the expert shall decide on disqualification.

A written finding shall be composed on expert opinion.

Expert may be called to explain his/her finding in oral.

Expert's finding shall be attached to the file.

## On Site Inspection

### Article 49

On site inspection is carried out when direct observations of a Tax Administration official are necessary in order to establish or clarify facts relevant for taxation.

Taxpayer may be present at the inspection.

On site inspection is carried out without the taxpayer's presence if delaying on site inspection could jeopardize the establishment of facts or would result in destruction of evidence relevant for taxation.

On site investigation may be carried out with the participation of an expert.

Findings established by an on site investigation are entered into minutes on the investigation performed, which is signed by the participants

Objections of the taxpayer or another tax debtor are entered to the minutes from paragraph 5 of this Article, together with reasons for denying signing the minutes.

Minutes of the on site inspection shall be attached to the file.

## Entering Land or Premises

### Article 50

Owner or holder of objects, premises or land subject to on site inspection, as well as owner or holder of premises or land where objects of on site inspection are located or through or over which it is necessary to pass shall be under the obligation to enable the on site inspection and other actions in tax procedure to be carried out, in accordance with the provision of Article 125 of this Act.

## Evidence in Tax Procedure

### Article 51

In tax procedure the burden of proof is borne by:

- 1) Tax Administration – for facts on which the existence of tax liability are based;
- 2) taxpayer – for facts relevant for reduction or discharge of tax.

Paragraph 1 subparagraph 1 of this Article does not apply to procedure regulated by Articles 58-60 of this Act.

Doubt that arises due to withholding of information or failure to provide evidence on the part of the taxpayer, who is, in accordance with this law, under the obligation to forward them to the Tax Administration, may be to the taxpayer's disadvantage in the procedure for assessing tax liability.

## Proving that Object is Kept in the Capacity of a Pledgee

### Article 52

A person claiming to own or hold rights in his name or objects in his possession only as another person's representative, pledgee or fiduciary shall be under the obligation to prove, in tax procedure, who the owner of those rights or objects is, or these shall be considered to be his property.

## Restitutio in Integrum

### Article 53

If a taxpayer has failed to perform an action within the statutory time limit or the time limit set by the Tax Administration for justified reasons and suffers a consequence due to such failure, restitutio in integrum shall be granted at his request.

Failure to meet the time limit on the part of a taxpayer shall be to taxpayer's detriment.

A motion for restitutio in integrum is filed within eight days from the day the reason causing the failure to meet the time limit has ceased to exist, that is, from the day the taxpayer has learned the cause.

Reasons supporting the motion from paragraph 3 of this Article must be justified.

Tax Administration shall decide on the motion for restitutio in integrum by a conclusion.

Appeal shall not be permitted against the conclusion from paragraph 5 of his Article, unless the motion for restitution in integrum is filed because of missing a time limit for appeal against a tax ruling.

After the expiry of three months from the time limit missed, a taxpayer may not file a motion for restitutio in integrum.

Notwithstanding provisions of paragraph 7 of this Article, a taxpayer may file a motion for restitutio in integrum and perform the action omitted after the expiry of three months from the time limit missed, if force majeure prevented him from filing the motion in due time.

## Heading Four

### ASSESSMENT OF TAX

#### Notion of Assessment of Tax

##### Article 54

Assessment of tax is the activity of the Tax Administration, that is, of the taxpayer, which consists in issuing of administrative acts, that is, in taking actions prescribed by law, by which the existence of individual tax liability and taxpayer, tax base and the amount of tax liability are determined.

Tax is assessed by:

- 1) taxpayer (self-assessment);
- 2) Tax Administration, by passing a tax ruling:
  - (1) in tax control procedure – if the taxpayer, contrary to law, fails to assess the tax liability or assesses it incorrectly or incompletely;
  - (2) in cases when legislation prescribes that self-assessment is not carried out or when legislation prescribes that a tax ruling must be passed despite self-assessment.

Tax ruling on assessment of tax from paragraph 2 subparagraph 2 of this Article, in addition to elements specified by law, shall also include an order for the taxpayer to pay the tax within the prescribed time limit to prescribed public revenue payment accounts.

Provisions on assessment of tax shall also apply to assessment of secondary tax duties, unless otherwise prescribed by this Act.

#### Manner of Passing the Tax Ruling on Assessment of Tax

##### Article 55

Tax Administration shall pass the tax ruling on assessment of tax from Article 54 paragraph 2 subparagraph 2 item 1 of this Act on the basis of data from taxpayer's books and records and the state of facts established in the control procedure, in accordance with the provisions of Article 122 paragraph 4 and Article 129 of this Act.

Tax Administration passes the tax ruling on assessment of tax from Article 54 paragraph 2 subparagraph 2 item 2 of this Act based on data from competent authority's records, tax return and altered tax return and, if necessary, based on data from taxpayer's books and records.

If a taxpayer fails to file a tax return, the tax ruling on assessment of tax shall be passed based on taxpayer's books and records and the state of facts established in control procedure.

If it established in the course of procedure of passing the ruling from paragraphs 1-3 of this Act that data from the tax return, books and records are incorrect, the tax ruling on assessment of tax shall be passed on the basis of a tax base estimate, in the manner prescribed by Articles 58-60 of this Act.

#### Not Passing a Ruling on Assessment of Tax in Case of Revaluation of Tax Liability

##### Article 56

As an exception, at the proposal of the Government of the Republic of Serbia (hereinafter: Government), the National Assembly of the Republic of Serbia may decide that, in regards to certain types of tax, the assessed amounts from the last year be extended to the current year or be re-valued on a higher or lower level, by applying a corresponding formula, in accordance with law.

A local self-government unit may also act in the manner from paragraph 1 of this Article, at the proposal of the Executive Committee, in regards to public revenues it is authorised to impose.

In cases from paragraph 1 and 2 of this Article, the Tax Administration shall not pass a ruling on assessment of tax, but shall inform taxpayers by a public notice on the revaluation index and the day when, in accordance with law, tax becomes due, and record the re-valued amounts, in accordance with the provisions of Article 62 of this Act.

#### Cases when it is Not Viable to Pass a Tax Ruling

##### Article 57

In cases when the tax is incorrectly assessed in a smaller amount, a new tax ruling shall not be passed if the increased amount of tax would be disproportionate to the costs of amending the ruling.

#### Methods for Estimating the Tax Base

##### Article 58

Tax base estimate can be established by applying one of the following methods:

- 1) parity method;
- 2) cross-assessment method.

#### Estimating Tax Base by Parity

##### Article 58a

Tax base is estimated by parity method in one of the following ways:

- 1) estimating, on the basis of available proper documents on business operation within a given period shorter than the taxation period (daily, weekly or monthly) by estimating the tax base for the taxation period on the basis of this part of business operation;
- 2) estimating, on the basis of data and facts on effected turnover (daily, weekly or monthly) established by on site inspection or control, the tax base for the taxation period;
- 3) comparing with the data of other taxpayers performing the same or similar activity on the same or similar location, under approximately the same conditions.

#### Cross-Assessment of Tax Base

##### Article 59

The method of cross-assessment of tax base is used for assessing the tax base for personal income tax.

Tax base from paragraph 1 of this Article shall be assessed as a difference in values of property in the beginning and the end of the calendar year reduced by the amount of declared income and the value of property obtained by funds gained through inheritance, gift or in other manner, without consideration, as well as by the amount of incomes taxable by



personal income tax that are not covered by annual personal income tax, which the taxpayer and/or other person declares and provides supporting evidence thereof.

Property, in terms of paragraph 2 of this Article, comprises the following:

- 1) immovables (apartment house, business building and premises, garage, land and the like.);
- 2) shares in a legal person;
- 3) equipment for performing self-employed activities;
- 4) motor vehicles, watercrafts and aircrafts;
- 5) savings deposits and cash;
- 6) other property rights.

Value of property in the beginning of a calendar year shall be the sum of the total value of property from paragraph 3 of this Article as on January 1<sup>st</sup> of the calendar year.

Value of property in the end of calendar year shall be the sum of total value of property from paragraph 3 of this Article as on December 31<sup>st</sup> of the given calendar year increased by the value of property obtained in the given calendar year with consideration and disposed of with or without consideration, as well as by the value of assets used by the taxpayer to purchase property from paragraph 3 of this Article in the name of third parties in the given calendar year.

If the taxpayer, or other person, declares that specific property or assets were obtained by way of inheritance, gift or in other legal manner without consideration, they shall be under the obligation to provide supporting material evidence thereof.

Tax base assessed in the manner from paragraphs 2-6 of this Article shall be undeclared income.

Undeclared income from paragraph 7 of this Article shall be taxed as other income in terms of legislation governing personal income tax, without recognition of prescribed cost.

#### Selection of Tax Base Evaluation Method

##### Article 60

Tax Administration shall decide what methods and ways from Articles 58 and 59 of this Act it shall use to estimate the tax base.

Minister shall regulate the manner of and procedure for estimating tax base in more detail.

#### Indicative Method for Assessing Minimum Personal Income Tax

##### Article 61

Personal income tax may not be smaller than the amount calculated based on a formula where certain indexes are applied to factors representing the indications of a taxpayer's luxury lifestyle.

At Minister's proposal, the Government shall regulate the application of the method from paragraph 1 of this Article in more detail.

#### Recording the Amount of Tax Liability

##### Article 62

If tax is assessed in the manner prescribed in Article 54 paragraph 2 of this Act, Tax Administration shall record the amount of tax liability for each taxpayer. Tax Administration records the amount of assessed:

- 1) upon receiving the tax return or the altered tax return;
- 2) upon serving the taxpayer the ruling on assessment of case when:
  - (1) when the amount of tax liability expressed in an incorrectly or incompletely filled tax return was adjusted;
  - (2) when statute prescribes that self assessment is not carried out or when statute prescribes that a tax ruling must be passed, regardless of the self assessment;
- 3) on the day specified in the public notice from Article 56 paragraph 3 of this Act.

## Temporary Assessment of Tax

### Article 63

If the Tax Administration is unable to assess tax on the basis of the fully established state of facts by the expiry of statutory time limit for passing the tax ruling, it shall pass a temporary ruling, based on the state of facts established thus far.

A ruling whereby tax is finally assessed shall revoke the ruling from paragraph 1 of this Article.

The final time limit for passing a ruling whereby tax is finally assessed is three years from the day temporary ruling was passed.

## Heading Five

### TAX COLLECTION

#### Chapter One

#### ON TAX COLLECTION IN

#### GENERAL

#### Types of Tax Collection

### Article 64

In terms of this Act, tax collection shall be regular and enforced.

Regular tax collection is carried out when the tax liability becomes due.

Enforced collection is carried out when the tax liability that has become due is not fulfilled by the expiry of time limit from paragraph 2 of this Article.

Provisions on tax collection shall also apply to the collection of secondary tax duties, unless otherwise provided in this Act.

## Maturity

### Article 65

Tax assessed in a manner from Article 54 paragraph 2 of this Act shall become due in the time limit prescribed by law.

Right to refund of overpaid or incorrectly paid tax and secondary tax duties and to reimbursement shall become due on the expiry of time limit from Article 75 paragraphs 4 and 5 of this Act.

## Interim Measures for Securing Tax Collection

### Article 66

In order to secure the collection of tax that has not become due or has not been assessed, but assessment or control procedure has been initiated, and there is danger from the taxpayer jeopardizing or preventing its collection or rendering it ineffective, Tax Administration may establish, by a ruling, interim measures for securing the collection.

The ruling from paragraph 1 of this Article shall include a reasoning, stating why the Tax Administration finds that there is a danger from the taxpayer jeopardizing or preventing the collection of tax not yet due, and such ruling shall become enforceable on the day it is served to the taxpayer.

In terms of this Act, interim measures shall be pledges on taxpayer's movables, immovables, pecuniary assets and claims.

The procedure for constitution and termination of pledge from paragraph 3 of this Article shall be conducted by applying Articles 87 and 91 of this Act accordingly.

Interim measures shall last until the tax for the securing of which they have been imposed is collected or until such time when the taxpayer provides adequate security for the tax liability, in terms of Article 74 paragraph 2 of this Act.

Notwithstanding paragraph 5 of this Article, an interim measure from Article 87 paragraph 1 subparagraph 3 shall last until the moment the ruling on enforced collection of tax from pecuniary assets on taxpayer's account is served to the organisation competent for enforced collection.

Taxpayer may appeal against the ruling from paragraph 1 of this Article.

Appeal from paragraph 7 of this Act shall not stay enforcement.

## Chapter Two

### REGULAR TAX COLLECTION

#### Forms of Regular Tax Collection

### Article 67

Taxes shall be, as a rule, collected by payment of the pecuniary amount, when it becomes due, to the prescribed public revenue payment accounts, within time limits prescribed by law.

Minister may prescribe that certain taxes are paid through a tax cashier.

Tax can also be paid by purchase of a security (tax stamp, supplemental postal stamps, fiscal excise stamps and the like) in cases prescribed by law.

Notwithstanding provisions of paragraphs 1-3 of this Article, tax liability can be fulfilled:

- 1) by compensation, in a manner and under the conditions regulated in more detail by the Minister in accordance with tax law;
- 2) erased («RS Official Gazette», No. 70/03)
- 3) by conversion of tax-based claims to a permanent equity owned by the Republic in the taxpayer's capital, in the manner and under the conditions prescribed by the Government.

#### Day of Tax Payment

##### Article 68

Day of tax payment shall be the day when:

- 1) the amount of taxpayer's taxes and secondary tax duties owed is transferred to the prescribed public revenue payment account;
- 2) erased ("RS Official Gazette", No. 61/07)
- 3) the amount owed is paid at the tax cashier;
- 4) a security from Article 67 paragraph 3 of this Act is stamped or purchased;
- 5) seized money and income from the sale of immovables are transferred to a corresponding public revenue account;
- 6) Tax Administration ruling on transfer of objects to ownership of the Republic of Serbia in accordance with Article 104 paragraph 17 of this Act is passed;
- 7) Tax Administration ruling on transfer of immovables to ownership of the Republic of Serbia in accordance with Article 110 paragraph 5 of this Act is passed;
- 8) amount acquired from the sale of movables and immovables in the procedure of enforced collection of tax and secondary tax duties is paid on the prescribed public revenue payment account.

The day of fulfilment of tax liability by compensation shall be the day when the document on compensation is realised in the manner and under the conditions from Article 67 paragraph 4 subparagraph 1 of this Act.

Day of fulfilment of tax liability by conversion to a permanent equity owned by the Republic in the taxpayer's capital shall be the day the Government passed the act on conversion.

##### Article 69

Erased (RS Official Gazette No. 61/07)

#### Order of Settlement

##### Article 70

Upon payment, the taxpayer shall determine the type of due taxes he pays.

The paid amount is allocated in the following manner:

- 1) amount of main tax liability;
- 2) interest rate;
- 3) collection costs.

If a taxpayer owes payment of more types of tax, and the amount paid does not suffice for payment of the total tax debt, certain types of tax shall be collected in the order in which they become due.

In case of taxes from paragraph 3 of this Article that become due simultaneously, they shall be collected in proportion to the share of each tax in the total tax debt due.

If the amount of payment exceeds the amount owed, the amount overpaid may be used to settle liabilities on the same grounds that become due later.

In case from paragraph 5 of this Article, liabilities due on other grounds are fulfilled or money is refunded, at taxpayer's request.

## Tax Payment Notice

### Article 71

Tax Administration shall send to the taxpayer who has not paid tax or secondary tax duty in part or in total, except in case from Article 74 paragraph 6 subparagraph 1 of this Act, a notice on the type and amount of tax and/or secondary tax duties due for collection, in which it shall order him to pay the amount due without delay, and at the latest within five days from being served the notice, with calculated interest rate from the day the notice was issued to the day of payment of the tax and/or secondary tax duties due.

Notice from paragraph 1 of this Article shall also include an instruction to the taxpayer that he can resolve the contentious issues regarding the type and amount of tax and/or secondary tax duties collectible with the Tax Administration within five days.

Notice from paragraph 1 of this Article shall be served in the manner prescribed in Article 36 of this Act, and, for efficiency purposes, when possible it shall be sent by e-mail, fax, phone or by a courier.

If notice for tax payment is sent by phone, the Tax Administration official shall make an official note thereof and deposit it in the case file.

## Constituting Pledge before Enforced Collection of Tax and Secondary Tax Duties

### Article 72

Tax Administration may enter a pledge in the pledge registers from Article 87 paragraph 5 of this Act immediately after the tax and secondary tax duties become due.

## Tax Deferment

### Article 73

At taxpayer's written and explicated request, Tax Administration may defer the tax, in total or in part, provided that at the time the tax debt becomes due it:

- 1) constitutes an inappropriately large burden for the taxpayer;
- 2) causes considerable financial damage to the taxpayer.

Conditions from paragraph 1 of this Article are regulated in more detail by the Government.

Tax deferment, provided that conditions from paragraphs 1 and 2 of this Article are met, is decided on by:

- 1) the minister or person appointed by the minister – on the basis of a written proposal of the Tax Administration organisational unit manager, according to the taxpayers principal place of business or domicile – except in regards to local self-government unit's original revenues;

2) city major or municipality president or a person authorised by him, in the local self-government unit to which public revenues the payment of which is being deferred in accordance with this Act belong.

Decision from paragraph 3 of this Article may grant a one-time deferment or payment of tax debt in instalments for 12 months at the longest.

Decision from paragraph 3 of this Article must include explicated reasons for granting deferment.

Tax deferral from paragraphs 1 to 3 of this act is effected by Tax Administration and taxpayer signing an agreement, or by Tax Administration passing a ruling.

As an exception, if the person requesting deferment, who does not meet conditions from paragraphs 1 and 2 of this Act, offers as security a bill of exchange backed by a commercial bank, in the amount that may not be less than the amount of the tax debt being deferred, the person from paragraph 3 of this Article may decide to grant deferment to the taxpayer in the manner prescribed in paragraph 4 of this Article.

## Securing the Collection of Tax Debt

### Article 74

In the procedure of deciding on tax deferment from Article 74 paragraph 3 of this Act, the taxpayer shall be required to provide means for securing the payment, which cannot be smaller than the amount of the tax debt being deferred.

Means of security in terms of paragraph 1 of this Article are the following:

- 1) mortgage on taxpayer's immovables;
- 2) pledge on taxpayer's movables;
- 3) irrevocable bank guarantee;
- 4) warranty of another person who owns property the value of which cannot be less than 150% of the amount of the tax debt the collection of which is being secured;
- 5) draft bill of exchange, endorsed by two warrantors from whose salaries, upon which an administrative order is placed, the tax debt can be collected.
- 6) bill of exchange backed by a commercial bank.

In the procedure of deciding on tax deferment from paragraph 73 paragraph 3 of this Act, the Tax Administration decides which of the proposed means of security can be used to collect the tax debt most effectively.

If the taxpayer is unable to provide security against the entire amount of the tax debt, he shall be under the obligation to provide security, in the procedure from Article 73 paragraph 3 of this Act, to the level allowed by his financial situation.

In case from paragraph 4 of this Article, the taxpayer shall provide available means of security and evidence of future incomes sufficient for covering the collection of tax debt.

If the taxpayer fails to observe the time limits from the agreement or the ruling on tax deferment, the Tax Administration shall annul the agreement or revoke the ruling ex officio, and collect the tax debt due but unpaid, taking care of efficiency of collection:

- 1) from means of security;
- 2) in procedure of enforced collection in regards to the taxpayer.

If the tax debt due but unpaid, in the case from paragraph 6 of this Article, is collected from means of security, Tax Administration shall not pass a ruling on enforced collection, but shall only inform the taxpayer that enforced collection of tax debt due but unpaid from the provided means of securing the collection shall be carried out in accordance with law.

Taxpayer in regards to whom the Tax Administration has annulled ex officio the agreement or revoked the ruling from paragraph 6 of this Article shall not be entitled to submit the request for deferment of that tax debt again.

## Article 74a

Notwithstanding Article 73 paragraph 4 of this Act, the competent organ may grant, at the written and explicated request of a taxpayer undergoing reorganisation in accordance with law governing bankruptcy, grant tax deferment in equal instalments for up to 60 months, with the option of a grace period for the first 12 months.

Expiry of the statute of limitations regarding collection of tax debt for a tax deferred shall be interrupted by granting the tax deferment from paragraph 1 of this Article, and the period for which the tax deferment is granted shall not be included in the statute of limitations.

Tax deferment in accordance with paragraphs 1 and 2 of this Article shall be decided on by the person from Article 73 paragraph 3 of this Act.

## Chapter Three

### INTEREST

#### General Provisions on

#### Interest

#### Article 75

Interest shall be calculated and paid on amounts of tax and secondary tax duties underpaid or overpaid, at a rate equal to the annual reference rate of the central issuing bank increased by ten percentage points, by applying the compound interest calculation method.

Interest shall be calculated in regards to tax and secondary tax duties from the day following the day they become due.

If it established, in the course of control, that there is a difference in tax liability, interest shall be calculated from the day the taxpayer was under the obligation to pay the tax liability.

Interest shall be calculated on taxes and secondary tax duties overpaid after the expiry of a 30-day time limit from receiving the request for refund.

If refund is grounded on a ruling or other act regarding debt that has been repealed, altered or revoked, the interest shall be calculated from the day the tax was paid.

#### Interest on Deferred Tax

#### Article 76

If tax has been deferred in accordance with provisions of Article 73 and 74a of this Act, or if the collection of tax debt has been temporarily delayed due to stay of enforcement of a final tax act (in the course of administrative dispute and the like), interest shall also be calculated for the duration of delay or stay, at the interest rate from Article 75 paragraph 1 of this Act.

## Chapter Four

### ENFORCED COLLECTION OF TAX

#### ON ENFORCED COLLECTION OF TAX IN GENERAL

##### Initiation of Procedure for Forced Tax Collection

#### Article 7

Tax Administration shall initiate the procedure of enforced collection of taxes and/or secondary tax duties by passing a ruling on forced tax collection if the taxpayer has failed to pay tax and/or secondary tax duty within the time limit from Article 71 paragraph 1 of this Act.

The ruling from paragraph 1 of this Article shall state the grounds of the tax debt, its remaining unpaid amount as stated in the notice from Article 71 of this Act, served to the taxpayer in accordance with law, with a calculated interest from the day the notice was issued to the day the ruling was passed, and the taxpayer shall be informed of his rights in the enforced tax collection procedure.

Ruling on enforced collection of taxes shall become enforceable on the day it is served.

Appeal may be filed against a ruling on forced tax collection within eight day from the day of being served the ruling.

Tax Administration shall not pass a ruling on forced tax collection if the request for tax deferral from Article 73 of this Act was filed in the time limit from Article 71 paragraph 1 of this act, until this request is decided on.

#### Legal Consequences of Initiating the Forced Tax Collection Procedure

##### Article 78

Initiating the forced tax collection procedure results in:

- 1) collection from taxpayers' entire property, except from the part specified in Article 82 of this Act;
- 2) payment of costs from Article 83 of this Act.

#### Stay of Forced Tax Collection Procedure

##### Article 79

Enforced collection procedure shall be stayed:

- 1) if the Tax Administration initiates bankruptcy procedure against the taxpayer in terms of Article 112 of this Act;
- 2) if the Tax Administration grants tax deferment from Article 73 of this Act;
- 3) if it established that there was a miscalculation regarding the tax liability, resulting in a considerably lower tax, until it is corrected;
- 4) in case from Article 147 paragraphs 2 and 6 of this Act.

Procedure of forced tax collection may be stayed if, after the expiry of time limit from Article 71 paragraph 1 of this Act the taxpayer files a request for deferment under the conditions from Articles 73 and 74 of this Act.

In cases from paragraphs 1 and 2 of this Article, the Tax Administration shall pass a conclusion on stay of enforced collection procedure, and also forward it to organisations effecting the enforced collection from the account.

Stay from paragraphs 1 and 2 of this Article shall have no bearing on the pledge or special duty from Article 83 paragraph 1 of this Act.

#### Termination of Enforced collection Procedure



## Article 80

Enforced collection procedure shall be terminated:

- 1) if the tax liability is revoked;
- 2) if the taxpayer subsequently pays the liability owed, including costs incurred and special duty from Article 83 paragraph 1 of this Act.

In case from paragraph 1 of this Article the pledge shall cease to exist, in accordance with this law, realisation methods shall be revoked and property returned to the taxpayer.

In case from paragraph 1 of this Article, Tax Administration shall issue a ruling on termination of enforced collection procedure and also forward it to the organisation effecting enforced collection from the account.

## Principles of Enforced collection Procedure

### Article 81

In the forced tax collection procedure the Tax Administration shall apply actions regulated by this Act, taking account of the economy of procedure.

Enforced collection procedure shall not be initiated if it is apparent that the taxpayer does not have property from which collection could be effected, which does not exclude the possibility of enforced collection from other taxpayers or tax debtors.

Collection shall not be effected from objects subject to enforced collection if the costs of enforced collection exceed the value of such objects.

Enforced collection shall be effected to the extent that it covers the amount of tax and secondary tax duties owed.

In effected forced tax collection, the Tax Administration shall be under the obligation to observe the taxpayer's dignity.

## Exemption from Enforced collection

### Article 82

Objects and incomes of natural persons exempt from enforcement in accordance with legislation governing enforcement procedure may not be subject to enforced collection.

## Costs of Forced Tax Collection Procedure

### Article 83

Tax liability shall be increased by a special duty on a one-time basis for forced tax collection amounting to 5% of the amount of taxes due but unpaid, where such shall be calculated and added to the main debt on the day the forced tax collection procedure commences.

Costs of enforced collection procedure shall be borne by the taxpayer.

The amount of enforced collection costs from paragraph 2 of this Article shall be prescribed by the Government, at Minister's proposal.

If the taxpayer pays the tax liability after the enforced collection procedure commences, he shall not be relieved from paying the special tax and costs of enforced collection incurred from paragraphs 1 and 2 of this Article.

Costs, in terms of paragraph 2 of this Act, shall not include costs incurred due to a mistake on the part of the Tax Administration.

## Objects of Enforced collection

### Article 84

Collection of taxes and secondary tax duties in enforced collection procedure is effected on:

- 1) taxpayers' pecuniary assets;
- 2) taxpayer's pecuniary claims;
- 3) taxpayer's non-pecuniary claims and other rights;
- 4) cash and securities;
- 5) movables;
- 6) immovables.

Enforced collection may be effected on one or more objects at the same time.

Objects of enforced collection shall be determined by a ruling.

## Rights of Third Persons

### Article 85

Third person, except a household member, claiming to have a right on an object subject to enforced collection that would prevent the sale of property may file a third party action against execution to the competent court.

Court may order stay or termination of realisation of the given measure in the course of enforced collection procedure on the object from paragraph 1 of this Article.

If the person from paragraph 1 of this Article provides evidence that he has a right on the object that is subject to enforced collection, Tax Administration may stay or terminate enforced collection on such object.

## II. PLEDGE

### Securing a Tax Claim in Enforced collection

#### Article 86

In order to secure a tax claim in enforced collection a statutory pledge shall be constituted on taxpayer's objects and/or property rights on behalf of the tax creditor.

The Republic shall be the tax creditor in terms of this Act.

Pledge shall last until the tax debt is settled or the tax ruling revoked.

### The Procedure for Constituting Pledge

#### Article 87

Tax Administration shall order by a ruling:

- 1) inventory of movable property;
- 2) inventory of immovable property;
- 3) ban on transfer of pecuniary assets via the taxpayer's account with a bank, except for tax purposes and entering the ban in the register of blocked accounts kept by the competent organisation;
- 4) prohibit taxpayer's debtors to pay cash debts to the taxpayer and enter the ban in the corresponding register;

5) prohibit taxpayers' debtors to meet other obligations owed to the taxpayer and enter the ban in the register of movables.

Ruling from paragraph 1 of this Article shall be forwarded to the taxpayers and corresponding registers, taxpayer's debtors and the bank.

Once the inventory of movable and immovable property is completed, the Tax Administration shall order to the corresponding authority to enter the pledge in the register of movable and/or immovable property by a ruling.

Tax Administration shall attach to the ruling from paragraph 3 of this Act the minutes on inventory of movable and immovable property from Articles 89 and 90 of this Act.

Ruling from paragraph 1 subparagraphs 3-5 shall be entered, immediately after being served, in the register of pledges on movable property, immovable property and/or the register of blocked accounts with the competent authority, where date and precise time of receipt shall be registered.

Ruling from paragraph 1 of this Article shall become enforceable on the day it served to the taxpayer.

Statutory pledge on behalf of the Republic shall be constituted by entry in the corresponding register.

#### Interim Measure of Securing a Tax Claim in Enforced Collection from Taxpayer's Pecuniary Assets

##### Article 87a

In order to secure the collection of tax and secondary tax duties from taxpayer's pecuniary funds after the commencement of enforced collection procedure on the basis of ruling from Article 92 paragraph 2 of this Act, Tax Administration shall establish, by a ruling, an interim measure of securing the collection of tax claim.

Interim measure from paragraph 1 of this Article is a ban for the taxpayer to settle his pecuniary obligations towards third persons by stipulating a change of creditors or debtors in an obligation relation (assignment, cession and the like), by set-off or in another manner in accordance with law.

Tax Administration ruling on establishing an interim measure from paragraph 2 of this Article shall become enforceable on the day it is served to the taxpayer.

Ruling from paragraph 2 of this Article shall be forwarded to the organisation competent for enforced collection together with the enforceable Tax Administration ruling on enforced collection of tax and secondary tax duties from taxpayer's pecuniary assets.

Organisation competent for enforced collection shall be under the obligation, immediately after being served the ruling from paragraph 2 of this Article to enter it into the blocked account register under the date and precise time of its receipt.

Interim measure from paragraph 2 of this Article shall be enforced in accordance with the provisions of law governing payment operations that relate to enforced collection from the client's account.

After receiving an order from the organisation competent for enforced collection, issued on the basis of ruling from paragraph 2 of this Article, a bank shall be under the obligation to immediately stay the settlement of pecuniary obligations the taxpayer has towards third persons based on contract on change of creditor or debtor in a given obligation relation (assignment, cession), set-off and on other grounds in accordance with law, except for payments related to payment of salaries and compensation of costs (for coming to and from work and for time spent on business trips in the country and abroad), as well as payments related to other incomes (severance pay upon retirement, solidarity aid and assistance in case

of death of employee or a member of his family) and pecuniary compensations from the social programme for employees whose labour relation is terminated in the process of company restructuring process and preparation for privatisation, bankruptcy or liquidation.

Interim measure from paragraph 2 of this Article shall last until the collection of tax on the basis of an enforceable Tax Administration ruling on enforced collection of tax and secondary tax duties from taxpayer's pecuniary funds, for securing the collection of which it has been established.

At taxpayer's explicated request, the Tax Administration may, with Minister's consent, revoke the established interim measure from paragraph 2 of this Article, if the taxpayer provides means for securing the collecting of tax claim from Article 74 paragraph 2 of this Act.

## Legal Consequences of Pledge

### Article 88

After service of the ruling from Article 87 paragraph 1 subparagraph 1 of this Act, the taxpayer shall not be allowed to dispose of objects of enforced collection on which pledge has been constituted.

The ruling on enforced collection of tax from taxpayer's pecuniary assets shall stay all financial transactions through the taxpayer's account, except those relating to the payment of tax.

Ruling from Article 87 paragraph 1, subparagraphs 4 and 5 of this Act shall prohibit debtors to settle their obligations towards the taxpayer, from the day of being served the ruling.

The Republic shall acquire the pledge on movables, also securing the claim in regards to secondary tax duties, the priority of which is determined in accordance with the time of entry into the register or time of informing the debtor.

## Inventory of Movables

### Article 89

Tax Administration officer competent for effecting the enforced collection (hereinafter: tax enforcer) is entitled to enter land and premises where the taxpayers performs his business activity for the purpose of making an inventory.

If the tax enforcer is to enter an apartment or other room in order to make an inventory, valuation and seizure of movables that are in the apartment or other room, or to make an inventory and value the apartment or other room that are used to secure the payment of tax liability, or subject to forced tax collection in the procedure for establishing an interim measure for securing the payment of tax, a pledge, or in the procedure of forced tax collection, and the person holding them does not allow entry into the apartment or other room, the Tax Administration shall file a motion to the competent court to pass a ruling allowing the tax enforcer to enter the apartment or other room against the will of their holder, in order to perform activities in the procedure for establishing an interim measure for securing the payment of tax liability, a pledge or other actions in the procedure of forced tax collection in accordance with this Act. Enforceable Tax Administration ruling from Articles 66, 77 and 87 of this Act shall be attached to the motion.

The court shall be under the obligation to pass a ruling on this motion at the latest within 15 days from receiving an orderly motion.

Prior to making an inventory, the tax enforcer shall show documents verifying his powers and the ruling on enforced collection and call upon the taxpayer to pay the amount of tax and secondary tax duties owed.

Inventory of movables from paragraph 1 of this Article is carried out with the presence of two witnesses of age.

If, in the course of making of inventory, the taxpayer states that a pledge has been constituted on a movable and entered in the register of pledges on behalf of a private creditor, the tax enforcer shall take this into account when determining realisable incomes.

The tax enforcer, if he finds that taxpayer's or other persons claims that there are rights that may prevent enforcement on certain items, may decide not to establish priority when making the inventory.

Items that are most easily cashed in shall have priority in the inventory.

Tax enforcer shall be authorised to remove the person disrupting the realisation of enforced collection, and also to request police assistance if such disruption is continued or if the person who possesses the items refuses to make them available for the purpose of enforced collection.

In case from paragraph 9 of this Article, the police shall be under the obligation to provide the required assistance as soon as possible after receiving the call.

#### Inventory of Immovables

##### Article 90

Tax administration obtains ex officio evidence on immovables owned by the taxpayer from the authority competent for keeping the register of immovables.

The authority competent for keeping the register of immovables shall be under the obligation to forward the requested evidence to the Tax Administration within 3 days from receiving the request from paragraph 1 of this Article.

In order to make an inventory tax enforcers have the right to enter land and premises where the taxpayer performs his business operations, and, on the grounds of a court ruling from Article 89 paragraph 2 of this Article, also to enter the taxpayer's apartment or the apartment of a family member with whom the taxpayer lives in the same household .

#### Termination of Pledge

##### Article 91

Tax Administration, within two days from collecting the tax obligation, files a motion for the deletion of pledge and/or mortgage and informs the bank and the debtor taxpayer on the fact that the ruling from Article 87 paragraph 1 subparagraph 3-5 and paragraph 3 of this Act has ceased to be valid.

Tax Administration shall also inform the taxpayer on the fact that the ruling on enforced collection of tax has ceased to be valid in the time limit set out in paragraph 1 of this Act.

Notwithstanding paragraph 1 of this Act, in cases of taxes that become due periodically, that is, a number of times in the course of one year, the constituted pledge on behalf of the Republic shall be deleted from the register 10 days after the end of the year in which it was constituted at the latest, if the obligation in regards to that tax and corresponding secondary tax duties have been settled on December 31 of that year.

### III. REALISATION

#### Means of Enforced collection

##### Article 92

Enforced collection is effected on:

- 1) taxpayer's pecuniary assets – by transfer of assets from taxpayer's accounts, including funds on foreign currency account, to the public revenue payment account;
- 2) taxpayers pecuniary claims – by transfer of claims to public revenue payment account;
- 3) taxpayer's non-pecuniary claims – by ban, transfer of claim and inventory with valuation, seizure and sale of objects of claim;
- 4) cash and securities – by inventory and seizure;
- 5) movables – by seizure and sale;
- 6) immovables – by seizure, establishing the start value and sale.

Tax Administration can apply, based on the ruling, one or more means of enforced collection from paragraph 1 of this Article, at any order.

Ruling from paragraph 2 of this Article shall be forwarded to the taxpayer and his debtors, that is, to organisation competent for enforced collection or bank.

#### Proceeds from Realisation

##### Article 93

Tax Administration shall pay the seized money and proceeds from the sale of movables and immovables to the corresponding public revenue payment account.

If the proceeds from sale exceed the amount of tax liability, the difference shall be returned to the taxpayer within 30 days, and the interest shall be calculated on behalf of the taxpayer after the expiry of this time limit, in accordance with Article 75 of this Act.

If, in the time limit from paragraph 2 of this tax, a new tax liability of the taxpayer becomes due but is not paid, the difference effected by the sale of movables or immovables at a higher price shall be used to fulfil this liability.

Proceeds from realisation of objects of enforced collection from Article 84 of this Act shall be allocated by a Tax Administration ruling according to the order of settlement from Article 70 of this Act.

#### Proceeds from Items Transferred to the Property of the Republic

##### Article 94

If sale is realised in the manner from Article 104, paragraph 18 and Article 110, paragraph 5 of this Act, it shall be considered that the estimated value of movables, that is, a third of the established starting price of immovables constitutes the price paid to the corresponding public revenue payment account.

If there is a priority pledge of another creditor on the movable or immovable from paragraph 1 of this Article that must be settled, such creditor shall be settled first from the amount from paragraph 1 of this Article.

If the estimated value of movables or a third of the established starting value of immovables exceeds the amount of tax liability, the difference shall be returned to the taxpayer according to the procedure and in the manner prescribed by the Minister.

#### Enforced Collection from Pecuniary Assets

##### Article 95

Enforced collection of tax and secondary tax duties from taxpayer's pecuniary assets, based on the ruling from Article 92 paragraph 2 of this Act, shall be the transfer of funds from taxpayer's account with a bank to the corresponding public revenue payment account, on the basis of a ruling on enforced tax collection.

The ruling from paragraph 1 of this Article shall include an order to the organisation competent to calculate the interest in the manner prescribed by this Act, from the day the ruling was passed until the day of transfer of the entire amount of tax and secondary tax duties, and to transfer the amount of calculated interest to corresponding public revenue accounts.

Ruling from paragraph 1 of this Act shall be enforced in the manner regulated in legislation governing payment operations.

If funds at the taxpayer's account are temporarily insufficient, the organisation competent for enforced collection and/or bank shall enforce the ruling successively, according to the funds available, until the ruling is fully enforced.

If the bank fails to act in the manner prescribed in paragraph 2 of this Article, the collection of the owed amount of tax and secondary tax duties shall be effected directly from the funds at bank's account.

Ruling on enforced tax collection from taxpayer's pecuniary assets shall have legal effect from the day of being served to the organisation competent for enforced collection until the day the liability is settled, that is, that the ruling is revoked.

#### Enforced collection from Pecuniary Claims

##### Article 96

Enforced collection from taxpayer's pecuniary claims shall be effected on the basis of the ruling from Article 92 paragraph 2 of this Act.

The ruling from paragraph 1 of this Article shall order to the taxpayer's debtor to settle his debt by payment to the public revenue payment account once it becomes due.

If the debtor from paragraph 2 of this Article fails to make the payment once it becomes due, the Tax Administration shall effect the enforced collection from the pecuniary assets on the taxpayer's debtor's account, in accordance with Article 95 of this Act.

#### Enforced collection from Non-Pecuniary Claims

##### Article 97

Enforced collection from taxpayer's non-pecuniary claims when the claim entails surrender of objects or transfer of ownership right to the taxpayer, it shall be effected on the basis of ruling from Article 92 paragraph 2 of this Act.

Ruling from paragraph 1 of this Article shall order the taxpayer's debtor to surrender the owed object or immovable once such surrender becomes due, to the Tax Administration, and/or to transfer the ownership right to the Republic.

If the debtor from paragraph 2 fails to effect the payment once it becomes due, the Tax Administration shall effect enforced collection from taxpayer's debtor's non-pecuniary claim in accordance with Articles 99-111 of this Act.

Once the Republic enters into possession of object or gains ownership on object, they shall be sold in accordance with Articles 99-104, that is, Articles 105-111 of this Act.

Enforced collection from other non-pecuniary claims shall be effected by applying provisions of paragraphs 2 and 3 of this Act accordingly.

#### Enforced collection from Cash and Securities

#### Article 98

Enforced collection of tax and secondary tax duties from cash is effected on the basis of ruling from Article 92 paragraph 2 of this Act, in accordance with the provisions of Articles 89 and 99 and Articles 101-103 of this Act.

Tax Administration forwards the ruling on enforced collection from securities to the bank or other legal person keeping the securities, as well as to taxpayer.

Bank or other legal person keeping the securities forwards to the Tax Administration data on securities, including an estimate of their value within five days from receiving the ruling.

The bank or other legal person from paragraph 3 of this Article shall be under the obligation to sell the securities under the best conditions on the market within the following eight days.

The price accomplished, minus the commission and cost of sale, is deposited to the Tax Administration account and the following day, at the latest, paid to the corresponding public revenue payment account.

#### Enforced collection from Movables

#### Inventory of Movables

#### Article 99

Tax enforcers shall make the inventory of movables, estimate their value, seize them and sell them on the basis of ruling from Article 92 paragraph 2 of this Act.

If the inventory of movables was made in the procedure for establishing a pledge in accordance with this Act, the enforced collection procedure shall start by estimating the value of the movables the inventory of which has been made.

#### Estimating the Value of Movables

#### Article 100

Tax enforcer shall estimate the value of items in the inventory in the course of making the inventory.

Tax Administration may designate another expert as the estimator or obtain a report on the price of objects from expert institutions or organisations.



Minutes shall be made of the inventory and value estimate made.

Minutes from paragraph 3 of this Article shall be served to the taxpayer in the manner prescribed in Article 36 of this Act.

Taxpayer may file an objection as to the estimate of objects in the inventory within three days from the day of being served the minutes.

Enforced collection procedure shall be stayed until a conclusion is passed on the objection.

Conclusion on the objection from paragraph 6 of this Article may not be challenged by a legal remedy.

## Seizure of Movables

### Article 101

Inventoried movable on which a pledge was constituted on behalf of the Republic or in regards to which a procedure for constituting a pledge on behalf of the Republic has been initiated shall not be seized from the taxpayer at the time the inventory is made.

Inventoried movable shall be seized from the taxpayer after the expiry of time limit from Article 104 paragraphs 3 and 6 of this Act, and minutes shall be made thereof.

As an exception, if there are grounds for suspecting that the taxpayer shall jeopardise the collecting of tax by hiding, disposing of, destroying or rendering the inventoried object unusable, including an itemized object on which a pledge on behalf of the Republic has been constituted in accordance with law before or in the course of enforced collection procedure, such item shall be seized at the time the inventory is made.

Tax enforcer shall be under the obligation to explicate the grounds for suspicion from paragraph 4 of this Article.

In case from paragraph 3 of this Article, minutes shall be made of the inventory, value estimate and seizure of movables.

## Informing Potential Owners

### Article 102

Tax enforcer shall be under the obligation to notify of the inventory all persons, except for taxpayer's family members, in regards to whom it has been indicated that inventoried objects belong to them and to instruct them of their right to file a third-party action against execution to the competent court within eight days from receiving the notification.

Notification from paragraph 1 of this Article shall be given orally, if such persons are present at the inventory and is entered in the minutes on inventory and estimation of value of movables, while absent persons are informed in writing.

In case of stay from Article 85 paragraph 3 of this Act, the object may be entrusted for safekeeping to the taxpayer or a third person.

Taxpayer or third person shall be under the obligation to keep the object from paragraph 3 of this Article in an unchanged condition until the dispute regarding the third-party action against execution is concluded.

Enforced collection shall not be stayed if the object is perishable or if its' safekeeping requires major costs.

In case from paragraph 5 of this Article, Tax Administration shall sell the object by direct agreement, without delay.

If it established, in regards to the third-party action against execution, that the plaintiff is not the owner of inventoried object, and the taxpayer disposes of it, destroys it or

damages it, thus jeopardizing the collection of tax, Tax Administration shall be under the obligation to file a criminal charge to the state prosecutor within five days from learning of such taxpayer's action, while the enforced collection shall be completed without delay by applying means and in regards to objects of enforcement from Article 92 paragraph 1 of this Act.

#### Enforced collection when Object is Held by Other Person

##### Article 103

If a taxpayer's object is held by other person, such person shall be under the obligation to surrender such object, at tax enforcer's request, for the purpose of enforced collection, or to pay the tax liability to the tax enforcer.

In case from paragraph 1 of this Article, it shall be considered that the other persons' actions were made at the order of the tax enforcer.

Tax enforcer shall be under the obligation to issue a certificate of surrender or a certificate on payment of tax owed to person from paragraph 1 of this Article.

#### Sale of Movables

##### Article 104

Sale of movables is done by oral public auction or by direct agreement between the buyer and the Tax Administration, where a conclusion shall be passed thereof.

Oral public auction in terms of this Act shall be an oral public auction with at least two bidders. If there are less than two bidders at an oral public auction, oral public auction shall be re-announced within eight days from the day for which the oral public auction with less than two bidders was announced.

If a movable is perishable or if its safekeeping requires major costs, Tax Administration shall sell such object by direct agreement without delay.

Sale by oral public auction shall be determined in cases of objects of greater value, when it can be expected that they will be sold at a higher price than the price that could be obtained when selling by direct agreement.

Only persons who make a deposit amounting to 10% of the estimated value of the movable can take part in oral public auction for the sale of movables the individual price of which exceeds 200.000 dinars. If the buyer of the movable fails to pay the achieved price within eight days from the day of being served the minutes on sale of movable, sale shall be declared null and void in regards to such buyer, and the buyer shall lose the deposit and may not act as bidder in the further procedure for the sale of such object.

Sale of movables shall be effected after the expiry of eight days from the day of inventory.

Tax Administration shall announce the sale of objects within five days from the day of seizure on the bulletin board. Sale shall also be announced in a daily newspaper sold on the entire territory of the Republic if the estimated value of movables sold by oral public auction exceeds 1,000,000 dinars.

Taxpayer, employees of the Tax Administration and persons connected to them cannot qualify as buyers of objects from paragraph 1 of this Article.

Disqualification from paragraph 8 of this Article extends to resale, lease, giving as a present or for use to such persons within one year after the sale is completed.

At the first oral public auction, as well as in the time limit designated for sale by direct agreement, the object may not be sold at a price lower than 75% of the estimated value.

If the movable is not sold at the first oral public auction, a second one shall be determined and scheduled by a conclusion, within eight days from the day the first public auction was held.

At the second oral public auction the movable may not be sold at a price lower than 50% of the estimated price.

If the movable is not sold on the second oral public auction either, public auctions shall be repeated in the manner from paragraph 11 of this Article, with the lowest price of one third of the estimated value, until the object is sold or the time limit of three months from the day the conclusion determining the sale by oral public auction expires.

Movables that are not sold by direct agreement in the time limit from paragraph 10 of this Article shall be sold according to rules applicable to the second and subsequent oral public auctions.

Movables can be sold at the first oral public auction at a price lower than 75% of the established start value, that is, at a price lower than 50% of the established start value at a second oral public auction if the taxpayer consents to that in writing.

Once the seized objects are sold, the Tax Administration, after the buyer pays the amount for which the object has been sold, shall issue to the buyer a document on property sale certifying that the ownership has been transferred to the buyer and that the legal grounds for acquiring ownership is the purchase of object in the forced tax collection procedure.

Procedure of sale of seized objects shall be terminated when the achieved price reaches the amount of tax and secondary tax duties owed, and the remaining objects shall be returned to the taxpayer.

If the sale of seized objects was unsuccessful at the first oral public auction and at subsequent oral public auctions or by direct agreement within the time limit from paragraph 13. of this Article, the objects are transferred to the ownership of the Republic by Tax Administration ruling that is, to the ownership of a local self-government unit by a ruling of the competent local self-government authority at a price that shall be established by subsequent estimation of their value.

Authority competent for recording movables in state ownership shall be under the obligation to take possession of the movables transferred to the ownership of the Republic within 30 days from the day the ruling from paragraph 18. of this Article becomes final.

Government shall regulate in more detail the manner and procedure with objects from paragraph 19 of this Article.

Movables at an oral public auction or direct agreement are purchased as is.

Minutes shall be made on the sale of movables.

## Enforced collection from Immovable

### Inventory of Immovable

#### Article 105

Immovable shall be inventoried, its initial value determined and it shall be sold by the tax enforcer in the enforced collection procedure, on the basis of the ruling on enforced collection from Article 92 paragraph 2 of this Act.

### Seizure of Immovable not Entered in the Corresponding Register

#### Article 106

Seizure of immovable not entered in the corresponding register shall be effected by the tax enforcer at the moment of making the inventory.

Before starting the seizure, the tax enforcer shall show a document verifying his powers and the ruling on enforced collection and call upon the taxpayer to pay the amount owed.

Seizure of immovable from paragraph 1 of this Article shall be carried out in the presence of two witnesses of age.

Tax enforcer shall be under the obligation to remove the person disrupting the enforced collection as well as to seek police assistance if such disruption is continued or if the person in the possession of immovable refuses to make it available for the purpose of enforced collection.

In case from paragraph 4 of this Article, police shall be under the obligation to provide the requested assistance as soon as possible after receiving the call.

Minutes shall be made on the effected seizure of immovable from paragraph 1. of this Article.

### Establishing the Start Value of Immovable

#### Article 107

Within three days from the day the ruling on enforced collection becomes final, Tax Administration shall establish the start value of immovable.

The manner for establishing the start value of immovable shall be regulated by the Minister.

Start value of immovable from paragraph 1 of this Article shall be established by a ruling.

When establishing the start value of immovable care shall be taken of the depreciation of the value of immovable due to the fact that certain rights and burdens shall remain attached to it after the sale.

Taxpayer may file an objection to the ruling establishing the start value of immovable within three days from receipt.

Appeal shall not be prohibited against the ruling on objection.

### On Sale of Immovable in General

#### Article 108

Sale of immovable shall be initiated after the expiry of the time limit of eight days from the day the ruling from Article 107 paragraph 3 becomes final, that is, from the day the ruling passed on objection from Article 107 paragraph 5 of this Act is served; the sale may be effected in a shorter time limit, with the taxpayer's consent.

Tax Administration, the following day after the expiry of the time limit from paragraph 1 of this Article, passes a conclusion on determining the sale of immovable by oral public auction.

Announcement on sale of immovable is published on the bulletin board of the Tax Administration organisational unit on the territory of which the immovable is located and is forwarded, at the same time, for publication purposes, to a daily newspaper covering the entire territory of the Republic, as well as to the taxpayer, pledge creditors and persons having the statutory right of pre-emption on such immovable.

Announcement on determining the sale of immovable shall include in particular:

- 1) description and address of the seized immovable being sold;
- 2) established start value of immovable;
- 3) indication of servitudes and burdens taken over by the buyer;

- 4) manner, time, date and hour of sale;
- 5) amount of deposit to be given by persons taking part in oral public auction;
- 6) time limit in which the buyer of immovable is under the obligation to pay the price for which the immovable has been sold.

There shall be no right to complaint in regards to immovable sold by public auction or in another manner.

## Sale of Immovable by Oral Public Auction

### Article 109

Sale of immovable is carried out in the seat of Tax Administration organisational unit executing the sale.

Only persons who have placed the deposit shall be eligible to take part in oral public auction.

The deposit from paragraph 2 of this Article shall be placed to the account of the Tax Administration, in the amount of 5% of the established initial value of immovable.

Deposit shall be returned to bidders whose offer is not accepted immediately after the conclusion of public auction.

Interested bidders have the right to view the immovable subject to public auction until the day the public auction is held at the latest.

At the first public auction, the immovable may not be sold at a price lower than 75% of the established initial value.

If the immovable is not sold at a first oral public auction, a second one shall be determined by a conclusion within eight days from the day the first public auction is held.

At the second public auction, the immovable may not be sold at a price lower than 50% of the established start value.

If the immovable is not sold on the second oral public auction either, public auctions shall be repeated in the manner from paragraph 7 of this Article, with the lowest price of one third of the established initial value, until the immovable is sold or the time limit from Article 110 paragraph 1 of this Act expires.

Immovable can be sold at the first oral public auction at a price lower than 75% of the established start value, that is, at a price lower than 50% of the established start value at the second oral public auction if the taxpayer consents to that in writing

Minutes shall be made of the course of the oral public auction.

After the end of sale of immovable by oral public auction, Tax Administration shall pass a ruling on sale of immovable.

Person having the statutory right of pre-emption in regards to immovable subject to forced tax collection shall have priority over the best bidder at the oral public hearing, if, after the conclusion of oral public auction, he states for the minutes on sale of immovable that he shall purchase the immovable under the same conditions.

## Sale of Immovable by Direct Agreement

### Article 110

If the immovable is not sold in accordance with rules on oral public auction within three months from the day the conclusion on determining the public sale by oral public auction is passed, the Tax Administration director or a person at the Tax Administration so authorised by the director shall determine, by a conclusion, the sale of immovable by direct agreement.

In case from paragraph 1 of this Article, immovable may not be sold at a price lower than one third of the established starting price.

Minutes shall be made of the course of direct agreement.

After the finalisation of sale by direct agreement, Tax Administration shall pass a ruling on sale of immovable.

If the immovable may not be sold by direct agreement within six months from the day the conclusion from Article 108 paragraph 2 of this Act is passed, Tax Administration shall pass a ruling whereby it transfers the immovable to ownership of the Republic, that is, the competent local self-government authority shall pass a ruling whereby the immovable is transferred to ownership of the local self-government unit, in the value of one third of the established starting value.

Ruling from paragraph 5 of this Article shall be served to the taxpayer and the authority competent for the register of immovables.

Tax Administration shall settle the priority mortgage claim up to one third of established starting value of the immovable.

After settling the claims of priority creditors, Tax Administration shall supply evidence of settling to the authority competent for keeping the register, with an order to delete the mortgage.

Taxpayers and employees of the Public Administration and persons connected to them are disqualified as buyers in the public auction or direct agreement.

The prohibition from paragraph 9 of this Article extends to the resale, rent, giving as a gift or for use of the immovable to such persons, within one year after the sale.

The authority competent for the record of immovables in state ownership is under the obligation to take possession of the immovable transferred to ownership of the Republic within 30 days from the day the ruling from paragraph 5 of this Article becomes finally binding.

Government shall regulate in more detail the treatment of immovable from paragraph 11 of this Article.

## Procedure with Proceeds from Sale of Immovable

### Article 111

Buyer of immovable shall be under the obligation to pay the amount for which the immovable has been sold to him within eight days from the day the oral public auction is concluded, minus the deposit, which will become a part of the price paid.

If the buyer fails to pay the amount for which the immovable has been sold to him in the designated time limit, the sale shall be declared null and void by a ruling and the buyer shall lose the deposit and shall not be eligible as a bidder in the procedure for sale of such property for a period of six months.

In case from paragraph 2 of this Article, Tax Administration shall call upon the second best bidder, if the price offered is not lower than the price prescribed by this Act, to state whether he will purchase the property for the amount offered. If the second best bidder agrees to buy the immovable for the price offered in writing, a ruling on sale to such bidder shall be passed.

If the buyer from paragraph 3 of this Article fails to pay the amount for which the immovable has been sold to him in the designated time limit, the sale shall be declared null and void by a ruling, the buyer shall lose the deposit, if it has not been returned to him, and shall not be eligible as a bidder in the procedure for selling such immovable for a period of six months.

In case from paragraph 4 of this Article the Tax Administration shall continue the procedure of sale of immovable within eight days from the day the ruling declaring the sale

null and void is passed, in the manner and under the conditions applicable to oral public auction being repeated.

If there is a priority mortgage claim of a different creditor on the immovable sold, such creditor's claim shall be settled first from the amount designated in paragraph 1 of this Article in accordance with Article 110 paragraph 7 of this Act.

Upon payment of amount for which the immovable is sold by oral public auction or direct agreement and once the ruling on sale of immovable from Article 109 paragraph 12 and Article 110 paragraph 4 of this Act becomes final, Tax Administration shall pass a ruling on surrender the immovable to the buyer.

Ruling on handing over of immovable to buyer from Article 109 paragraph 12 and Article 110 paragraph 4 of this Act shall also be served both to the taxpayer and the authority competent for keeping the register of immovables.

After the ruling on settling the claim of priority mortgage creditor becomes final, Tax Administration forwards that ruling, with proof that payment was made, to the authority competent for keeping the register of immovables for the purpose of deleting the mortgage on the immovable.

Provisions of legislation governing enforcement procedure shall apply accordingly to the protection of buyer and his rights, as well as to all other issues not regulated by this Act in regards to the sale of immovable.

## Declaring Insolvency

### Article 112

If it established in enforced collection procedure that the taxpayer does not have the property from which tax debt can be settled by enforced collection, or that the value of taxpayer's property transferred to the Republic is lower than the tax debt, the Tax Administration shall state by a ruling that the taxpayer is temporarily insolvent and initiate bankruptcy procedure, in the capacity of creditor, in accordance with law, if the taxpayer is a legal person or an entrepreneur.

If the taxpayer becomes solvent again, Tax Administration shall put out of force the ruling on declaration of insolvency and continue with the enforced collection procedure.

## Heading Six

### PROCEDURE FOR ASSESSING AND COLLECTING TAX ON THE BASIS OF SECONDARY TAX DUTY

#### Assessing and Collecting Tax on the Basis of Secondary Tax Duty

### Article 113

Tax on the basis of secondary tax duty from Article 31 of this Act is assessed by the Tax Administration by a ruling.

Ruling from paragraph 1 of this Article shall not be passed if the tax liability has ceased to exist in the manner from Article 23 of this Act.

Unless otherwise provided by law, the ruling from paragraph 1 of this Article shall be passed only if tax was not collected by measures of enforced collection taken.

Limitation from paragraph 3 of this Article shall not apply in the case from Article 3 paragraph 2 subparagraph 2) -4) of this Act.

Collection of tax on the basis of secondary tax duty shall be effected by applying the provisions of this Act governing tax collection accordingly.

#### Heading Seven

### OTHER FORMS OF TERMINATION OF TAX DEBT

#### Limitation in Regards to Right to Determine and Collect Tax and Secondary Tax Duty

##### Article 114

The right of Tax Administration to determine and collect tax and secondary tax duties shall be limited to five years from the day the limitation starts.

Limitation on the right to determine tax and secondary tax duties shall be start on the first day of the year following the year in which tax and/or secondary tax duty should have been determined.

Limitation on collecting tax and secondary tax duties starts on the first day of the year following the year in which the taxpayer's liability became due.

#### Limitation on Tax Reimbursement and Refund and Reimbursement of Secondary Tax Duties

##### Article 114a

Taxpayer's right to reimbursement and refund, as well as settling of liabilities due on other grounds by rebooking tax and reimbursement of secondary tax duties shall be limited to five years from the day the limitations starts.

Limitations on reimbursement and refund as well as on settling of liabilities on other grounds by tax rebooking and on reimbursement of secondary tax duties shall start on the first day of the year following the year in which the taxpayer has acquired the right to reimbursement and refund, as well as to settling of other liabilities by tax rebooking and reimbursement of secondary tax duties.

#### Limitations on Initiating and Conducting Petty Offence Procedure for Tax Petty Offences

##### Article 114b

Petty offence procedure may not be initiated after the expiry of five years from the day the petty offence was committed.

Provisions of statute governing petty offence procedure shall apply to issues regarding limitations not regulated by this Act.

##### Article 114c

Erased ("RS Official Gazette" No. 53/10)

##### Article 114d

Erased ("RS Official Gazette" No. 53/10)



## Termination of Limitation

### Article 114e

Limitation shall be terminated by any Tax Administration action taken against the taxpayer for the purpose of determining and collecting tax and secondary tax duties.

After the termination, limitation shall start to run again, and the time lapsed before the termination shall not be calculated in the statute of limitations.

### Calculating the Predecessor's Time

#### Article 114f

The time lapsed in regards to the taxpayer's predecessor and other tax debtor shall be calculated in the statute of limitations.

## Other Provisions on Limitation

### Article 114g

Provisions of this Act on limitation of the right to determine and collect shall not apply to contributions for pension and disability insurance.

## Absolute Limitation

### Article 114h

Right to assess, collect, reimbursement, refund and settlement of liabilities due on other grounds by tax rebooking shall always be limited to ten years from the expiry of the year in which tax was to be assessed or collected, or in which it was overpaid.

## Writing Off Tax and Secondary Tax Duties

### Article 115

Government can, at Minister's proposal, and in relation to the initiative of the minister competent for economy and regional development, pass a decision on partial or full writing off of tax and secondary tax duties of a taxpayer being sold in privatisation process or is undergoing restructuring.

Government can, at Minister's proposal, pass a decision on partial or full writing off of tax and secondary tax duties of a taxpayer the ownership structure of which has been changed on the grounds of contractual obligations being taken over by the Republic.

Tax Administration shall write off the debt on the grounds of tax and secondary tax duties when conditions from Article 22 paragraph 2 and 4 of this Act are met, as well as in other cases prescribed by law.

#### Article 115 a

Erased ("RS Official Gazette" No. 53/10)

Part Three

## TAX CONTROL

### Heading One

## ON TAX CONTROL IN GENERAL

### Notion of Tax Control

#### Article 116

Tax control is the procedure of checking and establishing the legality and regularity of fulfilment of tax liability, conducted by Tax Administration, in accordance with this Act.

If irregularities or omissions in the fulfilment of obligations from tax-law relations are established in tax control, the taxpayer shall be ordered to eliminate them.

### Forms of Tax Control

#### Article 117

In tax control procedure, Tax Administration shall perform, in accordance with law:

- 1) office control;
- 2) field control;
- 3) action for the purpose of revealing tax crimes.

### Tax Control Plan

#### Article 118

Tax control is conducted on the basis of an annual plan or extraordinary plan, passed by the Tax Administration director, which is based on the estimate of tax relevance and tax risk of the taxpayer.

Upon making the plan from paragraph 1 of this Article, the assessment of impact of tax control to the efficiency of tax collection in certain business activities.

In cases when there were market distortions or if there is indication that the scope of illegal trade has increased, tax control is conducted on the basis of extraordinary control plan passed by the Minister.

### Heading Two

## OFFICE CONTROL

### Notion of Office Control

#### Article 119

Office control is a set of actions used by the Tax Administration to check the accuracy, completeness and conformity with law and other regulations of taxpayer's data stated in the tax return, as well as in the tax balance, accounting statements and other records (hereinafter: other statements), by comparison with tax accounting and other official records kept by or at the disposal of the Tax Administration.

Office control is conducted by the tax inspector on Tax Administration premises, except for actions of control of receipt and processing of tax return and other statements carried out by Tax Administration officials assigned to those tasks.

Office control procedure in terms of Article 40 paragraph 5 of this Act, shall start on the day the notice from Article 121 paragraph 1 of this Act are sent.

### Processing of Taxpayer's 'Tax Return and Other Statements

#### Article 120

Mathematical accuracy, formal accuracy and completeness of tax return and other tax statements the taxpayer forwards to Tax Administration, in accordance with law, are verified in the procedure of office control.

If it established that there is a mathematical error in the processing of tax return and other statements, Tax Administration shall pass a ruling ordering the taxpayer to pay the difference or establishing the amount of tax reimbursement.

If it established, in the course of processing of tax return and other tax statements, that these are formally inaccurate, incorrectly completed or incomplete, tax inspector shall order to the taxpayer by a conclusion to correct the errors or amend the return and other statements within three days.

If the taxpayer does not proceed in accordance with the conclusion from paragraph 3 of this Article, it shall be considered that the tax return and other statements were not submitted to the Tax Administration.

### Participation of Taxpayer in Office Control Procedure

#### Article 121

Taxpayer shall be under the obligation, at Tax Administration notice, to take part in the office control procedure, directly or through a tax representative, and to provide requested clarifications and documents in the time limit determined by the Tax Administration.

Failure to respond to the notice from paragraph 1 of this Article shall not stay office control procedure.

### Change of Tax Liability According to Office Control Finding

#### Article 122

If it established, in the course of office control procedure, that there are irregularities in regards to data relevant for assessing the amount of tax liability, tax inspector shall be under the obligation to make the minutes on control.

Taxpayer shall be entitled to file objections on such minutes within three days from being served the office control minutes.

Tax inspector shall be under the obligation to consider the objections from paragraph 2. of this Article within three days from receiving them and make an amendment to the minutes.

Tax Administration shall pass the ruling on determining tax from Article 54 paragraph 2 subparagraph 2) item (1) of this Act on the basis of minutes from paragraphs 1. and 3 of this Article.

### Heading Three

## FIELD CONTROL

### Notion of Field Control

#### Article 123

Field control is a set of actions used by Tax Administration to verify legality of work and regularity in fulfilment of tax liability by taxpayers.

Field control shall be conducted by tax inspector on the basis of control order.

In the course of field control the tax inspector shall also use data collected in the manner from set out in Article 120 paragraph 1 of this Act.

### Start of Field Control

#### Article 124

Tax Administration serves the order for field control to the taxpayer in the manner from Article 36. of this Act, immediately before the control starts.

In case from Article 118 paragraph 3 of this Act, tax inspector shall start the procedure of field control without serving the field control order to the taxpayer.

Before starting field control, the tax inspector is under the obligation to show official identification card to the taxpayer.

Tax Administration may delay the start of field control if the taxpayer files an oral objection immediately after receiving the order from paragraph 1. of this Article, stating the reasons for such delay, where the taxpayer shall be under the obligation to file the objection to the Tax Administration in writing within 24 hours from being served the order.

If the tax inspector finds that oral objection has been filed in order to disrupt field control, he shall start with control procedure and state the reasons for such decision in the minutes.

Tax Administration shall pass a conclusion that cannot be challenged by a legal remedy on the objection from paragraph 4 of this Article.

### Place of Field Control

#### Article 125

Field control is carried out at taxpayer's business premises or in another location, depending on the object of control.

If field control is conducted on taxpayer's premises, he shall be under the obligation to provide an adequate space for the tax inspector to work.

If there is no adequate space for conducting field control, field control can be conducted, with taxpayer's consent, in the taxpayer's living quarters or in another location determined by the Tax Administration, in accordance with paragraph 1 of this Article.

If field control is not performed on taxpayer's business premises, tax inspector shall be under the obligation to inspect the premises and make a note, which shall be entered in the minutes from Article 128. of this Act, thereof.

Tax inspector shall have the right to enter land and business premises of the taxpayer and, at court's approval, taxpayer's living quarters, for the purpose of control.

Taxpayer or his authorised representative must be given the opportunity to be present during the inspection of land, premises or living quarters from paragraph 5. of this Article.

If persons from paragraph 6 of this Article do not use the possibility to be present during the inspection of land, premises or living quarters and the tax inspector finds that this disrupts or delays tax control, he shall perform the control from paragraph 5 of this Article without their presence, with the presence of two witnesses of age.

Tax inspector shall enter facts from paragraph 7 of this Article into the minutes.

#### Time of Field Control

#### Article 126

Field control shall be performed during taxpayer's working hours and exceptionally after working hours, if so required by the purpose of control or if the taxpayer consents to that.

Tax inspector may temporarily seal taxpayers' office or storage space after the taxpayer's working hours.

Measure from paragraph 2 of this Article shall remain in force until the beginning of taxpayer's working hours on the first following work day at the latest.

A conclusion shall be passed on the measure from paragraph 2 of this Article, which cannot be challenged by a legal remedy.

#### Taxpayer's Obligation to Take Part in Field Control

#### Article 127

Taxpayer shall be under the obligation to take part in establishment of state of facts and give information and statements at tax inspector's request.

Taxpayer shall be under the obligation to enable to tax inspector insight into the state of raw materials, reproduction materials, semi-finished products, finished products and goods (hereinafter: goods) and equipment, as well as to enable insight into books, business records and other records and documents.

If prevented from taking part in field control, taxpayer shall determine a person who will perform, on his behalf, the obligations from paragraph 1 and 2 of this Article.

Failure to meet the obligations from paragraphs 1-3 of this Article on the part of the taxpayer shall not stay field control.

Tax inspector may also request data or access to documents from taxpayer's employees or other persons.

Persons from paragraph 5 of this Article shall be under the obligation to make the data and documents at their disposal available to the tax inspector.

#### Minutes

#### Article 128

Tax inspector shall make the minutes on field control. Each page of the minutes must be designated by a serial number and signed.

Minutes on field control shall be forwarded to the taxpayer within three days from the day the control is finished.

Taxpayer is entitled to file objections to minutes on field control within five days from being served the minutes, except to a passed oral ruling from Article 133 paragraph 2 of this Act.

If objections are filed in a foreign language in the time limit from paragraph 4 of this Article they shall be considered filed in due time if translation of objections to Serbian language by an authorised person is filed within the next two days.

If the objections include new evidence and facts that would lead to a change in the state of facts as established in the minutes or change in former legal assessments, the tax inspector shall make supplementary minutes on such evidence and facts.

Objection may not be filed against the supplementary minutes from paragraph 6 of this Article.

#### Tax Ruling Passed During Field Control

##### Article 129

If it is established, during field control, that the taxpayer has failed to apply or has incorrectly applied regulations upon self-assessment of tax, a ruling from Article 54 paragraph 2 subparagraph 2) item (1) of this Act shall be passed on the basis of minutes on field control performed and/or supplementary minutes.

Tax Administration passes the ruling from paragraph 1. of this Article within 60 days from the day of service of minutes or supplementary minutes on field control.

#### Heading Four

### MEASURES FOR ELIMINATING VIOLATIONS OF LAW AND IRREGULARITIES IN APPLICATION OF REGULATIONS

#### Measures in the Course of Tax Control

##### Article 130

In the course of tax control, tax inspector shall seize goods in the following cases:

1) when there is doubt that goods or raw materials or reproduction material have been used, obtained without computing tax or in another manner contrary to regulations, and the taxpayer does not have proof of obtaining them in accordance with regulations and having paid tax, if payment of tax is prescribed;

2) when goods are marketed by a person not registered or not authorised to perform such activity;

3) when goods are produced in order to be marketed or when goods are marketed and goods are not properly recorded in books and other prescribed records;

4) when goods are being transported without prescribed documents (delivery note, waybill, invoice and the like.);

5) when goods are sold outside registered business premises or another place designated for sale by a competent authority.

In case from paragraph 1 of this Article the tax inspector shall also seize the transport vehicle or other means by which goods are being transported or marketed, if the value of goods exceeds one third of the value of such means.

A transport vehicle or other means shall also be seized when the value of goods does not exceed one third of the value of that means, if it is additionally equipped with separate space for hiding and secret transport of goods after being manufactured at a factory.

During tax control, the tax inspector may, while providing a return note, temporarily seize books, business records, other records and documents, until the tax control procedure is finished.

If the taxpayer keeps books and records from Article 37 of this Act on automated data processing means, tax inspector may, while providing a return note, temporarily seize the means for automated data processing, until the tax control procedure is finished.

Measure of Temporary Prohibition to Perform Activity in  
the Course of Tax Control

Article 131

During tax control, the tax inspector may pronounce a prohibition to perform business activity to the taxpayer, in the duration of up to 60 days, if it is established that:

1) business activity is performed in such a manner that goods and services are not accompanied by valid documents relevant for assessing tax (bill of lading, invoice, buyer's statement and the like);

2) assessment and payment of tax is evaded by not paying the daily proceeds in accordance with regulations;

3) assessment and payment of tax is evaded by hiring persons without concluding a labour contract or passing another act on work engagement in accordance with labour relations regulations, as well as if such persons are not reported to the competent mandatory social insurance organisation in accordance with law;

4) turnover from sale of goods or providing of services is not registered through a fiscal cash register or in other prescribed manner.

Prohibition to perform business activity for the taxpayer is pronounced in regards to taxpayer's premises in which irregularities from paragraph 1 subparagraph 1) - 4) of this Article have been established during tax control.

Measures after Tax Control is Performed

Article 132

If, in the tax control procedure, violation of regulations or irregularity in their application is stated, Tax Administration shall pass a ruling from Article 129 of this Act on the basis of minutes or supplementary minutes from Article 128 of this Act.

Ruling from paragraph 1 of this Article shall order the taxpayer to eliminate established violations of law or irregularities in application of regulations in the time limit set out by the ruling.

If the taxpayer fails to proceed in accordance with the ruling from paragraph 1 of this Article within the set time limit, the Tax Administration shall take the following measures:

1) prohibition to dispose of assets on the account, except for the purpose of settling liabilities based on tax;

2) temporary prohibition to perform business activity;

3) temporary prohibition to perform certain operations;

4) erased ("RS Official Gazette" 70/03)

5) temporary prohibition to dispose of object in case of reasonable doubt that taxpayer shall disrupt or prevent the fulfilment of tax liability.

Measures from paragraph 3 of this Article may also be ordered by the tax inspector in case from Article 130 paragraph 1 of this Act, during tax control.

Effect of measures from paragraph 3 of this Article shall last until the taxpayer eliminates violations of law or irregularities in application of regulations.

Ruling on Measures

Article 133

Measures from Article 130 and 131 and Article 132 paragraph 4 of this Act are ordered by a ruling passed by the tax inspector.

Tax inspector may order measures from Article 130. of this Act by an oral ruling, should he find that tax collection is jeopardized.

Statement on the passed oral ruling shall be entered to the minutes on tax control.

In case from paragraph 2 of this Article, tax inspector shall be under the obligation, within three days from the day of passing the oral ruling, to pass the ruling in written form and serve it to the taxpayer.

Measures from Article 132 paragraph 3 of this Act are passed by the Tax Administration by a ruling.

## Procedure with Objects Seized in Control Procedure

### Article 134

When the tax inspector orders the measure of seizure of objects from Article 130 of this Act, he shall be under the obligation to establish the value of objects seized and to store them in the place determined by the Minister's act.

Value of objects from paragraph 1 of this Article shall be established in the amount of price for which such object can be obtained on the market at the time of seizure.

If the seized object is perishable or if its keeping requires major costs, Tax Administration shall act in the manner from Article 104 paragraph 3 of this Act.

Sale of object from paragraph 1 of this Article shall be conducted in accordance with the procedure applied in enforced collection.

Procedure in regards to objects from paragraphs 1-4 of this Article are regulated in more detail by the Minister.

Once the ruling from Article 133 paragraph 1 of this Act, becomes final or procedure initiated in accordance with the provisions of Article 138 of this Act is concluded, seized objects, save for objects from paragraph 3 of this Article, shall be sold by public auction, that is, via a trading network, while seized cigarettes and liquors without control excise stamp shall be destroyed.

Public auction of seized objects from paragraph 4 of this Article shall be conducted by oral public bidding where seized objects may not be sold at a price lower than 80% of their established value, and perishable goods at a price not lower than 50% of their established value.

Government shall regulate the procedure with seized objects from this Article in cases when seized objects are not sold on repeated oral public biddings, under the condition, from paragraph 6 of this Article, within three months from the day the ruling from Article 133 paragraph 1 of this Act becomes finally binding, that is, once the procedure initiated in accordance with the provisions of Article 138 of this Act is concluded.

Taxpayer, an employee of the Tax Administration and persons connected to them are not eligible as buyers of seized objects.

Proceeds from sale, after deduction of costs, shall be paid to the budget of the Republic of Serbia.

Notwithstanding paragraph 6 of this Article, the Government may give without consideration the seized objects from paragraph 1 of this Article to state organs, humanitarian organisations, and other beneficiaries of humanitarian aid, cultural institutions and to other justified purposes.

Seized objects from paragraph 1 of this Article that cannot be sold or used for health, veterinary, phytosanitary, safety and other prescribed reasons or due to major damage shall be destroyed in accordance with regulations.

Costs of destruction shall be borne by the taxpayer from whom they were seized, and if he is unknown or unavailable, the costs of destruction shall be borne by the Tax Administration.



## Article 134a

Erased ("RS Official Gazette" No. 53/10)

### Heading Five

#### DISCOVERY OF TAX CRIMES

##### Tax Police

##### Article 135

Discovery of tax crimes and their perpetrators is conducted by Tax Police.

Tax crimes shall be the crimes prescribed by this and other statutes, the possible consequence of which is total or partial tax evasion, making or submitting counterfeit documents relevant for taxation, jeopardizing tax collection and tax control, illegal trade in excise products and other illegal actions related to tax evasion and aiding in tax evasion.

For the purpose of discovering tax crimes and their perpetrators, Tax Police shall act as an internal affairs authority in preliminary investigation procedure and shall be authorised to take all discovery measures, in accordance with law, except for limiting movement.

Tax Police, in accordance with provisions of statute governing criminal procedure, may summon and hear the suspect, including bringing in the suspect by force, search the apartment, business or other premises, means of transport and person before initiating criminal procedure when there are grounds for suspecting that a tax crime has been committed and confiscate objects that may be used as evidence in criminal procedure for tax crimes. Search of apartment and other premises may be conducted only on the basis of court decision and in the presence of two witnesses.

Tax Police shall exercise the prerogatives from paragraph 3 and 4 of this Article alone, and if resistance is reasonably expected in the course of exercise of such prerogative, and at Tax Police request, the Ministry of Interior shall provide assistance in order to enable the exercise of such prerogatives. Tax Police shall also realise other forms of cooperation with the Ministry of Interior.

Form and manner of realisation of cooperation from paragraph 5 of this Article shall be regulated in more detail, in agreement, by an act of the Minister of Finance and Minister of Interior.

##### Forwarding Reports to Tax Police

##### Article 136

If the tax inspector establishes, in the course of tax control procedure, that facts and circumstances indicate there are grounds to suspect that a tax crime has been committed, he shall be under the obligation to make a report thereof and forward it to the competent Tax Administration manager.

Competent Tax Administration manager from paragraph 1 of this Article shall be under the obligation to forward the report from paragraph 1 of this Article, together with evidence, to the head of Tax Police within 24 hours from receiving the report.

If the tax inspector establishes in the course of tax control procedure that facts and circumstances indicate there are grounds for suspecting that a criminal offence of another type

or a petty offence for which Tax Administration is not competent has been committed, Tax Administration shall file criminal or petty offence charge to the competent state authority.

### Filing Criminal Charge

#### Article 137

Tax Police shall compose the criminal charge based on information collected and state in it evidence learned when collecting information and shall file it to the state prosecutor.

Criminal charge from paragraph 1 of this Article shall be accompanied by files, collected reports, statements and other materials relevant for successful conducting of procedure.

If the Tax Police, after filing the criminal charge, learns of new facts, evidence or traces of crime, it shall be under the obligation to collect necessary information and forward it, as a criminal charge supplement, to the state prosecutor.

Tax police shall be under the obligation to cooperate with the court and the state prosecutor's office in criminal procedure.

### Procedure on Criminal Charge

#### Article 138

State prosecutor shall be under the obligation to take into consideration the charge from Article 137 paragraph 1 of this Act within three days from receiving it.

State prosecutor shall be under the obligation to inform the head of Tax Police on his decision in regards to the charge within eight days from the day of passing the decision.

### Charge Filed to Competent Authority

#### Article 139

If it established in procedure from Article 135 paragraph 3 of this Act that there are no elements of a tax crime in persons' actions, but that they constitute other punishable offences, the Tax Police inspector shall file a corresponding charge to the competent authority.

Competent authority from paragraph 1 of this Article shall be under the obligation to take into consideration the charge within three days from receiving it.

Competent authority to which charge from paragraph 1 of this Article has been filed shall be under the obligation to inform the head of Tax Police of the outcome of procedure within eight days from the day of passing the decision in regards to charge.

Facts and evidence relevant for the amount of tax liability, established in the procedure from Article 135 paragraph 3 of this Act, shall be forwarded by the Tax Police inspector to the Tax Administration organisational unit where the taxpayer is registered.

## Part Four

### PROCEDURE ON LEGAL REMEDY

#### Admissibility of Appeal

## Article 140

An appeal may be filed against a tax administrative act whereby individual rights and obligations from tax-law relations have been decided on.

Appeal may also be filed when a ruling has not been passed in the prescribed time limit at taxpayer's request for passing of tax administrative act.

Administrative dispute may be initiated against a final tax administrative act, unless otherwise provided by law.

An action may be filed in administrative dispute as if the appeal has been denied also in cases when the applicant states that a decision has not been passed on his appeal within the statutory time limit.

Action filed shall not stay the enforcement of tax administrative act.

## Right to File the Appeal

### Article 141

Appeal may be filed a person whose rights or obligations have been decided on in first instance tax procedure and the person having legal interest.

## Time Limit for Appeal

### Article 142

Appeal shall be filed within 15 days from the day of receiving the tax administrative act, unless otherwise prescribed by law

## Filing of Appeal

### Article 143

Appeal shall be filed to the competent tax authority in the second instance, and shall be submitted directly or by registered mail, or stated for the record to the first instance tax authority.

Appeal filed within the statutory term but to an incompetent authority shall be considered submitted to the competent authority in due time.

Appeal shall include tax administrative act being challenged, grounds for appeal and evidence for annulment, alteration or revocation of that act.

The appellant shall bear the burden of proof in procedure upon appeal.

The appellant shall be under the obligation to sign the appeal.

## Actions of First Instance Authority upon Appeal

### Article 144

Impermissible, undue or appeal filed by an unauthorised person shall be rejected by a conclusion of the first instance tax authority.

Appeal may be filed against the conclusion from paragraph 1 of this Article within eight days from being served the conclusion.

First instance tax authority may grant the appeal and alter the tax administrative act if:

- 1) it finds the appeal justified and that it is not necessary to conduct new establishment of facts;
- 2) if finds that the procedure conducted was incomplete and that could have had a bearing on decision making;
- 3) applicant provides new facts and evidence in the appeal that could have influenced a different decision making of matter;
- 4) applicant was not, though must have been, given the opportunity to take part in the procedure;
- 5) applicant has failed to take part in the procedure but has justified this omission in the appeal.

In case from paragraph 3 subparagraph 1) of this Article supplementary procedure shall not be conducted, and in cases from paragraph 3 subparagraph 2) - 5) of this Article supplementary procedure shall be conducted.

Appeal may be filed against the new tax administrative act from paragraph 3 of this Article.

First instance authority may alter the new tax administrative act from paragraph 3 of this Article until appeal is forwarded for resolution to the second instance authority.

In case from paragraph 3 of this Article first instance tax authority shall decide within 30 days from the day the appeal is received.

#### Authority Competent to Decide on Appeal

##### Article 145

Competent second instance authority so designated by this Act shall decide on the appeal against the first instance tax administrative act.

#### Parties in Procedure on Appeal

##### Article 146

Parties in procedure on appeal shall be the following:

- 1) appellant;
- 2) person having a legal interest.

#### Legal Effect of Appeal

##### Article 147

Appeal shall not stay the enforcement of administrative tax act.

As an exception, second instance tax authority may suspend the enforcement of tax administrative act subject to appeal if the taxpayer provides documents showing that payment of tax or secondary tax duties before the challenged act becomes final would cause him considerable economic damage.

Conclusion on suspension of enforcement, which cannot be appealed, shall be passed by the second instance tax authority in urgent procedure.

Second instance authority must decide on the appeal within 60 days from the day it is filed.

If the procedure on appeal is concluded in the manner from Article 152 paragraph 3 of this Act, the first instance tax authority shall be under the obligation to act as ordered by the second instance tax authority within 40 days from the day of receiving the second instance authority

If procedure of enforced collection has been initiated on the basis of tax ruling subject to appeal and the appeal procedure is not concluded in the time limit from paragraphs 4 and 5 of this Article, enforced collection shall be terminated by a conclusion until ruling on appeal is served to the taxpayer, that is, until the first instance authority acts as ordered by the second instance authority.

### Waiver of Appeal

#### Article 148

Appellant may waive the appeal until the ruling on appeal is passed.

If the taxpayer waives the appeal, the procedure on appeal shall be terminated by a conclusion.

By waiver, the taxpayer shall lose the right to a new appeal if the time limit for appeal has not expired.

### Temporary Suspension of Procedure

#### Article 149

If decision of appeal depends on a preliminary issue that is a subject matter of a court dispute or is in the competence of another administrative authority, the second instance authority shall temporarily suspend the procedure on appeal by a ruling, until the preliminary issue is resolved.

### Resolving of Second Instance Authority on Appeal

#### Article 150

If appeal is impermissible, untimely or filed by an unauthorised person, and the first instance authority has failed to reject it on such grounds, the second instance authority shall reject it.

If the second instance authority does not reject the appeal it shall commence resolving the case.

Second instance authority can:

- 1) deny the appeal;
- 2) revoke the tax administrative act in total or partially;
- 3) alter the tax administrative act.

### Denying the Appeal

#### Article 151

Second instance tax authority shall deny the appeal when it establishes that the first instance procedure has been conducted correctly and that the tax administrative act is correct and based on law, whereas the appeal is unfounded.

Second instance tax authority shall also deny the appeal when he finds that there were errors in first instance procedure, but that these are such that they could not have affected the resolution of tax administrative matter.

If the second instance authority finds that the first instance tax administrative act is based on law but for other reasons and not on those stated in the action, it shall state those grounds in its ruling and deny the appeal.

### Revoking Tax Administrative Act

#### Article 152

If the second instance tax authority establishes that facts were incompletely or incorrectly established in first instance procedure, that during procedure care was not taken of the rules of procedure that would have influenced the resolving of the tax subject matter or that the holding of the challenged tax administrative act is unclear or in contradiction with the explication, it shall supplement the procedure and eliminate the mentioned drawbacks, alone or through the first instance tax authority or requested authority.

If the second instance tax authority finds that, based on facts established in supplementary procedure, the tax administrative matter must be resolved in differently than in the first instance tax administrative act, it shall revoke the first instance tax administrative act by a ruling and resolve the tax administrative act alone.

If the second instance authority finds that drawbacks of the first instance tax procedure would be removed faster and more economically by the first instance tax authority, it shall revoke the first instance tax act by a ruling and order the first instance tax authority to repeat the procedure. In such case, the second instance tax authority shall be under the obligation to instruct the first instance tax authority in the ruling as to how to supplement the procedure, and the first instance tax authority shall be under the obligation to proceed as ordered in the second instance ruling and to pass a new ruling without delay and at the latest within 40 days from the day of receiving the second instance ruling.

Appeal shall be permitted against the new ruling from paragraph 3 of this Article.

If the second instance tax authority finds that evidence was incorrectly assessed in the first instance tax administrative act, that a wrong conclusion has been drawn from the fact established in regards to the state of facts, that a regulation bas on which the matter was resolved has been incorrectly applied, or if it finds that a different ruling should have been passed based of free assessment of facts, it shall revoke the first instance tax administrative act by a ruling and resolve the matter alone.

If the second instance tax authority finds that the tax administrative act is correct in terms of facts established and law applied, but that the purpose for which the act was passed can be achieved by other means more beneficial to the taxpayer, it shall alter the first instance tax administrative act in that respect.

### Declaring a Tax Administrative Act Null and Void

#### Article 153

If the second instance authority establishes that an irregularity has been made in first instance procedure rendering the tax administrative act null and void, it shall declare such act null and void together with the part of the procedure carried out after such irregularity.

If the second instance authority establishes that the first instance tax administrative act was passed by an incompetent authority it shall annul such act ex officio and forward the case to the competent authority to be resolved.

#### Annulment and Alteration of Tax Ruling in Regards to Administrative Dispute Article 154

Tax authority against the ruling of which an administrative dispute has been initiated in due time may, until the conclusion of dispute, annul or alter its ruling on the same grounds on which the court could annul such ruling.

Annulment or alteration of ruling from paragraph 1 of this Article may be effected only if irregularity or illegality in procedure of passing the ruling is thereby removed and if the taxpayer is not thereby put in a less favourable position.

Tax ruling from paragraph 1 of this Article shall be served to the taxpayer and competent court.

#### Part Five

### LEGAL ASSISTANCE IN TAX MATTERS

#### General Provisions

#### Article 155

Legal assistance, in terms of this act, shall be the assistance given by state authorities and organisations, territorial autonomy and local self-government authorities to Tax Administration by forwarding information or implementing certain measures necessary for conducting tax procedure, based on a request from the Tax Administration.

#### Conditions for Providing Legal Assistance

#### Article 156

Tax Administration may require legal assistance in tax procedure if:

- 1) it is unable to perform an official action on its own;
- 2) does not dispose of adequate equipment or means necessary for performing the official action;
- 3) it could perform the official action only at a considerably higher cost than the requested authority or organisation.

If the requested authority or organisation refuse to provide legal assistance or fail to answer the Tax Administration's request within the given time limit, the Tax Administration shall inform the Minister thereof.

#### International Legal Assistance

#### Article 157

International legal assistance, in terms of this Act, shall be the right of Tax Administration to require legal assistance from a foreign tax authority in the course of tax procedure, as well as the obligation of Tax Administration to provide such assistance to a foreign tax authority.

Providing of international legal assistance is based on international agreements.

If providing of international legal assistance is not regulated by an international agreement, legal assistance shall be provided under the following conditions:

- 1) if there is reciprocity;
- 2) if the state receiving legal assistance commits to using the received information and documents only for the purpose of tax, petty offence or criminal procedure, and that these shall be available only to persons, administrative authorities and judicial authorities competent for a given tax case or conducting petty offence or criminal procedure in regards to that case;
- 3) if the state to which legal assistance is provided expresses readiness to eliminate possible double taxation by adequate distinction of tax jurisdictions in cases of income tax, profit tax and property tax;
- 4) if fulfilment of letter rogatory does not endanger the public policy or other important interests of the Republic;
- 5) if there is no danger that providing legal assistance would result in an official or professional secret being disclosed or that considerable damage could be caused to a resident taxpayer.

#### Obligations of State Authorities and Organisations and Territorial Autonomy and Local Self-Government Authorities

##### Article 158

State authorities and organisations, territorial autonomy and local self-government authorities shall be under the obligation to forward to Tax Administration, ex officio, facts learned in performance of operations from their competence, which are relevant for establishing tax liability.

Persons from paragraph 1 of this Article shall be under the obligation to forward the data from their competence at their disposal, which are relevant for establishing tax liability at Tax Administration request.

##### Article 159

Local self-government unit shall be under the obligation to forward to Tax Administration data on taxes and secondary tax duties it collects that are relevant for performance of operations from Tax Administrations' competence prescribed by this Act.

Type of data, manner and procedure for forwarding data from paragraph 1 of this Article shall be regulated in agreement by the Minister and minister competent for state administration and local self-government.

##### Article 159a

Status of a resident of the state with which an agreement on elimination of double taxation is concluded is proven by the non-resident at the resident payer of tax by certificate of residence certified by the other contracting state competent authority, of which he is resident, on a special form.

The status of a resident of the Republic of Serbia for a foreign payer of tax is proven by the resident by a certificate on a special form, except in cases when the status of resident is proven by a certificate on a form prescribed by the competent authority of the state with which the agreement on elimination of double taxation has been concluded.



Procedure and manner for issuing and the appearance of form from paragraphs 1 and 2 of this Article are prescribed by the Minister.

Certificates from paragraph 1 and 2 of this Article are issued by the Tax Administration organisational unit competent according to seat or domicile of the applicant.

#### Article 159b

State authorities and organisations shall be under the obligation to forward, at the request of local self-government authority, within 30 days from the day of receiving the request, data obtained in performance of operations from their competence that are relevant for determining original incomes of the local self-government unit to which this Act applies.

Local self-government unit shall not pay the costs, that is, the duty, for data obtained from the authorities and organisations from paragraph 1. of this Article, for the purpose of determining its original incomes to which this Act applies.

### Part Six

## COMPETENCE AND ORGANISATION OF TAX ADMINISTRATION

### Tax Administration Competence

#### Article 160

Tax Administration:

- 1) carries out the registration of taxpayers by assigning the TIN and keeps the single taxpayer's register;
- 2) assesses tax in accordance with law;
- 3) conducts tax control in accordance with law;
- 4) conducts regular and enforced collection of taxes and secondary tax duties;
- 5) discovers tax crimes and their perpetrators and in regards to that takes measures prescribed by law;
- 6) files request for initiating petty offence procedure for tax petty offences;
- 6a) Erased ("RS Official Gazette", No. 53/10);
- 7) decides on appeals filed against rulings passed in tax procedure by Tax Administration organisational units;
- 7a) decides on appeals filed against rulings passed in tax procedure by competent authorities of local self-government units;
- 8) takes care of implementation of international agreements on elimination of double taxation;
- 9) develops and maintains a single tax information system;
- 10) keeps tax accounting;
- 11) plans and conducts employee training;
- 11 a) monitors the implementation of law and other regulations by its organisational units and after monitoring takes measures in accordance with the statute governing general administrative procedure;
- 11 б) performs internal control of work and behaviour of tax officers and employees in regards to work and in cases when illegal actions of behaviour are established initiates and conducts corresponding procedures in order to establish liability;
- 11 в) performs internal audit of all organisational parts of Tax Administration in accordance with law international internal audit standards in the public sector;
- 12) provides expert assistance to taxpayers in application of tax regulations, in accordance with the code of conduct of Tax Administration employees;
- 13) provides publicity of work;

- 14) performs other operations in accordance with law ;
- 15) performs other operations based on concluded contracts, with consideration, in accordance with law.

## Tax Police

### Article 161

Tax Police shall be established as a special Tax Administration organisation unit for the purpose of performing operations regarding discovering and reporting tax crimes and their perpetrators.

Tax Police plans, organises and conducts operations from paragraph 1. of this Article, in accordance with law.

Tax Police is headed by the Tax Police Chief inspector, appointed by the Government at Minister's proposal.

## Official Badge and Identification Card

### Article 162

Tax Police inspectors shall be issued a police badge and identification card of an authorised official.

When working, Tax Police inspector must carry the official badge and identification card.

The act on Tax Police inspector, tax inspector and tax enforcer official identity card, shall be passed by the Minister.

Act on official identity card of inspector and enforcer in local self-government authority competent for determining, collecting and controlling local self-government unit original income shall be passed by the competent local-self government authority, with the consent of the minister competent for administration.

Tax Police inspector must have protective equipment with Tax Police marks the appearance of which and cases when it is used are prescribed by the Minister.

## Tax Accounting

### Article 163

Tax Administration shall keep tax accounting.

Contents, procedure and manner of keeping tax accounting shall be regulated in more detail by the Minister, at Tax Administration proposal.

Document issued on the basis of tax accounting data shall be considered a public document.

## Tax Information System

### Article 164

Tax Administration information system shall be single. The programme of Tax Administration information system development shall be passed by the Minister at the proposal of the Tax Administration director.

Programme from paragraph 2 of this Article shall include in particular:

- 1) creation of technical prerequisites for establishing a single Tax Administration information system;
- 2) lines of development, dynamics of build and equipping;
- 3) means necessary and manner of providing them.

Within its information system, Tax Administration regulates and provides standards, definitions, classifications and denominations, data coding, processing technique, transfer and expression of data.

#### Competence for Deciding on Appeal

##### Article 165

Appeals against first instance rulings passed in tax procedure shall be decided on by the Minister or a person so authorised by the Minister.

#### Exemption from Costs in Tax Procedure

##### Article 166

In tax procedure, Tax Administration shall not pay duties, fees and other costs for actions and services provided to it in the procedure by state authorities, authorities competent for keeping registers, banks and other authorities and organisations.

#### Management

##### Article 167

Tax Administration shall be managed by the director.

Director shall be appointed by the Government, at Minister's proposal.

Tax Administration director shall provide coordination of work and uniform application of tax regulations on the entire territory of the Republic, effected by Minister's acts (rulebooks, orders, instructions, mandatory instructions) and by direct passing of internal acts regarding work (instructions, orders, and the like).

At Tax Administration's proposal, the Minister shall regulate:

- 1) internal organisation and systematisation of jobs in the Tax Administration, prescribing special knowledge and skills for certain posts;
- 2) rights and obligations of Tax Administration employees (hereinafter: tax officials) from labour relations relating to: amount of main and additional coefficient, salary groups and classes for tax official ranks determined by this Act, criteria, amount and period for stimulating rewards, initiating and conducting disciplinary procedure, as well as pronouncing of disciplinary measures, authority to initiate disciplinary procedure and transfer of such authority;
- 3) vocational training, training and additional education of tax officials;
- 4) rules of conduct for tax officials;
- 5) jobs incompatible with official duty;
- 6) other issues in accordance with this Act and other statutes.

#### Organisational units

##### Article 168

Organisational units shall be established for performance of operations from Tax Administration competence.

Manner of establishment, number, structure, network and competence of organisational units from paragraph 1 of this Article shall be regulated by an act of the Minister, at the proposal of Tax Administration director.

Certain Tax Administration tasks can be performed outside the organisational unit seat, which shall be decided on by the Tax Administration director.

## Labour Relations

### Article 169

Regulations on public administration, labour relations and salaries in state authorities, as well as regulations in the field of health care and pension and disability insurance and education shall apply to tax officials, unless otherwise prescribed by this Act.

Tax officials shall be under the obligation to execute orders of the minister, director and their direct managers issued for the purpose of performance of operations, except for those ordering the performance of actions that constitute a criminal offence.

Tax officials may not perform jobs incompatible with official duty, and, when performing tasks from their competence, shall be under the obligation to observe the rules of conduct of Tax Administration employees.

Tax official shall be under the obligation to undergo vocational training, training and advanced education according to Tax Administration programme.

Increased years of insurance shall be attributed to Tax Police inspectors, by calculating each 12 months of effective work as 16 months for insurance purposes.

The labour relation of tax Police inspector, tax inspector and tax enforcer who undergo changes in psycho-physical or general state of health, rendering him incapable of working as a Tax Police inspector, tax inspector or tax enforcer, shall be terminated unless there is a possibility for him to be re-assigned to another post in the Tax Administration.

Change of psycho-physical or general state of health from paragraph 6. of this Article shall be the loss of working capacity in terms of regulations on pension and disability insurance, and the Tax Police inspector, tax inspector or tax enforcer whose employment is terminated on those grounds shall have the right to disability pension.

Changes in psycho-physical or general state of health from paragraph 6 of this Article shall be established by the competent commission of the mandatory social insurance organisation, at the proposal of the Tax Administration director or a person so authorised by him.

## Manner of Filling Executive Posts

### Article 169a

Filling executive posts for an indefinite period (hereinafter: posts for an indefinite period) in Tax Administration is done in the manner prescribed in this Act.

Posts for an indefinite period is done by permanent transfer of a tax official by a public concourse or, exceptionally, by taking over of a civil servant from another state authority.

Decision on filling of posts for an indefinite period in the manner from paragraph 2 of this Article is passed by the Tax Administration director.

## Filling of Posts for an Indefinite Period by a Public Concourse

### Article 169b

Public concourse is published in the "Republic of Serbia Official Gazette" and in one of the daily newspapers distributed on the entire territory of the Republic, and shall also be forwarded to the organisation competent for employment.

Announcement of public concourse includes data on: public authority, work post, conditions for employment, place of work, required professional capacities, manner in which the selection procedure shall be carried out (written check of professional capacities, oral interview or in other manner), knowledge and skills assessed in selection procedure, time limit for filing applications, personal name of the person competent for providing information about the public concourse, address where applications are to be filed and evidence attached to application.

Public concourse is conducted by the concourse commission appointed by the Tax Administration director. Concourse commission shall have a president and two members who may have deputies, if necessary.

Untimely, impermissible and application to which all necessary evidence is not attached (incomplete) applications shall be rejected by the concourse commission by a conclusion against which a separate appeal shall not be permitted.

### Selection Procedure

#### Article 169c

Concourse commission shall compose a list of candidates who meet the conditions of the concourse and shall carry out the selection procedure among them.

The candidate selection procedure shall be carried out for the purpose of assessing the professional capacities, knowledge and skills on the basis of a written exam and interview given to special job requirements listed in the concourse.

If the concourse commission, after conducting the selection procedure, establishes that no candidate meets the selections conditions, that is, do not meet the job requirements, it shall compose minutes in which it will state that the public concourse has failed, and inform all the candidates thereof within eight days from the day of establishing that the public concourse has failed.

### Candidate Selection List

#### Article 169d

If the concourse commission, after conducting the selection procedure, establishes that some of the candidates or all the candidates meet the selection requirements, it shall make a list for selection of candidates including not more than three candidates with the best results achieved in the selection procedure (hereinafter: candidate selection list) and forward it to the Tax Administration director.

Tax Administration director shall choose a candidate from the candidate selection list and decide on his employment for an indefinite period by a ruling.

Ruling from paragraph 2 of this Article shall include the candidate's personal name, type and degree of education and name of Tax Administration internal organisational unit to where the candidate is being employed and the name of job to which he will be assigned.

All participants in the public concourse shall have the right to file an appeal within eight days from the day of being served the ruling from paragraph 2 of this Article. Appeal shall be filed to the Government Appeals Commission via the authority who passed the first instance ruling.

## Filling of Posts by Taking over Civil Servants from Other State Authority

### Article 169e

Posts for an indefinite period in the Tax Administration may be filled by taking over of a civil servant from another state authority.

Taking over of a civil servant from another state authority shall be carried out on the basis of an agreement signed between the Tax Administration director and head of the state authority from which the civil servant is being taken over to the Tax Administration, with civil servant's consent.

## Working for a Definite Period

### Article 169f

Employment for a definite period shall be established for the purpose of replacing an absent tax official, until his return, in order to fill an empty post until the procedure of filling the post for an indefinite period is completed or due to temporary increase in workload in certain posts that the existing number of tax officials is unable to complete in due time.

## Temporary Transfer

### Article 169g

In addition to cases of temporary transfer of civil servants within the same state authority, regulated by regulations on labour relations in state authorities, a tax official may be transferred to another post in a higher rank for up to 12 months, provided he meets the conditions in regards to degree and type of education, knowledge and skills and if it is necessary for the post to be filled urgently.

Tax official, who is temporarily transferred in accordance with paragraph 1 of this Article, shall gain all benefits of the job to which he is temporarily transferred, for the duration of the transfer.

Tax official may be temporarily transferred for work purposes to another post both within the function of the post from which he is being transferred and from a post pertaining to Tax Administration main functions to posts in other functions and vice versa, provided he meets the conditions envisaged for such post by the act on internal organisation and job systematisation.

## Assuming the Post of an Internal Unit Manager, Transfer and Referral

### Article 169h

Tax official who is assuming the post of internal unit manager shall have a coefficient determined for the rank to which the post of the manager of such internal unit is assigned.

For the needs of service, a tax official may be transferred to another post, in accordance with his education and work experience, within the same or in another Tax Administration organisational unit, in the same or other place of work, in the same or another function, in accordance with regulations governing the rights and obligations of civil servants and employees and general labour regulations.

In cases of transfer from a job classified in a certain rank in the main functions to a job classified in a certain rank in other functions, it shall be considered, in terms of an adequate post, that the post classified in the highest rank in the main function corresponds to the job classified in the highest rank in other functions and vice versa, so that the rank of chief tax advisor will correspond to the post of independent tax advisor; the rank of independent tax advisor and higher tax inspector I shall correspond to the rank of tax advisor I; rank of tax inspector II and tax inspector shall correspond to the rank of tax advisor; rank of junior tax inspector shall correspond to the rank of junior tax advisor.

For the needs of service, a tax official may be referred to a post in another Tax Administration unit, which is 50 or more kilometres away from the place of his domicile. The uninterrupted time limit for such referral is up to six months.

## Working Hours

### Article 169i

Working hours shall be determined by a general regulation applicable to state authorities.

As an exception from regular working hours, tax officials and employees shall be under the obligation to perform tasks in less beneficial working hours.

Work in less beneficial working hours shall be:

- 1) work in shifts;
- 2) working on Saturdays, Sundays, holidays and other bank holidays;
- 3) work longer than full work hours (overtime);
- 4) night work.

## Standby

### 169j

Standby shall be the work in less beneficial working hours during which tax officials and employees must be available (on standby) so as to, if the need arises, perform certain tasks of their posts.

Standby shall not be a part of regular work duty.

Closer conditions and manner for executing standby shall be prescribed by the Minister, at the proposal of the Tax Administration director.

## Ranks of Civil Servants on Executive Posts in Tax Administration

### Article 169j

Ranks of tax officials on executive posts in Tax Administration shall be regulated by this Act.

Ranks from paragraph 1 of this Article shall be classified to:

- 1) tax officials' ranks in Tax Administration main functions;
- 2) tax officials' ranks in other Tax Administration functions.

Main Tax Administration functions, in terms of this Act, shall be shall be: tax control, collection, Tax Police, tax-law operations, as well as operations from Article 160 paragraphs 11 a) and 11 b) of this Act.

Classification of posts to ranks and job descriptions shall be regulated by the act on internal organisation and job systematisation in Tax Administration.

#### Ranks of Tax Officials in Tax Administration Main Functions

##### Article 169k

Tax officials' ranks in Tax Administration main functions shall be the following:

- 1) with high school: junior tax controller, tax controller, senior tax controller;
- 2) with a bachelor degree: junior tax official – expert associate, tax official – expert associate and senior tax official – expert associate;
- 3) with a masters degree: junior tax inspector, tax inspector, tax inspector II, tax inspector I, senior tax inspector II, senior tax inspector I, independent tax inspector, chief tax advisor.

Tax officials with adequate education from paragraph 1 of this Article shall gain the initial rank of junior tax controller, junior tax official –expert associate and junior tax inspector after completing the traineeship and passing the state professional exam.

Tax official employed for an indefinite period in the Tax Administration on the basis of a public concourse shall have determined the initial salary rank for the rank established for the post to which he is assigned.

Tax official who is employed for an indefinite period on the basis on being taken over from another state authority shall have determined the initial salary rank for the rank determined for the post to which he is assigned.

Tax official who obtains a bachelors or masters degree in the course of employment may be assigned to a post for which the lowest rank in the degree obtained is determined.

#### Tax Officials Ranks in Other Tax Administration Functions

##### Article 169l

Ranks of tax officials in Tax Administration functions shall be the following:

- 1) with high school: junior tax officer, tax officer and senior tax officer;
- 2) with bachelors degree: junior tax associate, tax associate and senior tax associate;
- 3) with master degree: junior tax advisor, tax advisor, tax advisor I, senior tax advisor and independent tax advisor.

Tax officials with adequate education from paragraph 1 of this Article shall obtain the initial rank of junior tax officer, junior tax associate and junior tax advisor upon completing traineeship and passing the state expert exam.

Provisions of Article 169k, paragraphs 3-5 of this Act shall also apply in cases of determining the ranks of tax officials from of this Article.

#### Conditions for Acquiring a Higher Rank

##### Article 169m

Tax official from Articles 169k and 169l of this Act can obtain an immediately higher rank under the following conditions:



- 1) that there is an adequate vacant post;
- 2) that he has the working experience required for the post to which he is transferred or assigned and that he worked for a prescribed time in the previous rank;
- 3) that he has positive evaluations in the two years preceding the acquiring of rank;
- 4) that in the two years preceding the acquiring of rank he has not been punished for a criminal offence and has not been punished by a disciplinary measure due to violation of work duty;
- 5) that neither criminal procedure for a criminal offence prosecuted ex officio nor disciplinary procedure for violation of working duty have been instituted against him.

#### Loss of Rank

#### Article 169n

Tax official shall lose rank:

- 1) by termination of employment in Tax Administration;
- 2) if, in disciplinary procedure, the disciplinary measure pronounced to him is transfer to a post in a lower rank, for the duration of such measure.

#### Article 169o

Work experience and certain time spent working in the previous rank for those who have a high school diploma shall be the following:

- 1) for a tax controller and tax officer – at least two years of working experience in the rank of junior tax controller, that is, of junior tax officer;
- 2) for senior tax controller or senior tax officer – at least three years of work experience, two of which in the rank of tax controller, that is, of tax officer.

Work experience and certain time spent working in the previous rank for those who have a bachelor's degree, in terms of this Act, shall be the following:

- 1) for tax officer – expert associate, that is, for tax associate – at least two years of work experience in the rank of junior tax officer – expert associate, that is, of junior tax associate;
- 2) for senior tax officer-expert associate, that is, for senior tax associate – at least three years of work experience, two of which in the rank of tax officer-expert associate, that is, of tax associate.

Work experience and certain time spent working in the previous rank for those who have a master's degree, in terms of this Act, for tax officials in Tax Administration main functions, shall be the following:

- 1) for tax inspector – at least three years of work experience, two of which in the rank of junior tax inspector;
- 2) for tax inspector II – at least four years of work experience, two of which in the rank of tax inspector;
- 3) for tax inspector I – at least five years of work experience, two of which in the rank of tax inspector II;
- 4) for senior tax inspector II – at least six years of work experience, two of which in the rank of tax inspector I;
- 5) for senior tax inspector I – at least seven years of work experience, two of which in the rank of senior tax inspector II;
- 6) for independent tax inspector – at least eight years of work experience, two of which in the rank of senior tax inspector I;
- 7) for chief tax advisor – at least nine years of work experience, two of which in the rank of independent tax inspector.

Work experience and certain time spent working in the previous rank for those who have a master's degree for tax officials in other Tax Administration functions shall be the following:

- 1) for tax advisor – at least three years of work experience, two of which in the rank of junior tax advisor;
- 2) for tax advisor I – at least five years of work experience, two of which in the rank of tax advisor;
- 3) for senior tax advisor – at least seven years of work experience, two of which in the rank of tax advisor I;
- 4) for independent tax advisor – at least eight years of work experience, two of which in the rank of senior tax advisor.

#### Conditions for Acquiring a Higher Rank and Promotion to a Higher Salary Rank Based on Evaluation

##### Article 169p

In order to acquire a higher rank based on evaluation it is necessary for the tax official to be evaluated in the following manner for the two last years preceding the acquiring of higher rank:

- 1) with high school diploma and bachelors' degree – at least as "competent";
- 2) with masters' degree:
  - (1) at least as "competent" for the ranks of junior tax advisor, junior tax inspector, tax advisor, tax advisor I, tax inspector, tax inspector II, tax inspector I, senior tax advisor, senior tax inspector II, senior tax inspector I, independent tax inspector;;
  - (2) at least as "commendable" for ranks of independent tax advisor, chief tax advisor.

Tax official who acquires the right to an immediately higher rank based on evaluation but there are no vacant posts in the immediately higher rank may be promoted for two salary ranks within the present rank.

Employment relation in the Tax Administration of a tax official whose work has been evaluated as "unsatisfactory" for the last two year shall be terminated.

#### Extraordinary Promotion

##### Article 169q

Tax official whose work is evaluated as "commendable" in the end of the year and who has achieved exceptional work results may acquire a higher rank before due time.

A tax official may acquire a higher rank even in the year in which he meets the conditions for acquiring an old age pension.

Extraordinary promotion in Tax Administration shall be possible only once.

Decision from paragraphs 1 and 2 of this Article shall be passed by the Tax Administration director, at an explicated proposal of the direct manager.

#### Salaries

##### Base Salary

##### Article 169r

Tax officials shall have the right to salary, which consists of base salary and additions to salary.

Base salary shall be established by multiplying the coefficient and additional coefficient, if envisaged for the given post, with the base for computation and payment of salaries, established in accordance with statute governing the salaries of civil servants and employees.

Base coefficient must be equal for corresponding ranks in main and other functions, whereby the coefficient will be the same for: the ranks of chief tax advisor and independent tax advisor; the rank of independent tax advisor and senior tax advisor; for the rank of senior tax inspector II and tax advisor I; for the ranks of tax inspector II and tax advisor; for the ranks of junior tax inspector and junior tax advisor, that is, by making the base coefficient for ranks of those with high school diploma or a bachelor's degree in main functions the same with the base coefficient for ranks of those with high school diploma and bachelor's degree in other functions.

Additional coefficient may be established for certain posts, depending on special working conditions, responsibility, complexity of tasks, workload and nature of the job.

Base salary is increased on the basis of additions in accordance with the statute governing the salaries of civil servants and employees.

Employees in Tax Administration, in addition to coefficient prescribed for posts of employees in accordance with statute governing the salaries of civil servants and employees, may be also be determined an additional coefficient.

Quantity of base and additional coefficient, salary groups and salary ranks for tax official's ranks from Articles 169k and 169l of this Act, as well as the quantity of additional coefficient from paragraph 6 of this Article for employees shall be prescribed by the Minister.

#### Compensation of Salary, Costs, Severance Pay and Other Payments

##### Article 169s

Tax official shall have the right to compensation of salary, costs, severance and other payments in accordance with the statute governing salaries of civil servants and employees, unless otherwise provided in this Act in regards to compensation of salaries, costs and other payments.

##### Solidarity Aid

##### Article 169t

Family of a deceased tax official shall have the right to:

- 1) payment of funeral costs based on original bills;
- 2) pecuniary aid in the amount of two average net salaries paid in the economic sector of the Republic of Serbia according to the published data of authority competent for statistics.

Tax official and employee shall have the right to solidarity aid established by a special collective agreement for state authorities.

Closer conditions, procedure and manner for granting solidarity aid shall be regulated by the Minister, at the proposal of Tax Administration director.

#### Acknowledgments and Awards

##### Article 169u

For exceptional achievement in performing the tasks of the Tax Administration, extraordinary contribution to improving the work of the service, advancing the reputation of the Tax Administration, creative work, innovation or other form of creativity that has considerably contributed to the work results of the service, a tax official may be awarded acknowledgments and pecuniary awards.

Acknowledgments and pecuniary awards are awarded on Tax Administration Day. Types, procedure for granting acknowledgments and amount of pecuniary awards are prescribed by the Minister, at the proposal of Tax Administration director.

Acknowledgments, pecuniary awards and other incomes from Article 169t shall be paid from the Tax Administration assets established by Article 170 paragraph 2 of this Act.

#### Article 169w

Tax officials, depending on the nature of job and work conditions, are entitled to an official uniform, work clothes and shoes.

Act regulating the right from paragraph 1 of this Article shall be passed by the Minister.

#### Jobs Incompatible with Official Duty

#### Article 169x

Tax official may not perform a paid or unpaid job compatible with his job in Tax Administration or in relation to work of the Tax Administration.

Tax official or members of his family household may not be owners or co-owners an economic entity the business activity of which is compatible or in relation to the work of the Tax Administration.

Minister, at the proposal of Tax Administration director, shall establish jobs from paragraph 1. of this Article.

Members of tax official's family household, in terms of this Article, shall be the following: spouse, children (born in and out of wedlock, adopted and fostered) and parents if the tax official supports them or lives in the same household with them.

When starting employment, or at the request of an authorised person of the Tax Administration, the tax official, under financial and criminal liability, gives a written statement on data relevant for establishing the existence of conflict of interest in work or in relation to the work of the tax official. In the statement, the tax official shall state that data given in it may be subject to verification.

Tax official shall be under the obligation to report any change of data provided in terms of provisions of this Article within 15 days from the day the change takes place.

Tax official's statements given in terms of provisions of this Article shall be kept in that tax official's file.

#### Article 169y

General rules of conduct of tax officials and employees when performing tasks in the Tax Administration and outside it, their conduct during and after working hours, relationship with the public, colleagues, managers and subordinate tax officials, as well as with civil servants and employees in other state authorities shall be regulated by the Minister, at the proposal of the Tax Administration director.

#### Article 169z

Tax official may be pronounced for grave violation of duty from work relation, in addition to disciplinary sanctions prescribed by provisions of statute governing rights and obligations of civil servants and employees, a disciplinary sanction of transfer to a post in an immediately lower rank for the duration of from six months to two years.

#### Assets for Work

##### Article 170

Assets for the Tax Administration work shall be provided in the budget of the Republic of Serbia.

Tax Administration shall have the right to, for the purpose of vocational training, training and further education of employees, project and building of information system, purchase of equipment for work, build and purchase of business premises and stimulating awards of employees, as well as for financing all other appropriations established by the budget of the Republic of Serbia for the current:

- 1) 5% of collected secondary tax duties, except for costs of forced tax collection procedure;
- 2) 10% from collected taxed unreported incomes;
- 3) special one-time duty for forced tax collection from Article 83 paragraph 1. of this Act;
- 4) entire amount of costs of enforced collection of tax and secondary tax duties for reimbursing these costs that are previously paid, in tax procedure, from the Tax Administration funds;
- 5) stipulated consideration for performed tasks from Article 160 subparagraph 15) of this Act.

Allocation of funds from paragraph 2 of this Article shall be done by a Tax Administration financial plan.

#### Political Neutrality

##### Article 171

In performance of tasks from its competence, Tax Administration officials shall be under the obligation to perform their tasks in accordance with law, whereby they may not be guided by their political beliefs.

#### Part Seven

#### PENAL PROVISIONS

##### Heading One

#### TAX CRIMES

##### Tax Evasion

##### Article 172

Erased ("RS Official Gazette" No. 85/05)

##### Failure to Pay Withholding Tax

## Article 173

Erased ("RS Official Gazette" No. 72/09)

### Unfounded Expression of Amounts for Tax Reimbursement and Tax Credit

#### Article 173a

Whoever, in the intent to realise the right to unfounded tax reimbursement or tax credit, files a tax return of untrue content, in which he expresses an amount for reimbursement exceeding 150,000 dinars shall be punished by imprisonment of from six months to five years and a fine.

If the expressed amount for refund and tax credit exceeds 7,500,000 dinars, the perpetrator shall be punished by imprisonment of from one to ten years and a fine.

An entrepreneur and a responsible person in the taxpayer a security measure of prohibition to perform independent activity, profession, business or duty of from one to five years for a criminal offence from paragraph 1 and 2 of this Article.

### Composing or Filing Counterfeit Document Relevant for Taxation

#### Article 174

Erased ("RS Official Gazette" No. 85/05)

### Jeopardizing Tax Collection and Tax Control

#### Article 175

Whoever, in the intent to jeopardize the collection of tax not yet due or not established, but in regards to which the procedure for determination or control has been initiated, that is, of tax determined to him or other person, after the interim measure for securing collection has been established in accordance with law, that is, in the enforced collection procedure, disposes of, hides, damages, destroys or renders unusable the object on which the interim measure for securing the collection, that is the object subject to enforced collection or tax control, shall be punished by imprisonment of up to one year and a fine.

Imprisonment from paragraph 1 of this Article shall also be pronounced to the person giving false data on facts relevant for conducting forced tax collection, that is, tax control.

### Illegal Markets of Excise Products

#### Article 176

Whoever markets, that is sells products that are not specially marked by prescribed control excise stamp, in accordance with law, shall be punished by imprisonment of from six months to five years.

Entrepreneur, that is, a responsible person in the legal person engaged in producing or importing products that, in accordance with law, must be specially marked by control excise stamps, who does not take measures for marking such products with control excise stamps prior to marketing, shall be punished by imprisonment of from six months to three years.

Security measure of prohibition to perform profession, business activity or duty for from one to five years shall be pronounced to entrepreneur for the criminal offence from paragraphs 1 and 2 of this Article.

Security measure of prohibition to perform profession or duty for from one to five years shall be pronounced to responsible person in the legal person for the criminal offence from paragraphs 1 and 2 of this Article.

Products not specially marked by prescribed control excise stamps and proceeds from crime shall be seized.

## Illegal Storing of Goods

### Article 176a

Whoever stores taxable goods on premises not registered for such purpose or whoever allows the storing of goods on his premises not registered for such purposes shall be punished by imprisonment of from three months to three years and a fine.

Punishment from paragraph 1 of this Article shall also be pronounced to whoever stores, on premises registered for storage, taxable goods for which there are no proper documents of origin of goods and tax paid.

Security measure of prohibition to perform profession, business activity or duty for from one to five years shall be pronounced for the criminal offence from paragraph 1 and 2 of this Article to the responsible person in the legal person and entrepreneur.

Goods from paragraph 1 and 2 of this Article shall be seized.

## Heading Two

## TAX PETTY OFFENCES

### Notion

### Article 176b

Tax petty offences shall be petty offences prescribed by this Act and other tax regulations.

### 1) Tax Petty Offences of Taxpayers – Legal Persons and Entrepreneurs

#### Failure to File a Tax Return, Failure to Compute and Pay Tax

### Article 177

Taxpayer – legal person and entrepreneur who fails to file the tax return prescribed by tax law, fails to compute and fails to pay the tax in the time limit prescribed by law, shall be punished for petty offence by a fine amounting to from 15% to 20% of the amount of tax determined in tax control procedure.

Taxpayer – legal person or entrepreneur who fails to file a tax return from paragraph 1 of this Article, and computes but fails to pay the tax in the time limit prescribed by law, shall be punished for petty offence by a fine amounting to from 10% to 15% of the amount of tax determined in tax control.

Taxpayer – legal person or entrepreneur who files the tax return from paragraph 1. of this Article, and computes but fails to pay the tax in the time limit prescribed by law, shall be punished for petty offence by a fine amounting to from 5% to 10% of the amount of tax determined in tax control.

Taxpayer – legal person or entrepreneur who fails to file the tax return from paragraph 1. of this Article, but computes and pays the tax in the time limit prescribed by law, shall be punished for petty offence by a fine amounting to up to 1% of the amount of tax determined in tax control.

Taxpayer – legal person or entrepreneur who fails to file the tax return prescribed by tax law in cases when the law does not prescribe self-assessment, shall be punished for petty offence by a fine amounting to 15% to 20% of the amount of tax established by the Tax Administration ruling.

For petty offence from paragraph 1 of this Article, the legal person shall be punished by a fine of at least 100,000 dinars, and the entrepreneur with a fine of at least 12,500 dinars.

For petty offence from paragraph 2 of this Article, the legal person shall be punished by a fine of at least 100,000 dinars, and the entrepreneur with a fine of at least 10,000 dinars.

For petty offence from paragraph 3 of this Article, the legal person shall be punished by a fine of at least 100,000 dinars, and the entrepreneur with a fine of at least 10,000 dinars.

For petty offence from paragraph 4 of this Article, the legal person shall be punished by a fine of at least 100,000 dinars, and the entrepreneur with a fine of at least 10,000 dinars.

For petty offence j from paragraph 5 of this Article the legal person shall be punished by a fine of at least 100,000 dinars, and the entrepreneur with a fine of at least 12,500 dinars.

For petty offences from this Article a fine of from 5,000 to 50, 000 dinars shall be pronounced to the responsible person in the legal person.

#### Reporting Smaller Amounts of Tax

##### Article 178

If the amount of tax determined in the tax return is smaller than the amount that should have been determined in accordance with law, taxpayer – legal person or entrepreneur shall be punished for a petty offence with a fine amounting to up 1% of the difference between these two amounts.

If the difference from paragraph 1 of this Article amounts to from 5% to 25% of the amount that should have been determined in the tax return, the taxpayer – legal person or entrepreneur shall be punished by a fine amounting to 5% of that difference.

If the difference from paragraph 1 of this Article amounts to from 25% to 50% of the amount that should have been determined in the tax return, the taxpayer – legal person or entrepreneur shall be punished by a fine amounting to 15% of that difference.

If the difference from paragraph 1 of this Article exceeds 50% of the amount that should have been determined in the tax return, the taxpayer – legal person or entrepreneur shall be punished by a fine amounting to 35% of that difference/

For petty offence from paragraph 1 of this Article a fine of at least 100,000 dinars shall be pronounced to legal person, and a fine of at least 10,000 dinars to entrepreneur.

For petty offence from paragraph 2 of this Article a fine of at least 100,000 dinars shall be pronounced to legal person, and a fine of at least 10,000 dinars to entrepreneur.

For petty offence from paragraph 3 of this Article a fine of at least 100,000 dinars shall be pronounced to legal person, and a fine of at least 10,000 dinars to entrepreneur.

For petty offence from paragraph 4 of this Article a fine of at least 100,000 dinars shall be pronounced to legal person, and a fine of at least 15,000 dinars to entrepreneur.

For petty offences from this Article the responsible person in the legal person shall be punished by a fine of from 5,000 to 50,000 dinars.



## Providing Incorrect Data in Tax Return

### Article 178a

Taxpayer – legal person or entrepreneur who provides incorrect data in the tax return the consequence of which is or could have been the determination of a lower amount of tax shall be punished for petty offence by a fine amounting to 1% of the difference between the amount of tax that was determined or should have been determined in accordance with law and the amount of tax that was determined or should have been determined according to data in the tax return.

If the difference from paragraph 1 of this Article amounts to from 5% to 25%, taxpayer – legal person or entrepreneur shall be punished by a fine amounting to up to 5% of such difference.

If the difference from paragraph 1 of this Article amounts to from 25% to 50%, taxpayer – legal person or entrepreneur shall be punished by a fine amounting to up to 15% of such difference.

If the difference from paragraph 1 of this Article exceeds 50%, taxpayer – legal person or entrepreneur shall be punished by a fine amounting to up to 25% of such difference.

For petty offence from paragraph 1 of this Article a fine of at least 100,000 dinars shall be pronounced to legal person, and a fine of at least 10,000 dinars to entrepreneur.

For petty offence from paragraph 2 of this Article a fine of at least 100,000 dinars shall be pronounced to legal person, and a fine of at least 10,000 dinars to entrepreneur.

For petty offence from paragraph 3 of this Article a fine of at least 100,000 dinars shall be pronounced to legal person, and a fine of at least 10,000 dinars to entrepreneur For petty offence from paragraph 4 of this Article a fine of at least 100,000 dinars shall be pronounced to legal person, and a fine of at least 15,000 dinars to entrepreneur

For petty offences from this Article the responsible person in the legal person shall be punished by a fine of from 5,000 to 50,000 dinars.

## 2) Other Tax Petty Offences of Legal Persons and Entrepreneurs

### Article 179

A fine of from 100,000 to 600,000 dinars shall be pronounced for a petty offence to a legal person if it:

1) fails to file or fails to file in the prescribed time limit the registration application (Article 25 subparagraph 1), Article 27 and Article 28 paragraph 7);

2) , fails to forward or does not forward in the prescribed time limit, at Tax Administration request, the books and business records kept by connected non-resident persons abroad or in the Autonomous Province of Kosovo and Metohija, that is, certified copies or certified translations of such books and records (Article 37 paragraph 3-5);

2a) fails to provide, at Tax Administration Request, excerpts from its' electronically kept books and business records, access and insight into data in its electronically kept books and business records, access to and insight into software and hardware equipment, as well as to database used within the system for electronic keeping of books and business records ( Article 37a paragraph 1);

2b) fails to file the tax return by electronic means (Article 38 paragraph 10);

3) fails to file, in prescribed cases and in prescribed time limits, the collective tax return, individual tax return and informational tax return, or provides incorrect data in it (Article 41 and 42);

4) fails to forward or does not forward to the designated place, at Tax Administrations' request, books and business records and other documents to be accessed to and verified (Article 25 subparagraph 3 and Article 44);

5) does not allow inspection on object, premises or land, that is, does not allow crossing through or over them for inspection purposes (Articles 49 and 50 );

6) disturbs the conducting of enforced collection, or fails to move from the place where enforced collection is being conducted and continues disturbing it, or refuses to make the objects in its possession available for the purpose of conducting enforced collection (Article 89 paragraph 7 and Article 90 paragraph 3);

7) at the request of tax enforcers fails to surrender the taxpayer's object in its possession, and does not pay the taxpayer's tax liability instead of the object being sold (Article 103 paragraph 1);

8) prevents the tax inspector or tax enforcer from entering land and premises in which it performs business activity, and, with court approval, from entering apartment for the purpose of control or enforced collection (Article 25 subparagraph 7 and Article 125 paragraph 5);

9) its employee disrupts a Tax Administration authorised official – tax inspector – from temporarily sealing business or storage premises in the procedure of on-site control, from conducting enforced collection or other duty established by law (Article 126 paragraph 2);

10) at the request of Tax Administration or tax inspector, fails to provide documents, or fails to provide information, or give statements relevant for establishing the state of facts relevant for taxation (Article 25. subparagraph 3), Article 121 paragraph 1 and Article 127 paragraph 1);

11) fails to enable, to tax inspector in the on-site control procedure, insight into the state of goods, or into books, business records and other records and documents, or if its employee or a person so designated does so (Article 127 paragraph 2, 3 and 7);

12) its employee prevents a tax inspector from conducting the measure of seizure of goods or seizure of documents or records in the course of tax control (Article 130);

13) disposes of objects in regards to which the tax inspector has pronounced a measure of temporary prohibition of disposal (Article 132 paragraph 3 subparagraph 5);

14) in the procedure of collecting information fails to act on the Tax Police request (Article 135 paragraph 3).

A responsible person in the legal person shall be punished for petty offence from paragraph 1 of this Article by a fine of from 5,000 to 30,000 dinars.

E shall be punished for petty offence from paragraph 1 of this Article by a fine of from 50,000 to 300,000 dinars.

Legal person shall be punished by a fine of from 100,000 to 300,000 dinars for a petty offence if:

1) it does not inform Tax Administration, or does not inform it in the prescribed time limit, of the person who has, as a non-resident, issued it authorisation in regards to performing operations related to tax liability (Article 14 paragraph 2);

2) it does not inform Tax Administration, or does not inform it in the prescribed time limit, on opening or closing of account with a bank in the Autonomous Province of Kosovo and Metohija or abroad (Article 25 subparagraph 8);

3) for data processed by automated data processing means, fails to provide, at Tax Administration request, excerpt from data on a medium designated by the Tax Administration, or if it does not enable to Tax Administration full insight into the accounting system through records, and, when necessary, through access to hardware and software (Article 37 paragraph 6);

4) fails to respond, at the request of Tax Administration, to a call for clarification purposes or fails to provide data and information necessary for establishing the state of facts relevant for taxation (Article 45 and Article 47 paragraph 2);

5) fails to proceed in accordance with the ruling on enforced collection from taxpayer's non-pecuniary claim and fails to hand over to Tax Administration objects owed to the taxpayer (Article 97 paragraph 2);

6) fails to forward to Tax Administration or fails to forward in prescribed time limit data on taxpayer's securities it keeps, with an estimate of their value, or if it fails to sell such securities in the prescribed time limit or fails to sell them under the best conditions on the market, or if it fails to pay the proceeds, after deducting the prescribed commission and costs, on Tax Administration account (Article 98 paragraph 3-5);

7) fails to keep the object to which the third-party action against execution relates in an unchanged state until the dispute on third-party action against execution is concluded (Article 102 paragraph 4);

8) fails to perform or fails to perform in the prescribed time limit the ruling on enforced collection on salary and other constant pecuniary incomes of the taxpayer, that is, if it fails to enforce the ruling on collection of taxpayers' debt from own funds in accordance with law (Article 189 paragraph 8 and 9).

Responsible person in the legal person shall be punished for petty offence from paragraph 4. of this Article by a fine of from 5,000 to 15,000 dinars.

Entrepreneur shall be punished for petty offence from paragraph 4. of this Article by a fine of from 25,000 to 150,000 dinars.

A fine of from 100,000 to 150,000 dinars shall be pronounced to a legal person for petty offence if:

1) does not report to the Tax Administration all subsequent changes to data in the registration application, that is, entry to register or if it reports incorrect changes of data (Article 25. subparagraph 1);

2) when filing the tax return or other prescribed act fails to enter its TIN in the prescribed place (Article 26 paragraph 4 and 5);

3) fails to enter the tax advisor's TIN in the tax return, or files it unsigned by such person, if such person has prepared the tax return or a part thereof (Article 38 paragraph 6);

4) fails to proceed in accordance with Tax Administration order to participate in the procedure of office control or to provide requested clarifications ( Article 25 subparagraph 9 and Article 121 paragraph 1);

5) fails to provide and make available an adequate place for work of the tax inspectors in the on-site control procedure (Article 125 paragraph 2 and 3);

6) is not present during on-site control, or refuses to take part in the on-site control procedure in accordance with this Act (Article 25 subparagraph 9 and Article 127).

Responsible person in the legal person shall be punished for petty offence from paragraph 7. of this Article by a fine of from 5,000 to 7,000 dinars.

Entrepreneur shall be punished for petty offence from paragraph 7 of this Article by a fine of from 12,500 to 75,000 dinars.

#### Tax Petty Offences of Taxpayers – Natural Person

#### Article 180

A fine of from 5,000 to 50,000 dinars shall be pronounced to a natural person, who is not an entrepreneur, if:

1) he fails to inform Tax Administration or fails to inform it in the prescribed time limit of the person who has, as a non-resident, authorised him for performance of operations related to tax obligations (Article 14 paragraph 2);

2) fails to file to Tax Administration or fails to file to it in the prescribed time limit the registration application, if he gives incorrect data in the registration application or fails to report all subsequent changes of data in that report, or if he reports incorrect changes of data. (Article 25 subparagraph 1);

3) disrupts or prevents the Tax Administration authorised official in performing the duty established by law in tax procedure (Article 25 subparagraph 7);

4) fail to inform Tax Administration or fails to inform it in the prescribed time limit on opening or closing of account with a bank in the Autonomous Province of Kosovo and Metohija or abroad (Article 25 subparagraph 8);

5) when filing the tax return or other prescribed act fails to enter his TIN in the prescribed place (Article 26 paragraph 12);

6) fails to file the tax return or fails to file it in the prescribed statutory of additional time limit, or if he files it unsigned, or enters incorrect data in he return and fails to correct them in the prescribed time limit, or files it without the necessary documents and evidence relevant for determining tax (Article 25 subparagraph 2, Article 38.paragraph 2, 3 and 5. and Article 40 paragraph 1);

7) fails to forward or does not forward to the designated place, at Tax Administration request, documents relevant for taxation for the purpose of insight and verification (Article 44);

8) fails to respond, at the request of Tax Administration, to a call for clarification purposes or fails to provide data and information necessary for establishing the state of facts relevant for taxation (Article 45 and Article 47 paragraph 2);

9) does not allow inspection on object, premises or land, that is, does not allow crossing through or over them for inspection purposes (Articles 49 and 50);

10) disturbs the conducting of enforced collection, or fails to move from the place where enforced collection is being conducted and continues disturbing it, or refuses to make the objects in its possession available for the purpose of conducting enforced collection (Article 89 paragraph 7 and Article 90 paragraph 3);

11) fails to proceed in accordance with the ruling on enforced collection from taxpayer's non-pecuniary claim and fails to hand over to Tax Administration objects owed to the taxpayer (Article 97 paragraph 2);

12) fails to keep the object to which the third-party action against execution relates in an unchanged state until the dispute on third-party action against execution is concluded (Article 102 paragraph 4);

13) at the request of tax enforcers fails to hand over the taxpayer's object in its possession, and does not pay the taxpayer's tax liability instead of the object being sold (Article 103 paragraph 1);

14) fails to proceed in accordance with Tax Administration order to participate in the procedure of office control or to provide requested clarifications ( Article 25 subparagraph 9) and Article 121 paragraph 1);

15) fails to provide and make available an adequate place for work of the tax inspectors in the on-site control procedure (Article 125 paragraph 2 and 3)

16) prevents the tax inspector or tax enforcer from entering land and premises in which it performs business activity, and, with court approval, from entering apartment for the purpose of control (Article 125 paragraph 5);

17) is not present during on-site control or refuses to take part in the on-site control procedure in accordance with this Act ( Article 25 subparagraph 9 and Article 127);

18) at the request of Tax Administration or tax inspector, fails to provide documents, or fails to provide information, or give statements relevant for establishing the state of facts

relevant for taxation (Article 25 subparagraph 3, Article 121 paragraph 1 and Article 127 paragraph 1);

19) fails to enable, to tax inspector in the on-site control procedure, insight into the state of goods, or into books, business records and other records and documents and fails to designate a person to do so on his behalf (Article 127 paragraph 2 and 3);

20) prevents a tax inspector from conducting the measure of seizure of goods or seizure of documents or records in the course of tax control (Article 130);

21) in the procedure of collecting information fails to act on the Tax Police request (Article 135 paragraph 3).

## Tax Petty Offence of Tax Intermediaries and Other Tax Debtors

### Article 181

A fine of from 5,000 to 50,000 dinars shall be pronounced for petty offence to the responsible person in:

1) court, local self-government authority, the Barr, professional association or other body or organisation competent for entry into the corresponding register, if it fails to forward to Tax Administration or fails to forward to it within the prescribed time limit the prescribed notice or data (Article 29 paragraph 2 and Article 184.);

2) administrative, that is, court authority keeping records or passing decisions on place of residence, birth or death of a natural person, or declaring a missing person dead, if it fails to inform the Tax Administration or fails to inform in it in the prescribed time limit on data relevant for determining tax (Article 29 paragraph 3);

2a) bank, if it fails to suspend the execution of taxpayer's orders for transfer of funds from the taxpayer's account from the moment of receiving the ruling on withdrawal of TIN (Article 26 paragraph 14);

2b) bank, if it fails to suspend the meeting of pecuniary obligations the taxpayer has toward third persons on the basis of contract on change of creditor or debtor in a given obligation relation (assignment, cession and the like), on the grounds of set-off or on other grounds in accordance with law, (Article 87a);

2c) enforced collection organisation, if it does not compute interest in the manner prescribed by this Act, from the day the ruling is passed to the day of transfer of the entire amount of tax and secondary tax and if the amount of computed interest is not transferred to corresponding public revenue accounts (Article 95 paragraph 2);

3) bank, if it opens an account to a legal person, entrepreneur or natural person who have not provided evidence of registration (Article 30 paragraph 1);

4) Tax Administration, that is, bank, if it fails to perform or fails to perform in the prescribed time limit, or with adequate interest, the reimbursement of overpaid or incorrectly paid tax and secondary tax duties, that is, tax refund ( Article 65 paragraph 2);

5) Erased ("RS Official Gazette", No. 61/07)

6) authority competent for keeping the register of pledges on movables, register of immovables, that is, the register of blocked accounts, if it does not enter the tax creditor's pledge in the prescribed time limit ( Article 87 paragraph 5. and Article 188 paragraph 1. and 4);

7) authority competent for keeping the register of immovables if it fails to forward to Tax Administration or does not forward to it in the prescribed time limit the requested excerpt from public records on immovables owned by the taxpayer and the report on whether a mortgage of another creditor has been (Article 90 paragraph 2);

8) bank, if it does not conduct the enforced collection from taxpayer's pecuniary assets in accordance with law, or if it does not enforce the ruling on collection of taxpayer's tax debt by collection from such banks' funds in accordance with law ( Article 95 paragraph 2 and 3);

9) bank or other legal person keeping taxpayer's securities, if it fails to forward to Tax Administration or does not forward in the prescribed time limit data on such securities with an estimate of their value, that is, if it does not sell such securities in the prescribed time limit or does not sell them under the best conditions on the market, or if it fails to pay to Tax Administration account the proceeds from sale after deducting the prescribed commission and costs (Article 98 paragraph 3-5);

10) bank, if it does not proceed on the Tax Administration ruling on prohibition to dispose of assets at taxpayer's account (Article 132 paragraph 3 subparagraph 1);

11) state authority and organisation, territorial autonomy or local self- government authority, if it fails to forward to Tax Administration facts it learned performing the operations from its competence, which indicate there is a possibility that the tax liability has not been fulfilled (Article 158);

11 a) local self-government unit, if it does not forward to Tax Administration data on taxes and secondary tax duties collected by the local self-government unit, which are relevant for performance of operations from Tax Administration competence (Article 159);

12) bank, if it does not suspend or does not suspend in the prescribed time limit all transactions through the account of a legal person, entrepreneur or natural person who have not provided evidence of registration (Article 185. paragraph 2);

13) bank, if it fails to proceed in accordance with the ruling on forced collection from taxpayer's pecuniary assets and fails to transfer the assets from his debtor's account to the prescribed public revenue account, that is, if it fails to enforce the ruling on enforced collection of amount due directly from such banks' funds in accordance with law (Article 189);

14) authority competent for records of immovables and movables in state ownership if it does not assume possession of immovables and movables transferred ownership of the Republic in the prescribed time limit (Article 104. paragraph 19. and Article 110. paragraph 11).

#### Petty Offences of Responsible Persons in Tax Administration

##### Article 182

A fine of from 5,000 to 50,000 dinars shall be pronounced for a petty offence to the responsible person in the Tax Administration organisational unit if:

1) he denies to taxpayer free information on tax regulations or basic legal aid if the taxpayer is ignorant (Article 24 paragraph 1. subparagraph 1);

2) denies to taxpayer insight into data on determination and collection of tax kept on him by the Tax Administration or, at taxpayer's request, fails to change incomplete or incorrect data on the taxpayer (Article 24 paragraph 1. subparagraph 6).

The fine from paragraph 1 of this Article shall be pronounced to Tax Administration official if he:

1) fails to act with respect and consideration towards the taxpayer in tax procedure (Article 24 paragraph 1 subparagraph 3);

2) prevents the taxpayer from being present during tax control, in accordance with this Act (Article 24 paragraph 1 subparagraph 10).

##### Article 182a

If the taxpayer, within two years from the day the conviction for tax offence from Article 177 paragraphs 1 and 5 becomes finally binding, commits the same petty offence again, in addition to the fine, the security measure of prohibition to perform certain business activities may also be pronounced to him in the duration of from six months to three years.

#### Article 182b

Motion to initiate petty offence procedure shall not be filed and sanction shall not be pronounced against the person who commits the action or failure considered a tax petty offence from Article 177, Article 179 paragraph 1 subparagraph 2b) and 3) and paragraph 3 in regards to paragraph 1 subparagraph 3) of that Article, as well as from Article 180. subparagraph 5) and 6) of this Act, if such person, before a tax authority takes any action in regards to the action committed or to failure, that is, before starting tax control or filing a motion to initiate petty offence procedure, reports the action or failure on own initiative and at the same time pays the amount of tax owed increased by the computed interest from Article 75 paragraph 1 and 2 of this Act.

#### Part Eight

### TRANSITIONAL AND FINAL

### PROVISIONS

#### Registration of Taxpayers

#### Article 183

Tax Administration shall register taxpayers within one year from the day the application of this Act begins.

#### Service of Data on Entry into the Register to Tax Administration

#### Article 184

Court or organisation from Article 29 paragraph 1-3. of this Act shall be under the obligation to, in accordance with the act from Article 29 paragraph 5 of this Act, forward to Tax Administration data on persons entered into the register, that is, other data relevant for determining tax, on the day the application of this Act begins.

#### Obligations of Bank in Regards to Account Holders

#### Article 185

Bank shall be authorised to request from legal person, entrepreneur and natural person having an open account with it on the day the application of this Act begins to provide it with evidence of registration within 15 days from the day of being assigned the TIN.

If the legal person, entrepreneur or natural person from paragraph 1 of this Article fails to provide evidence of registration in the time limit from paragraph 1 of this Article, the bank shall be under the obligation to suspend all transactions through their accounts on the following day after the expiry of that time limit and inform the Tax Administration thereof without delay.

If, on the day the application of this Act begins, taxpayer's account is blocked because of due but unpaid taxes and secondary tax duties, such block shall extend to all accounts such taxpayer has in accordance with the Payment Transactions Act from Article 69 paragraph 2 of this Act.

## Property Record Application

### Article 186

Taxpayer, natural person and entrepreneur, shall be under the obligation to file to Tax Administration, within ten months from the day the application of this Act begins, application for recording the entire property in the country and abroad, if its value exceeds 20,000,000 dinars.

Property, in terms of paragraph 1 of this Article, shall include:

- 1) immovables (apartment, house, business building and premises, land and the like);
- 2) stocks and shares in a legal person;
- 3) equipment for performing independent business activity;
- 4) motor vehicles, watercrafts and aircrafts;
- 5) erased ("RS Official Gazette" 70/03)
- 6) saving deposits and cash;
- 7) other property rights.

Data on property of connected persons shall also be entered in the property record application.

Taxpayer, natural person and entrepreneur, whose property from paragraph 1 and 2 of this Article exceeds 10,000,000 dinars, but does not exceed 20,000,000 dinars, may file the property record application.

Tax Administration may, in accordance with Article 60 paragraph 2 of this Act, estimate the value of property listed in the property record application and forward the ruling on estimate to the taxpayer.

Property record application is used solely for conducting cross-assessment of tax base from Article 59 of this Act.

Cross-assessment shall be applied to the difference between the value of property established in tax control and estimated, that is, reported value of property in the manner from paragraph 5 of this Article.

If the taxpayer from paragraph 1 of this Article fails to file the property record application, cross-evaluation shall be applied to his entire property.

Form and contents of property record application shall be prescribed by the Minister.

Tax Administration shall determine a single tax base by cross-assessment for the period of from January 1, 2003 to December 31, 2005 to natural persons and entrepreneurs from this.

Single tax base from paragraph 10 of this Article shall be determined as the difference between the value of property on December 31, 2005 and January 1, 2003, reduced by the amount of reported income and by the value of property acquired from assets obtained by inheritance, gift or in another legal manner without consideration, which the taxpayer or another person reports and provides adequate supporting evidence thereof.

Value of property on January 1, 2003 shall be the sum of total values of property from Article 59 paragraph 3 of this Act as on January 1, 2003.

Value of property on December 31, 2005 shall be the sum of total values of property from Article 59 paragraph 3 of this Act as on December 31, 2005, increased by the value of property acquired with consideration and disposed of with or without consideration in the period from January 1, 2003 to December 31, 2005.



#### Article 186a

Tax Administration shall determine a single tax base by cross-assessment for the period from January 1, 2003 to December 31, 2005 also to natural persons and entrepreneurs the total value of property of whom exceeds 20,000,000 dinars on December 31, 2005, in accordance with Article 59. and Article 186 paragraph 11-13. of this Act.

#### Pledge of the Republic of Serbia Until the Register of Pledges Begins to Work

#### Article 187

Enforced collection of taxes and secondary tax duties shall have priority in regards to other taxpayer's obligations and claims of other persons from the day the register of pledges begins to operate in accordance with the law governing pledge on movables entered in the register.

Until the day the register of pledges from paragraph 1 of this Article begins to operate, the Republic of Serbia pledge on immovables, pecuniary assets at taxpayer's account, movables and taxpayer's claims shall be established on the day of entry to the register of immovables, that is, of blocked accounts, on movables – by inventory, and on taxpayer's claims by service of ruling from Article 92 paragraph 2 of this Act to taxpayer's debtor.

Inventoried movable on which a pledge has been established on behalf of the Republic shall be seized at the time of inventory.

Inventoried movable from paragraph 3 of this Article may exceptionally be left to the taxpayer for safekeeping until the day of sale if so required by reasons of economy of the enforced collection procedure.

#### Transitional Regime for Establishing the Pledge of the Republic

#### Article 188

Pledge on movables and taxpayer's claims established by the day the register of pledges begins to operate in accordance with statute governing pledge on movables entered in the register, in accordance with Article 187 paragraph 2 of this Act, shall be entered in the corresponding register of pledges as a priority, under the first day such register begins to operate.

Tax Administration shall be under the obligation, for the purpose of exercising priority pledge, to forward to the corresponding register the request for entry of pledges from paragraph 1 of this Article, within 15 days from the day the register of pledges begins to operate.

One year after the register of pledges begins to operate the Republic shall have the right of priority settlement from pecuniary assets on taxpayer's account with banks or other financial organisations, without the entry of pledge in the corresponding register of pledges. .

The pledge of the Republic from paragraph 3 of this Article established in accordance with Article 187 paragraph 2 of this Act, shall be entered as a priority in the corresponding register of pledges, under the first day after the expiry of time limit of one year from the day the register of pledges begins to operate.

#### Transitional Regime of Enforced Collection from Pecuniary Claims

#### Article 189

Until December 31, 2003, pledge of the Republic on pecuniary claims of the taxpayer shall be established on the day of service of ruling from Article 92 paragraph 2 of this Act to taxpayer's debtor.

Enforced collection of taxes and secondary tax duties from pecuniary claims may be carried out when the Tax Administration establishes in a procedure that such claim is not contestable and that it is due for collection.

By the ruling on enforced collection of taxes from pecuniary claims, the claim from paragraph 1 of this Article shall be seized and the taxpayer's debtor shall be ordered to pay his debt on such claim to the corresponding public revenue income account, up to the amount the taxpayer owes on the grounds of taxes and secondary tax duties.

Taxpayer's debtor may file an objection to the ruling from paragraph 3 of this Article within three days from the day the ruling is served.

Taxpayer's debtor shall be under the obligation, in the time limit of three days from the expiry of time limit for objection, that is, from the day of receiving the ruling on objection, if the objection is denied, to make the payment of seized from paragraph 3 of this Article.

If the taxpayer's debtor fails to proceed in the manner prescribed in paragraph 5 of this Article, enforced collection shall be carried out from the pecuniary funds from his account, in accordance with the provisions of Article 95 of this Act.

If the taxpayer's claim towards his debtor is not due, Tax Administrations shall order payment in terms of paragraph 3 of this Article, once the claim becomes due.

Enforced collection on salary and other permanent pecuniary incomes of the taxpayer is carried out on the basis of the ruling from Article 92 paragraph 2 of this Act, by which a ban is put on a certain part of such incomes and the payer is ordered to transfer the owed amount of tax and secondary tax duties, starting from the first payment, to the corresponding public revenue payment account.

If the payer fails to proceed in accordance with the ruling from paragraph 8 of this Article, collection of the owed amount of taxes and secondary tax duties shall be carried out directly from the funds at payer's account, in accordance with the provisions of Article 95. of this Act.

#### Transitional -Regime of Enforced collection from Non-pecuniary Claims

##### Article 190

Until December 31, 2003, the pledge on behalf of the Republic of Serbia on taxpayer's non-pecuniary claims shall be established on the day of service of the ruling from Article 92 paragraph 2 of this Act to taxpayer's debtor.

Enforced collection of taxes and secondary tax duties may be carried out from taxpayer's non-pecuniary claim when the Tax Administration establishes in a procedure that such claim is not contested and that it is due for collection.

By ruling on enforced collection from Article 92 paragraph 2 of this Act a ban is placed on taxpayer's non-pecuniary claim and his debtor is ordered to hand over the owed objects to the Tax Administration, which shall make an inventory, estimate them, seize them and sell them in accordance with provisions of Article 89 and Article 99-104 of this Act.

If the seized claim relates to surrender of immovables, enforced collection shall be conducted in accordance with provisions of Article 105-111 of this Act.

#### Taking over of Employees, Appointed Persons, Cases, Archive, Equipment and Means for Work of the Republican Public Revenue Administration

##### Article 191

On the day the application of this Act begins, the Ministry of Finance and Economy shall take over the employees and appointed persons of the Republican Public Revenue Administration, as well as cases, archive, equipment and the means for work.

#### Termination of Validity of Provisions of Certain Statutes

##### Article 192

On the day the application of this Act begins the following shall cease to be valid:

1) Act on Control, Determination and Collection of Public Revenues ("RS Official Gazette", No. 76/91, 20/93, 37/93, 39/93, 53/93, 67/93, 45/94, 52/96, 42/98, 18/99, 33/99, 52/2000 and 34/2001);

2) Article 125d, 136 and 138-144 of the Disability and Pension Insurance Act ("RS Official Gazette", No. 52/96, 46/98 and 29/2001);

3) Article 108u and 108w-108z<sup>1</sup> of the Health Insurance Act ("RS Official Gazette", No. 18/92, 26/93, 53/93, 67/93, 48/94, 25/96, 46/98, 54/99, 29/2001 and 18/2002);

4) Article 27k, 27k-1, 27l and 27m-27r of the Act on Employment and Realisation of Rights of Unemployed Persons ("RS Official Gazette", No. 22/92, 73/92, 82/92, 56/93, 67/93, 34/94, 52/96, 46/98 and 29/2001);

5) Article 90, Article 108 paragraph 1, Article 117 paragraph 2, Article 120-156 and 163-165, Article 166 paragraph 1 subparagraph 3) and 4), Article 167 paragraph 1 subparagraph 13) and 14), Article 168 paragraph 1 subparagraph 4)-6), Article 169 subparagraph 3) and 4), Article 170. subparagraph 1) and 3) and Article 172 of Personal Income Tax Act ("RS Official Gazette", No. 24/2001);

6) Article 72, 73, 77-110 and 114 of Corporate Income Tax Act ("RS Official Gazette", No. 25/2001);

7) Article 27, 28, 35, 36, 38 and 46. of Excise Act ("RS Official Gazette", No. 22/2001 and 73/2001);

8) Article 29-31, 40, 41, 43 and 55 of Turnover Tax Act ("RS Official Gazette", No. 22/2001 and 73/2001);

9) Article 41. of Property Taxes Act ("RS Official Gazette", No. 26/2001);

10) in Article 53 paragraph 1 subparagraph 3) and Article 54 of the Act on Conditions for Performing the Trade of Goods, Rendering Services in Trade and Inspection Supervision ("RS Official Gazette", No. 39/96, 20/97, 46/98 and 34/2001) the part regulating fines for petty offence from Article 7a and Article 53 paragraph 1. subparagraph 3) of that Act;

11) Article 23 subparagraph 2) and Article 25 of the Ministries Act ("RS Official Gazette", NO 27/2002);

12) in Article 139 paragraph 1 subparagraph 3) of the Serbian Criminal Code ("SRS Official Gazette", No. 26/77, 28/77, 43/77, 20/79, 24/84, 39/86, 51/87, 6/89, 42/89 and 21/90 and "RS Official Gazette", No. 16/90, 26/91, 75/91, 9/92, 49/92, 51/92, 23/93, 67/93, 47/94, 17/95, 44/98, 10/2002 and 11/2002) the part prescribing the sanction for the criminal offence of abuse of power in economy for the responsible person in the company or other organisation engaged in business activity who, in relation to fulfilment of tax liability or payment of other duties, denies assets that constitute public income and Article 154 of that Act.

#### Entry of Act into Force

##### Article 193

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<sup>1</sup> Translators's note - Since the Serbian alphabet has 30 letters, whereas the English has 26, Articles marked by the final four letters of Serbian alphabet shall be marked as z<sub>1</sub>-z<sub>4</sub>.

This Act shall enter into force on the eighth day from the day of publication in the "Republic of Serbia Official Gazette" and shall apply as of January 1, 2003.

#### PROVISIONS NOT INCLUDED IN THE CONSOLIDATED TEXT

Act on Amendments to Tax Procedure and Tax Administration Act («RS Official Gazette", No. 61/07)

##### Article 60

Immovables in the ownership of the Republic of Serbia given for use to local self-government units, which are in fact used by the Tax Administration shall continue to be used by the Tax Administration, until regulations on assets in ownership of the local self-government are passed, except for immovables from Article 61. of the Financing of Local Self-Government Act ("RS Official Gazette", No 62/06).

##### Article 61

Provisions of Article 2 of this Act, in accordance with Article 60 of the Financing of Local Self-Government Act ("RS Official Gazette", No. 62/06), shall apply as of January 1, 2007.

Procedure for determination, collection and control of taxes and secondary tax duties collected, in accordance with the provisions of the statute from paragraph 1. of this Article, by local self-government units, started by Tax Administration, which have not been concluded by January 1, 2007, shall be concluded by the competent local-self government unit authority.

##### Article 62

Provisions of Article 47 of this Act, in the part relating to the competence of Tax Administration for conducting the second-instance tax petty offence procedure, shall cease to be valid on the day the second instance petty offence court begins to operate in accordance with Petty Offences Act ("RS Official Gazette", No. 101/05).

##### Article 63

Regulations from Article 10 and 46 of this Act shall be passed within six months from the day this Act enters into force

##### Article 64

Tax Administration shall also be competent for deciding on appeals filed against rulings passed in tax procedure by competent local self-government authorities filed to the Tax Administration in the period from January 1, 2007 to the day this Act enters into force.

##### Article 65

Provisions of Article 10 of this Act, in regards to liability of large taxpayers, shall apply as of January 1, 2009.

Act on Amendments to Tax Procedure and Tax Administration Act  
("RS Official Gazette", No. 20/09)

## Article 28

Regulations from Article 10, 21 and 25 of this Act shall be passed within six months from the day this Act enters into force, except for regulations from Article 25 of this Act in the part relating to the quantity of main an additional coefficient, salary group and salary rank for tax officials ranks, which shall be passed within three months from the day this Act enters into force.

## Article 29

For acquiring higher rank of a tax official from Article 25 of this Act based on evaluation, the civil servants evaluations for years 2007 and 2008 determined by a final ruling of the Tax Administration director shall also be taken into account.

## Article 30

Provisions of Article 4 of this Act shall apply as of May 1, 2009.

Provisions of Article 25 of this Act, in the part relating to the termination of employment based on evaluation of tax official, shall apply after the evaluation for years 2009 and 2010, and in the part relating to the right of tax officials to official uniform, work clothes and shoes, shall apply as of January 1, 2011.

## Article 31

Regulation from Article 37a paragraph 7 of the Tax Procedure and Tax Administration Act ("RS Official Gazette", No. 80/02, 84/02 - corrigendum, 23/03 - corrigendum, 70/03, 55/04, 61/05, 85/05 – other statute, 62/06 – other statute and 61/07), shall be passed by December 31, 2009 at the latest.

Act on Amendments to Tax Procedure and Tax Administration Act  
("RS Official Gazette, 53/10)

## Article 47

If the taxpayer finds that the tax return he had filed to the Tax Administration until the entry into force of this Act includes a mistake or omission, he can file only one altered tax return in accordance with Article 40 of the Tax Procedure and Tax Administration Act ("RS Official Gazette", No. 80/02, 84/02 - corrigendum, 23/03 - corrigendum, 70/03, 55/04, 61/05, 85/05 – other statute, 62/06 – other statute, 61/07, 20/09 and 72/09 – other statute).

## Article 48

Taxpayer undergoing reorganisation, in accordance with statute governing insolvency, to whom payment of tax debt in accordance with the provisions of Article 73 of the Tax Procedure and Tax Administration Act has been granted ("RS Official Gazette", No. 80/02, 84/02 - corrigendum, 23/03 -corrigendum, 70/03, 55/04, 61/05, 85/05 – other statute, 62/06 – other statute, 61/07, 20/09 and 72/09 – other statute), and who files a motion for deferral in accordance with Article 14 of this Act, before the expiry of period for which the deferral has been granted, may be granted deferral for the period which, together with the deferral period already granted, does not exceed 60 months.

## Article 4

Allocation of amount paid on the grounds of due taxes and secondary tax duties until December 31, 2010, shall be carried out by applying the provisions of Article 70 paragraph 2 of the Tax Procedure and Tax Administration Act ("RS Official Gazette", No.. 80/02, 84/02 - corrigendum, 23/03 - corrigendum, 70/03, 55/04, 61/05, 85/05 – other statute, 62/06 – other statute, 61/07, 20/09 and 72/09 – other statute). Calculation and payment of interest to the amount of tax and secondary tax duties overpaid or underpaid until December 31, 2010 shall be carried out by applying provisions of Article 75 paragraph 1 of the Tax Procedure and Tax Administration Act ("RS Official Gazette", No.. 80/02, 84/02 - corrigendum, 23/03 - corrigendum, 70/03, 55/04, 61/05, 85/05 – other statute, 62/06 – other statute, 61/07, 20/09 and 72/09 – other statute)

#### Article 50

When the Tax Administration ruling by which immovables or movables from Article 10 paragraph 18 and Article 110 paragraph 5 of the Tax Procedure and Tax Administration Act ("RS Official Gazette", No. 80/02, 84/02 - corrigendum, 23/03 - corrigendum, 70/03, 55/04, 61/05, 85/05 – other statute, 62/06 – other statute, 61/07, 20/09 and 72/09 – other statute) are transferred to the ownership of the Republic of Serbia becomes finally binding until the day this Act enters into force, that is, until the day the application of regulations from Article 20 and 21 of this Act begins, the authority competent for records of immovables and movables in state ownership shall be under the obligation, in accordance with regulations from Article 20 and 21 of this Act, within 30 days from the day their application begins, to assume possession of such immovables and movables.

A fine of from 5,000 dinars to 50,000 dinars shall be pronounced for petty offence to the responsible person in the authority competent for records of immovables and movables in state ownership if he fails to assume possession of immovables and movables in the time limit from paragraph 1 of this Article.

Regulations from Article 20 and 21 of this Act shall be passed within 90 days from the day this Act enters into force.

Provisions of Article 12 and 15 of this Act shall apply as of January 1, 2011.

Notwithstanding the provisions of this Act, local self-government units may regulate, by their decision in 2010, the conditions and manner of deferral, payment and writing off of interest to tax debt on the basis of original public income that became due by December 31, 2009, which have not been paid by the end of 2010, in a different manner.