

Based on Article 88, item 2 of the Constitution of the Republic of Montenegro I hereby pass the

**ENACTMENT PROCLAIMING
THE LAW ON TAX ADMINISTRATION
(Official Gazette of the Republic of Montenegro, No 65/01, 80/04, 29/05)**

This is a proclamation of the Law on Tax Administration, adopted by the Parliament of the Republic of Montenegro at the second meeting of the second regular session in the year 2001, on 27th December 2001.

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

THE LAW ON TAX ADMINISTRATION

I GENERAL PROVISIONS

General Provisions

Article 1 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Article 2

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

Article 3 (Official Gazette of the Republic of Montenegro, No 80/04)

The provisions of the law regulating administrative procedure and inspection audit shall be accordingly applied to the issues not regulated by this Law.

Meaning of Specific Terms

Article 4 (Official Gazette of the Republic of Montenegro, No 80/04)

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

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

II COMPETENCY OF THE TAX AUTHORITY

Article 5 (Official Gazette of the Republic of Montenegro, No 80/04)

- (1) The competent Republic administration body (hereinafter: the tax authority) shall carry out activities regarding assessment, collection and audit of taxes introduced by the Republic.
- (2) The competent body of local government shall carry out activities regarding assessment, collection and audit of taxes introduced by a local self-government unit.

- (3) Exceptionally from paragraph 2 of this Article, the tax authority may, at the request of a local self-government unit, carry out the activities regarding the assessment, collection and audit of surtax on personal income tax and consumption tax.

Tax Authority Authorizations
Article 6 (Official Gazette of the Republic of Montenegro, No 80/04)

Within the scope of competency prescribed by the law, the tax authority shall be authorized to:

- 1) perform inspection audit, undertake collection measures, other actions and activities within its competence under this or other laws;
- 2) decide on the rights of taxpayers;
- 3) register taxpayers and maintain a tax registry;
- 4) assess tax in the manner and in accordance with the procedure determined by law;
- 5) require that taxpayers and other legal entities submit documentation and provide other information necessary for assessment of tax liability;
- 6) summon the persons to participate in the tax procedure;
- 7) enter and inspect the business premises where books and records or other objects necessary for application of tax regulations are located or may be located;
- 8) exempt business books and records and other objects necessary for application of tax regulations in accordance with this Law;
- 9) impose penalties for tax violations prescribed by this or other tax regulations;
- 10) use services of experts and expert witnesses, physical and legal persons, in the procedure of assessing tax liabilities when the expertise is necessary;
- 11) initiate and conduct a first-instance administrative and misdemeanor procedure;
- 12) plan and implement training of employees;
- 13) maintain tax bookkeeping;
- 14) inform taxpayers of the course of inspection audit and their rights and obligations in that procedure;
- 15) provide expert help to taxpayers in application of tax regulations;
- 16) provide the taxpayers with a copy of tax return free of charge;
- 17) keep tax secrets;
- 18) treat the taxpayers and other persons with due respect;
- 19) bring criminal charges, economic offence charges or request for initiation of misdemeanor procedure;
- 20) forward the information, including the tax secrets revealed in the course of criminal investigation or gathering other information in cases when there is a reasonable doubt of a misdemeanor or criminal action, to the authorities in charge of law enforcement;
- 21) apply international contracts and agreements on avoiding double taxation and other conveniences in the payment of taxes;
- 22) prepare reports on the conditions in the tax area;
- 23) give initiatives to the Ministry of Finance for adoption of regulations and other acts regulating the tax system and tax policy;

- 24) cooperate with other bodies and organizations in the country and abroad regarding the issues of tax crimes, in accordance with international contracts or agreements;
- 25) undertake measures necessary for safety of tax officials;
- 26) undertake measures aimed at prevention of corruption of officials while acting in official capacity;
- 27) organize functioning of a unique information system in the tax area;
- 28) ensure the implementation of positions and conclusions of the Government in the tax area;
- 29) perform other activities prescribed by law and other regulations.

(2) The manner of maintaining the tax bookkeeping referred to in paragraph 1, item 13 of this Article shall be prescribed by the ministry in charge of financial activities.

III GENERAL PROVISIONS ON TAX PROCEDURE

Summons

Article 7 (Official Gazette of the Republic of Montenegro, No 80/04)

- (1) The tax authority shall be entitled to summons any person in case when it deems that the person's presence is needed in the procedure of implementation of tax regulations.
- (2) The tax authority may summons persons for the purposes of interrogation, testimony, expert witnessing, presentation of documents, books and records and objects necessary for the implementation of tax regulations, submission of decisions or conclusions, or for notices that cannot be delivered to that person by mail or in another adequate manner.
- (3) The persons shall be summonsed by the means of written summons, unless otherwise prescribed by this Law.
- (4) The person shall be summonsed upon the order of the head of the tax authority, or the person authorized by him/her.
- (5) In cases when persons are summonsed for the purposes of interrogation, testimony, expert witnessing, or presentation of documents, books and records, the tax authority shall be obliged to deliver the summons referred to in paragraph 3 of this Article no later than 3 working days before the day determined in the summons for taking such actions.
- (6) The summons referred to in paragraph 3 of this Article shall include:
 - 1) name of the tax authority that issued the summons;
 - 2) first and last name, or firm of the person that is being summonsed and fiscal identification number (hereinafter: FIN);
 - 3) place, day and hour when the summonsed person should arrive;
 - 4) subject matter and capacity in which the person is being summonsed (party in the proceeding, witness, expert witness, interpreter etc.);

- 5) auxiliary means that the summoned person should obtain, or bring as evidence.
- (7) In case when the person is summonsed for presentation of documents, books, records and other objects, the summons shall state which books, records, documentation or other objects need to be presented.
- (8) The summons must state whether the summonsed person is obliged to appear in person or may send a proxy that shall represent him, and the summonsed person shall be warned about the consequences in case of failure to respond to the summons or inform the authority that issued the summons that he is prevented from coming.
- (9) Persons younger than 18 years shall be summonsed through their parents or another legal representative.
- (10) In justifiable cases, the person that has been summonsed may request from the tax authority to alter the place or time of interrogation, testimony, expert witnessing, interpretation or presentation of documents listed in the summons.
- (11) By rule, persons shall be summonsed during the working hours of the tax authority and in cases of urgent and pressing measures, a person may be summonsed after the working hours of the tax authority and on non-working days.

Obligations of the Summonsed Person

Article 8

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

Interrogation of a Party
Article 9

- (1) For the purpose of this Law, any person registered with the competent tax authority as a taxpayer shall be considered as a party.
- (2) The party may be interrogated in the tax procedure upon the tax authority's summons or at his/her own request.
- (3) The party shall be interrogated by a tax inspector of the tax authority (hereinafter: tax inspector) conducting the procedure for assessment, audit, collection or investigation activities, when he/she deems it necessary for the purpose of establishing decisive facts and circumstances important for clarifying a tax matter, or enabling parties to realize and protect their rights and interests.
- (4) The tax inspector conducting the procedure shall determine the course of interrogation procedure in accordance with the circumstances of each particular case, ensuring that the party is provided with the right to: present facts that may have impact on resolving the tax matter; offer proofs for establishing these facts; contest the statements contrary to his statements; give statements on all circumstances and facts presented in investigation, proposals and offered proofs; participate in the presentment of evidence and asking other parties, witnesses and expert witnesses questions through the tax inspector, or directly if the inspector allows it; get familiar with the results of the offering of evidence and make a statement about it.
- (5) In the course of interrogation procedure, the tax inspector conducting the procedure may decide to interrogate the party about all or individual facts and circumstances important for that tax matter.
- (6) By rule, the party shall give verbal statements in the course of interrogation, but the party may also submit statements in writing.
- (7) The proxy of the party shall be entitled to participate in the interrogation proceedings of the party. The party, his proxy and the tax authority shall be entitled to record the entire course of the interrogation on the tape.
- (8) The authorized official conducting the procedure shall not be entitled to extort evidence from the party by force or deceit, or to force the party to prepare or sign written statements or documents.
- (9) Prior to interrogation of the party, the tax inspector conducting the procedure shall be obliged to warn the party about the criminal and material liability for giving a false statement.

Interrogation of Witnesses

Article 10

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

Article 11

A witness may refuse to testify if:

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

Article 12

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

Article 13

- (1) At the beginning of interrogation, the witness shall be warned that he/she is obliged to speak the truth, that he/she must not withhold any information and that criminal charges may be brought against him/her for giving a false testimony.

- (2) Personal data shall be obtained from the witness in the following order: first and last name, FIN (if assigned), profession, place of permanent residence, or temporary residence, place of birth, age, marital status, place of employment.
- (3) The authorized tax inspector conducting the procedure shall instruct the witness which questions he may refuse to give an answer to.
- (4) After that, the witness shall be interrogated about the subject matter and shall be invited to give a statement about his/her knowledge about that matter.
- (5) It shall be forbidden to ask the witness suggestive and leading questions in the course of interrogation.
- (6) The witness shall always be asked to state where he has gained the knowledge related to what he is testifying about.

Article 14

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

Related Persons

Article 15 (Official Gazette of the Republic of Montenegro, No 80/04)

- (1) Related persons shall be considered the persons having special mutual relations that may have a direct impact on the conditions or economic results of transactions between them.
- (2) The special relations referred to in paragraph 1 of this Article shall include individual relations between:
 - 1) the persons having at least 25% of share in the capital of another person;
 - 2) one person that has a direct or indirect interest in another person which is a company, if such an interest is not less than 25%;
 - 3) one person that is subordinate to the other person in terms of his business position and that other person, or one person that is under control (directly or indirectly) of the other person and that other person;
 - 4) the persons presenting subsidiaries or are under direct or indirect control of a third person;
 - 5) the persons that directly or indirectly control a third person and that third person, if each person's voting right is not less than 25%.

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

**Tax Secret
Article 16**

- (1) Tax secret shall mean any information or datum about the taxpayer at the disposal of the tax authority, except for information and data:
- 1) for which the taxpayer states in a written form that they are not considered as tax secret;
 - 2) that cannot be related to a particular taxpayer, and cannot be identified in any other manner;
 - 3) pertaining to the existence of tax debt if the mortgage, or fiduciary transfer of property right used as security has been registered in the public books;
 - 4) on registration of the taxpayer, FIN, name (firm) and principal place of business;
 - 5) value of immovable property.
- (2) Data considered as tax secret may, at request of the competent state authority, be available to that authority in accordance with law.

Minutes

Article 17

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

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

Article 18

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

Article 19

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

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

Article 20 (Official Gazette of the Republic of Montenegro, No 80/04)

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

**Acts in the Tax Procedure
Article 21**

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

**Form and Contents of Tax Act
Article 22 (Official Gazette of the Republic of Montenegro, No 80/04)**

- (1) The tax act shall be adopted in a written or verbal form.
- (2) The verbal tax act may be adopted by the tax inspector based on the minutes, and its immediate execution may be ordered, in case there is a reasonable doubt that the collection of taxes shall be prevented.
- (3) After being announced, the verbal tax act must be issued in the written form no later than three days from the day of its adoption.
- (4) The tax act referred to in Article 21 of this Law must contain:
- 1) the name of the tax authority, number and date;
 - 2) the name or firm of the person it is submitted to;
 - 3) legal and factual basis;
 - 4) signature of the tax inspector;

5) seal.

(5) Tax act imposing a prestation or sufferance must also contain the warning about the consequences in case of failure to act accordingly.

Submission of Acts

Article 23 (Official Gazette of the Republic of Montenegro, No 80/04)

An act shall be considered submitted:

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

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

Article 24

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

IV RIGHTS AND OBLIGATIONS OF TAXPAYERS

Rights of Taxpayers

Article 25 (Official Gazette of the Republic of Montenegro, No 80/04)

- (1) The taxpayer shall be entitled to:
 - 1) be accurately and timely informed about all issues that enable him/her to declare and pay tax liability;
 - 2) request from a tax authority to keep the gathered data on assessment of tax liability as tax secret and use them or disclose them only to the

- institutions and bodies in the manner and under the procedure prescribed by this Law;
- 3) request re-examination and re-assessment of his/ her tax liability in the manner prescribed by this Law;
 - 4) receive, free of charge, information from the tax authority about the tax regulations, rights and obligations arising from them;
 - 5) receive a copy of tax return and other tax forms;
 - 6) be treated with due respect by the tax authority;
 - 7) represent his/her personal interests before the tax authorities, in person or through his/her proxy;
 - 8) use tax relief in accordance with tax regulations;
 - 9) have access to data on assessment and collection of tax liability kept by the tax authority and request changes of the false and amendments to incomplete data;
 - 10) be present during the inspection audit;
 - 11) also use other rights determined by this Law.
- (2) The taxpayers whose rights referred to in this Article are violated shall have the right to protection that is realized by the complaint filed with the competent court.
- (3) If the court determines that the taxpayer's rights have been violated, compensation and expenses of the court procedure shall be borne by the tax authority.

Obligations of Taxpayers

Article 26 (Official Gazette of the Republic of Montenegro, No 80/04)

The taxpayer shall be obliged to:

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

V IDENTIFICATION AND GENERAL REGISTRATION OF THE TAXPAYER

Article 27 (Official Gazette of the Republic of Montenegro, No 80/04)

- (1) General registration of the taxpayer with the competent tax authority shall be performed on the basis of a registration application form by registration in the tax registry, within the deadline and in the manner prescribed by this Law.
- (2) The following persons shall be obliged to submit the registration application forms:
 - 1) the legal person or organization generating revenues in the Republic or outside the Republic;
 - 2) the physical person generating revenues or owning property in the Republic or outside the Republic;
 - 3) the foreign legal person or organization generating revenues in the Republic;
 - 4) the foreign physical person generating revenues or owning property in the Republic.
- (3) The tax authority shall, for the purpose of identification of taxpayers, issue a decision on registration by which Fiscal Identification Numbers (FIN) are assigned to legal entities and physical persons.
- (4) FIN shall be a unique and sole number of a legal entity or physical person for all types of taxes and shall be kept in the case of a change of headquarters, permanent residence and temporary residence of the taxpayer.
- (5) FIN shall be entered into:
 - 1) the act that the taxpayer submits to the tax authority, state bodies and local government bodies;
 - 2) the act that the tax authority submits to a taxpayer;
 - 3) the order by which the taxpayer pays his tax liability.
- (6) The ministry in charge of financial activities shall prescribe the form and contents of the registration application form.

Article 28

- (1) Tax authority shall keep the registry of taxpayers.
- (2) The registry of taxpayers shall mean a set of data on the taxpayer comprised of the registration folders and collection of documents. The registration folder shall consist of the registration sheets where all the data that are being registered are entered. The collection of documents shall mean a chronological order of documents and acts based on which the registration into the registration folder has been done.
- (3) The persons referred to in Article 27 paragraph 2 of this Law shall, enclosed to the registration application form, submit the following:

- 1) identification proof (act on registration of a legal person or entrepreneur, ID card, passport, driver' s license);
- 2) statement about the number of family members;
- 3) ownership certificate;
- 4) proof of employment.

Place and Time of Registration

Article 29 (Official Gazette of the Republic of Montenegro, No 80/04)

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

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

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

Article 31

To be deleted (Official Gazette of the Republic of Montenegro, No 80/04).

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

- (1) The persons referred to in Article 27, paragraph 2, items 1 and 3 of this Law shall submit the registration application form within 5 business days from the day of registration with the court or other registry.

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

Article 33

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

Obligations of Administrative and Judicial Bodies in Charge of Registration Article 34 (Official Gazette of the Republic of Montenegro, No 80/04)

- (1) The court keeping the registry of legal entities, organizations and entrepreneurs shall be obliged to inform the competent tax authority on registration, change in the status or bankruptcy of a legal entity, organization and entrepreneurs within five business days from the day of undertaking such activities.
- (2) Bodies of local government keeping primary registration books and state bodies keeping the records on permanent and temporary residence shall be obliged to inform the tax authority on birth, death, registration of permanent and temporary residence, change in permanent and temporary residence of citizens, within 5 business days from the day of birth, death, registration of permanent and temporary residence, change in permanent and temporary residence.
- (3) The Bar Association, professional associations, as well as other bodies and organizations competent for registration of persons performing specific activities in adequate registry, shall be obliged to submit to the tax authority, within 5 business days from the day of registration, a notification of registration, cancellation of registration and deletion from the registry, as well as other changes important for determining taxes.

Termination of Registration

Article 35 (Official Gazette of the Republic of Montenegro, No 80/04)

The tax authority shall be obliged to make changes in the tax registry within 5 business days from the day of receiving the notification referred to in Article 34 of this Law, i.e. to adopt a decision on termination of registration within 30 days.

VI TAX RETURN

Article 36 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Submission of the Tax Return by the Tax Authority

Article 37 (Official Gazette of the Republic of Montenegro, No 80/04)

- (1) The tax authority shall be authorized to submit the tax return for the taxpayer within 3 days from the day of finding out that the return was not submitted within the prescribed deadline.
- (2) The tax authority shall be authorized to complete for a taxpayer an incomplete tax return and correct wrongly completed tax return immediately upon finding out the omissions and mistakes in the submitted return.
- (3) The tax authority shall be obliged to submit a copy of the tax return referred to in paragraphs 1 and 2 of this Article to the taxpayer.

Amended Tax Return

Article 38 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Article 39

To be deleted (Official Gazette of the Republic of Montenegro, No 80/04).

Tax Return for Withholding Tax

Article 40 (Official Gazette of the Republic of Montenegro, 80/04)

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

**Authorization of the Tax Authority to Extend the Deadline for
Submission of the Tax Return
Article 41 (Official Gazette of the Republic of Montenegro, No 80/04)**

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

VII TAX LIABILITY

Article 42 (Official Gazette of the Republic of Montenegro, No 80/04)

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

**Tax Liability of Legal Entity or Organization under Bankruptcy
Article 43 (Official Gazette of the Republic of Montenegro, No 80/04)**

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

**Tax Liability in Case of Status Changes of Legal Entity or Organization
Article 44 (Official Gazette of the Republic of Montenegro, No 80/04)**

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

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

Article 45 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Article 46

To be deleted (Official Gazette of the Republic of Montenegro, No 80/04).

Article 47

To be deleted (Official Gazette of the Republic of Montenegro, No 80/04).

Article 48

To be deleted (Official Gazette of the Republic of Montenegro, No 80/04).

Article 49

To be deleted (Official Gazette of the Republic of Montenegro, No 80/04).

VIII PAYMENT OF TAX LIABILITY

Article 50 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Order for Payment of Tax Liability

Article 51 (Official Gazette of the Republic of Montenegro, No 80/04)

- (1) The order for payment of tax liability shall mean a financial document submitted by the taxpayer on the prescribed form.
- (2) When submitting the order, the taxpayer shall be obliged to designate the tax liability the order relates to.
- (3) The payment of tax liability referred to in paragraph 2 of this Article shall be executed in the following order:
 - 1) costs of the procedure;
 - 2) interest;
 - 3) tax.
- (4) If the taxpayer fails to designate the type of tax liability the payment relates to, the payment shall be executed in the order referred to in paragraph 3 of this Article.

IX ASSESSMENT OF TAX LIABILITY

Article 52 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Tax Decision

Article 53 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Form and Contents of Tax Decision

Article 54 (Official Gazette of the Republic of Montenegro, No 80/04)

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

- (5) The appeal shall not stay the execution of the decision.

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

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

**Recording of Tax Liability
Article 55a (Official Gazette of the Republic of Montenegro, 80/04)**

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

X ENFORCED COLLECTION OF TAXES

Article 56 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Article 57 (Official Gazette of the Republic of Montenegro, No 80/04)

- (1) The conclusion on enforced collection shall contain in particular:
- 1) tax return reference, i.e. enforcing order and date when the tax return is recorded, i.e. when the order becomes enforceable;
 - 2) the amount of tax debt according to maturity, amount of interest and costs of the procedure;
 - 3) order to the taxpayer to pay his tax debt within 10 days;
 - 4) case reference and means of enforced collection;
 - 5) number of the account to which the payment shall be made;
 - 6) the taxpayer's debtor's reference;
 - 7) more detailed identification of immovable property in accordance with the data from the public book;

- 8) note that costs of the enforced collection procedure shall be covered by the taxpayer;
 - 9) name of the Tax Payer and his¹ headquarters.
- (2) If the enforced collection is made on salaries, pensions and other personal income of the taxpayer, the conclusion of the enforced collection shall also be submitted to his Tax Payer.

Article 58 (Official Gazette of the Republic of Montenegro, No 80/04)

- (1) Appeal may be filed against the conclusion on enforced collection within 3 days from the day of its submission.
- (2) The appeal shall not stay the execution of the conclusion.

Article 59 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Article 60 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Enforced Collection from Monetary Funds and Claims of Taxpayer
Article 61 (Official Gazette of the Republic of Montenegro, No 80/04)

- (1) Enforced collection from monetary funds of the taxpayer shall be carried out by transfer of funds from the taxpayer' s account to the account to which tax liabilities are paid.
- (2) Enforced collection from the monetary claims of the taxpayer shall be executed in the manner and pursuant to the procedure prescribed by the Law regulating enforced collection procedure.
- (3) The conclusion on the enforced collection shall be submitted to the Central Bank of Montenegro for the purpose of its execution.

**Collection of Tax Liability from Monetary Funds
Article 62**

To be deleted (Official Gazette of the Republic of Montenegro, No 80/04).

Collection of Tax Liabilities from Property

Article 63 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Article 64 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Article 65

To be deleted. (Official Gazette of the Republic of Montenegro, No 80/04).

Article 66

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

Article 67

- (1) The tax inspector shall be obliged to inform all persons pointed out as owners of the inventoried property or part of that property, and instruct them that they may file an extracting complaint with the competent court, for the purpose of proving the ownership right on the respective property, within 8 days from the day of receiving the notification.
- (2) The notification referred to in paragraph 1 of this Article shall be given in the verbal form by the tax inspector if the persons witness the inventory taking procedure, and shall be entered into the minutes on the inventory and evaluation of movable property, whereas the absent persons shall be informed in writing.

- (3) If the notified persons referred to in paragraph 2 of this Article prove that they have filed the extracting complaint with the court, the collection procedure shall be suspended in respect of the property covered by the extracting complaint.

Article 68

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

Article 69 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Article 70 (Official Gazette of the Republic of Montenegro, No 80/04)

- (1) The tax authority shall be held responsible for the seized property. If monetary funds are seized, the tax authority shall deposit them to the appropriate account of the budget within one working day from the day of seizure.
- (2) The tax authority that implemented the seizure of the property shall publish the advertisement of the sale of the property in the mass media and on the bulletin board of the tax authority, within 5 days from the day of seizure.
- (3) Officials of the Tax authority, spouses, ancestors and descendants of the officials, and the ancestors and descendants of officials' spouse may not participate directly or indirectly in the public bidding.
- (4) The taxpayer whose property is seized in accordance with this Law may, prior to the sale of the property, pay his tax liability and costs of the seizure. The tax authority shall return the seized property to the taxpayer the following day from the day of the payment of tax liability.
- (5) In case when the seized property is perishable or when the Tax authority estimates that there are exceptionally important circumstances justifying urgent sale, the sale may be executed through direct negotiations.

- (6) Funds generated through the sale of the seized property shall be used for the payment of tax liability in the order referred to in Article 51 of this Law.
- (7) The ministry in charge of financial activities shall prescribe in more details the sale of property, at the proposal of the tax authority.

Article 71 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Article 72

To be deleted (Official Gazette of the Republic of Montenegro, No 80/04).

XI INSPECTION AUDIT

General Provisions

Article 73

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

Subject Matter of Inspection audit

Article 74

- (1) Inspection audit shall include the verification of all or specific facts relevant for taxation.
- (2) Inspection audit shall include the verification of one or several types of taxes for one or more taxation periods.
- (3) In case of inspection audit of entrepreneur, the inspection audit may also include the facts not related to the business activity of the entrepreneur.
- (4) Inspection audit of corporations and partnerships shall also include the verification of relations between the shareholders and partners and their respective entities relevant for taxation.

Period of Inspection Audit

Article 75 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Order for Inspection Audit

Article 76 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Article 77 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Forms of Inspection Audit

Article 78 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Article 79

To be deleted (Official Gazette of the Republic of Montenegro, No 80/04).

Control of Tax Return

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

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

Office Control

Article 81 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Field Control
Article 82

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

Article 83

- (1) The tax inspector, in the procedure of gathering proofs for assessment of tax liability, may also use certain indicia.
- (2) The indicia, for the purpose of paragraph 1 of this Article, are certain signs, data or information that may serve to the tax authority for setting tax liability for all types of taxes.
- (3) The indicia referred to in paragraph 2 of this Article shall relate to:
 - 1) type and nature of the taxpayer' s operations,
 - 2) transfer of funds through the taxpayer' s account in bank or another financial institution and the amount of the funds in such accounts,
 - 3) ratio between the taxpayer' s expenditures and revenues,
 - 4) property of the taxpayer acquired or used for personal use and other evidence of property including apartments, houses, business premises, cars, means of labor, club membership, number of servants and similar,
 - 5) analysis of changes in the value of the taxpayer' s property,
 - 6) the amount of rental fee for immovable property where the taxpayer works or lives,
 - 7) the amount of capital in the taxpayer' s company,
 - 8) realized turnover of the taxpayer,
 - 9) number of taxpayer' s employees,
 - 10) type and number of taxpayer' s business clients,
 - 11) profit or income of other persons conducting a similar or identical activity as the taxpayer under the same or similar conditions,
 - 12) difference between the purchased raw materials and other materials and those that were actually used in the production,
 - 13) all other evidence that could serve for determination of the tax liability amount.

Time for Inspection Audit

Article 84 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Article 85 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Minutes on Inspection Audit

Article 86 (Official Gazette of the Republic of Montenegro, No 80/04)

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

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

Measures of Inspection Audit

Article 87

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

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

Article 88

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

Article 89

To be deleted (Official Gazette of the Republic of Montenegro, No 80/04).

Article 90 (Official Gazette of the Republic of Montenegro, No 80/04)

- (1) The tax inspector shall order the measures referred to in Article 87 of this Law in the form of a decision.
- (2) Exceptionally from paragraph 1 of this Article, the tax inspector may order the measures referred to in Article 87 of this Law in the minutes on completed audit or verbal decision when he estimates that in such a manner the damage of greater value would be prevented and when it is in public interest.
- (3) In the case referred to in paragraph 2 of this Article, the tax inspector shall be obliged to adopt a written decision within three days.
- (4) The tax inspector shall adopt the decision referred to in paragraph 1 of this Article on the basis of facts determined in the minutes and additional minutes on inspection audit.
- (5) The decision referred to in paragraph 1 of this Article shall contain, in addition to the data referred to in Article 54 of this Law, a deadline for execution of the measure determined by the tax inspector who adopts the decision.

Article 91 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Article 92

To be deleted (Official Gazette of the Republic of Montenegro, No 80/04).

Article 93

To be deleted (Official Gazette of the Republic of Montenegro, No 80/04).

Article 94

To be deleted (Official Gazette of the Republic of Montenegro, No 80/04).

XIII INTEREST

Article 95 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Article 96 (Official Gazette of the Republic of Montenegro, No 80/04)

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

XIV TAX DEDUCTIONS AND REFUNDS

Article 97 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Article 98 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Article 99

To be deleted (Official Gazette of the Republic of Montenegro, No 80/04).

XV STATUTE OF LIMITATIONS

Statute of Limitations for the Right to Tax Assessment Article 100 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Statute of Limitations for the Right to Tax Collection Article 101 (Official Gazette of the Republic of Montenegro, No 80/04)

- (1) The right to tax collection shall fall under the statute of limitations within 3 years upon the expiration of the year for which the tax is assessed.
- (2) The right to collection of interest and procedural costs shall fall under the statute of limitations within the deadline referred to in paragraph 1 of this Article.
- (3) Any official action undertaken by the tax authority shall suspend the statute of limitations for the right to tax collection.
- (4) Statute of limitations shall not run during the procedure before the court or in the case when a taxpayer who is a physical person is outside of the Republic for an uninterrupted period longer than six months.
- (5) In cases when the taxpayer is under bankruptcy procedure, the statute of limitations referred to in this Article shall be prolonged for six months from the day of the termination of the procedure.
- (6) If the extension of the deadline for the payment of tax liability is approved to the taxpayer, the statute of limitations for the right to collect shall be prolonged for that period of time.

Statute of Limitations for the Right to Refunds Article 102 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Ultimate Statute of Limitations

Article 103 (Official Gazette of the Republic of Montenegro, No 80/04)

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

Article 104

To be deleted (Official Gazette of the Republic of Montenegro, No 80/04).

XVII PENALTY PROVISIONS

Tax Offences

Article 105 (Official Gazette of the Republic of Montenegro, No 80/04)

- (1) A pecuniary fine in the amount of 10 fold to 200 fold of the minimum wage in the Republic shall be imposed on a taxpayer – legal entity and entrepreneur for an offence, if he:
 - 1) fails to submit a registration application form to the tax authority within the prescribed deadline (Article 32);
 - 2) fails to inform the tax authority on changes relating to the data registered in the tax registry within the prescribed deadline (Article 33).
- (2) The pecuniary fine referred to in paragraph 1 of this Article shall be imposed for an offence on the Tax Payer or intermediary, if he fails to submit a request for withholding tax within the prescribed deadline (Article 40).
- (3) A pecuniary fine in the amount of 1 fold to 10 fold of the minimum wage in the Republic shall be imposed on a taxpayer – physical person and responsible person in the legal entity for the offence referred to in paragraph 1 of this Article.

Article 106

To be deleted (Official Gazette of the Republic of Montenegro, No 80/04).

Article 107

To be deleted (Official Gazette of the Republic of Montenegro, No 80/04).

Article 108

To be deleted (Official Gazette of the Republic of Montenegro, No 80/04).

Article 109

To be deleted (Official Gazette of the Republic of Montenegro, No 80/04).

Article 110

To be deleted (Official Gazette of the Republic of Montenegro, No 80/04).

Article 111

To be deleted (Official Gazette of the Republic of Montenegro, No 80/04).

XVIII FINAL AND TRANSITIONAL PROVISIONS

Article 112

More detailed regulations for implementation of this Law shall be adopted within 6 months from the day this Law comes into force.

Article 113

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

Article 114

By coming into force, this Law shall supersede the Law on Public Revenue Operations (Official Gazette of the Republic of Montenegro, No. 3/92, 3/94, 42/94, 13/96 and 45/98).

Article 115

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

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

Article 116

This Law shall enter into force on the eighth day after its publication in the Official Gazette of the Republic of Montenegro, and it shall be applied from 1st January 2002.

Law on Amendments to the Law on Tax Administration

(Official Gazette of the Republic of Montenegro, No 80/04 from 29th December 2004)

TRANSITIONAL AND FINAL PROVISIONS

Article 76

By the time the secondary legislation for implementation of this Law is adopted, the current secondary legislation shall apply.

Article 77

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

- Rules on the Manner and Procedure of Registration of Tax Lien on Real Estate (Official Gazette of the Republic of Montenegro, No 23/02);
- Methodological Instruction on the Manner and Procedure of Inspection Audit (Official Gazette of the Republic of Montenegro, No 33/02);
- Rules on Conduct of Tax Authority Employees (Official Gazette of the Republic of Montenegro, No 33/02).

Article 78

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

Article 79

This Law shall come into force on the eighth day from its publication in the Official Gazette of the Republic of Montenegro, and it shall be applied from 1st January 2005.