

ENTERPRISE PROFIT TAX LAW

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Part One

TAXPAYER

Types of taxpayers

Article 1

The enterprise profit taxpayer (hereinafter: the taxpayer) shall be any enterprise set up in one of the following forms:

- 1) Stock company;
- 2) Limited liability company;
- 3) General partnership;
- 4) Limited partnership;
- 5) Socially owned enterprise;
- 6) Public enterprise.

A taxpayer shall also be any co-operative that earns income by selling products on the market or providing services for a fee. A taxpayer under law shall also be any other legal entity that is not set up in any of the forms referred to in paragraphs 1 and 2 of this Article, if it earns income by selling products on the market or providing services for a fee.

Residents and Non-residents

Article 2

The taxpayer referred to in Article 1 of this Law shall be a resident of the Republic of Serbia (hereinafter: resident taxpayer) who is subject to taxation of any profit it generates in the territory of the Republic of Serbia (hereinafter: the Republic) and outside it.

For the purposes of this Law, any resident taxpayer shall be a legal entity founded or having its head office of actual management and control in the territory of the Republic.

Article 3

Any non-resident of the Republic (hereinafter: non-resident taxpayer) shall be subject to taxation of any profit it generates through a permanent operating unit in the territory of the Republic.

For the purposes of this Law, any non-resident taxpayer shall be a legal entity founded and having its head office of actual management and control outside the territory of the Republic.

Article 4

A permanent operating unit shall be understood to mean any permanent place of business through which a non-resident conducts its business, and it may be the following in particular:

1. Branch;
2. Plant;
3. Representative office;
4. Place of production, factory or workshop;
5. Mine, quarry or other site of exploitation of natural resources.

A permanent operating unit may also comprise a permanent or movable site, construction or mounting works, if they last more than six months, including:

- a) One or several construction or mounting projects executed concurrently, or
- b) Several construction or mounting projects executed one after the other without interruption.

If in representing a non-resident taxpayer, a person has and exercises the authority to conclude contracts on behalf of that taxpayer, it shall be deemed that the non-resident taxpayer has a permanent operating unit with regard to the operations performed by the representative on behalf of the taxpayer.

A permanent operating unit shall be deemed non-existent if the non-resident taxpayer conducts its business through a commissioner, broker or any other person which in the conduct of its own business acts in its own name and for the taxpayer's account.

The following shall also not be deemed to make up a permanent operating unit:

1. Keeping stocks of goods or materials belonging to any non-resident taxpayer exclusively for purposes relating to storage, presentation and delivery or using premises intended for such purposes exclusively;
2. Keeping stocks of goods or materials belonging to any non-resident taxpayer exclusively for the purpose of their being processed in another enterprise or by a sole entrepreneur;
3. Keeping a permanent place of business exclusively for the purpose of procuring goods or gathering information for the needs of a non-resident taxpayer or for the purpose of engaging in other activities of preparatory or accessory nature for the needs of a non-resident taxpayer.

Article 5

Any non-resident taxpayer shall keep in the permanent operating unit records containing all data relating to income and expenditures, as well as other data necessary to determine the profit generated by that unit in the territory of the Republic.

The minister of finance shall prescribe the way of keeping the records referred to in paragraph 1 of this Article.

Part two

TAX BASE

Taxable Profit

Article 6

The enterprise profit tax base shall be the taxable profit.

Taxable profit shall be determined in the tax balance, by adjusting the taxpayer's profit declared in the income Statement, made in accordance with the international accounting standards (hereinafter IAS) and accounting regulations, in the manner determined by this Law.

Adjustment of Expenditures

Article 7

For determining of the taxable profit, recognized are expenditures in the amounts declared in the income statement, in accordance with IAS and accounting regulations, except expenditures for which different manner of establishing is prescribed by this Law.

Article 7a

The following shall not be recognized as expenditures:

- 1) expenses that cannot be documented;
- 2) corrections of values of individual claims from persons against whom there concurrently exists debt;
- 3) presents and donations to political organizations;
- 4) presents and other advertising expenditures that are not documented, or the consignee is an associated person, in accordance with Article 59 hereof.
- 5) Interest for unduly paid taxes, contributions and other public duties;
- 6) Fines and penalties;
- 7) Earnings of employees or other persons based on share of profit;
- 8) Expenditures not generated in the course of performing of a business activity, if not otherwise prescribed by this Law.

Article 8

The cost of materials and the value of sold merchandise shall be recognized in the amounts calculated by the average price method or FIFO method.

The provisions of Article 61 of this Law shall apply with regard to the acquisition price of materials and the value of the merchandise procured from associated persons.

Article 9

The costs relating to wages and salaries shall be recognized in the amount charged to operating costs.

Article 9a

Calculated but not paid severance wages and financial compensations to the employee on the basis of retirement and cessation of employment on other grounds, shall not be regarded as expenditures for tax statement purposes.

Article 10

Depreciation of fixed assets shall be recognized as expenditure in the tax statement up to the amount and in the manner prescribed by this Law.

Fixed assets from paragraph 1 of this Article include capital goods with shelf life longer than one year and the unit purchase price at the time of purchase higher than the average gross salary in the Republic, as per the most recent data of the republican authority competent for statistics, as well as non-capital goods.

Assets from paragraph 2 of this Article are divided in five groups, with the following depreciation rates:

- 1) group I 2,5%;
- 2) group II 10%;
- 3) group III 15%;
- 4) group IV 20%;
- 5) group V 30%

Depreciation for fixed assets placed in group I is established by the use of proportional method, on the basis representing

the purchase value of the asset, for each fixed asset separately.

Depreciation for the fixed assets placed in groups II-V is established by the use of digressive method on the value of assets divided into groups.

The base for depreciation from paragraph 5 of this Article in the first year makes the purchase value, and in the consequent periods the non-written-off value.

Fixed assets placed in group I are immovables.

Minister of finance shall specify the manner of dividing of fixed assets into groups and the manner of determination of depreciation.

Articles 11 – 14 deleted

Article 15

Expenditures for health care, cultural, educational, scientific, humanitarian, religious, environmental protection and sport-related purposes, shall be recognized as expenditure amounting to not more than 3.5% of the total revenue.

Expenditures for humanitarian purposes shall be recognized only if they were made through humanitarian organizations registered for such purposes.

Expenditures on investment in the field of culture shall be recognized as expenditure amounting to not more than 1.5% of the total revenue.

Membership fees paid to chambers, unions and associations shall be recognized as expenditure item in the tax statement up to 0.1% of the total revenue.

Membership fees the amount of which is determined by law shall be recognized as expenditure in the amount determined by law.

The costs relating to advertising, publicity and entertainment shall be recognized as expenditure up to 3% of the total revenue.

Only the gifts and other expenses serving towards the promotion of the taxpayer's performance shall be recognized as publicity expenditure in the tax statement.

The minister in charge of cultural affairs shall enact regulations in greater detail as to what is to be understood as investment in the field of culture for the purposes of this Law, having obtained the opinion of the minister of finance.

Article 16

Write-off of the values of individual claims shall be recognized as expenditures, except claims from Article 7a, paragraph 2 of this Law, provided that:

- 1) it is doubtlessly proven that those claims had previously been included in the taxpayer's income;
- 2) that the claim in the taxpayer's books was written off as non-collectable;
- 3) that the taxpayer gives evidence on the unsuccessful collection of these claims through court.

The corrections of the value of certain claims shall be recognized as expenditures if at least 60 days passed from the date of its collection.

All written off, corrected and other receivables recognized as expenditure and which are collected subsequently, shall at the moment of collection be included in the taxpayer's revenue.

Article 17

- deleted –

Article 18

- deleted -

Article 19

The total accounted interest, other than interest charged for untimely payment of taxes, contributions and other public charges, shall be recognized as expenditure in the tax statement.

In case of credits received from associated persons, the accounted interest shall be reduced in the manner determined by Article 62 of this Law.

Article 20

Any interest and related costs based on a loan extended to a permanent operating unit referred to in Article 4 of this Law by its non-resident head office, shall not be recognized as expenditure in that operating unit's tax statement.

Any compensation based on copyrights and industrial property rights (hereinafter: royalties) paid by any permanent operating unit referred to in Article 4 of this Law to its non-resident head office, shall not be recognized as expenditure in the permanent operating unit's tax statement.

Article 21

- deleted –

Article 22

Any paid property tax, social security contributions payable by the employer, stamp duty and other public charges not dependent on operating results, shall be recognized as expenditure in the tax statement.

Article 22a

As expenditure In the tax statement of banks and other financial organizations shall be recognized increase of the general correction of the value, determined in accordance with the regulations of the National Bank of Serbia, as a difference between the value of this correction at the beginning and at the end of the tax year, i.e. in the period of making of the tax statement.

Article 22b

Long-term reservations for renewal of natural resources, for expenses within the warranty period and withheld securities and deposits shall be recognized as expenditures.

Article 22c

As expenditures in the tax balance recognized as expenditures shall be costs incurred on the basis of devaluation of property, which is determined as difference between the purchase price of the property, established with this Law and its estimated refundable value, except in the case of damages due to force majeure.

Income Adjustment

Article 23

Any income declared in the tax statement in conformity with the law dealing with accounting, with the exception of the income which is to be determined in a different way determined by this Law, shall be recognized in the determination of taxable income in the tax statement.

Article 24

In case of claims from debtors with the status of associated persons from Article 59 of this Law, or a credit that the taxpayer grants to the debtor with a status of associated person, interest and the pertaining costs that are included in the income in the tax statement cannot be lower than those that would have been achieved if that claim had been contracted on the market, i.e. that the credit had been granted on the market in the tax period.

Article 25

Any income that taxpayer realizes from dividends and share in profits of other enterprises shall not enter in the tax base. Minister of Finance shall specify the manner of exclusion of income from paragraph 1 hereof from the tax base.

Article 25a

Income and expenditures that due to fundamental error or a change of bookkeeping policy are not stated in the financial reports in the period in which they occurred, are not included in the profit or loss of the current period, but the consequently established errors and effects of the change of bookkeeping policy are corrected in the financial reports for the year they occurred in.

The fundamental error from paragraph 1 hereof shall mean the error defined in the IAS, if by more than 2% it changes the taxable profit, i.e. the loss stated in the tax statement.

Article 26

The production costs shall be included in the value of the stocks of work in progress, intermediates and final products in the determination of taxable profits in conformity with the provisions of the law dealing with accounting.

In case of long production cycles and strong seasonal effect on the volume of activities, it shall be permissible to also include in the value of the stocks referred to in paragraph 1 of this Article, the appropriate part of the general overhead and sales costs and financing costs.

The value of stocks calculated pursuant to paragraphs 1 and 2 of this Article may not be greater than their sales value on the tax statement filing date.

Articles 26 a to 26h deleted

Capital Gains and Losses

Article 27

A capital gain shall be understood to mean any income earned by a taxpayer by selling or transferring in another way against compensation (hereinafter: sale) of the following:

- 1) real estate;
- 2) Industrial property rights;
- 3) Interests in the assets of legal entities and shares and other securities, with the exception of bonds issued in conformity with the regulations dealing with settlement of commitments of the Republic of Serbia based on the loan towards economic development and the household foreign currency savings, national bills of the National Bank of Serbia.

A capital gain makes up the difference between the sale price of the property referred to in paragraph 1 of this Article (hereinafter: the property) and its acquisition price, adjusted as per the provisions of this Law.

If the difference referred to in paragraph 2 of this is negative, a capital loss is involved.

Article 28

For the purposes of this Law, the acquisition price used in the determination of capital gains shall be the Contracted price, i.e. the market price established by the tax authority if it assesses that the contracted price is lower than the market price.

As the contracted price, i.e. the market price from paragraph 1 of this Article shall be taken the price without the tax on transfer of absolute rights.

In case of transfer of rights through exchange for another right, the selling price shall be the market price of the right acquired under compensation, established in the manner from paragraph 1 hereof, corrected for the possible received or paid difference in money.

Article 29

For the purpose of determining of a capital gain, the acquiring price, according to this Law, is the price at which the taxpayer acquired the property, decreased by the depreciation.

If the price at which property was acquired is not declared in the taxpayer's books or is not declared in conformity with paragraph 1 of this Article, the acquisition price to be taken for the purpose of determining the capital gain shall be its market price on the date of acquisition, as determined by the competent tax office in the way set in paragraph 1 of this Article.

In case of sale of real estate under construction, the sale price referred to in paragraph 1 of this Article shall be the construction costs declared up to the date of sale in conformity with the regulations dealing with accounting.

In case of the securities quoted on the stock exchange, the acquisition price shall be the price the taxpayer documents as the actually paid one and if he/she does not do so, the lowest registered quotation in the course of one year preceding the sale of security.

In case of the securities not quoted on the stock exchange, the acquisition price shall be the price the taxpayer documents as the actually paid one and if he/she does not do so, their par value.

Article 30

Any capital gain shall be included in taxable profit in the amount set in the way referred to in Articles 27 through 29 of this Law.

Any capital loss incurred in the sale of a proprietary right may be offset with the capital gain made in the sale of another proprietary right in the same year.

If a capital loss is declared even after the offsetting referred to in paragraph 1 of this Article, it is permissible for it to be offset with future capital gains in the next 10 years

Article 31

Any take-over, merger or partition of a legal entity shall defer the commencement of tax liability on the basis of capital gains.

The tax liability on the basis of capital gains as referred to in paragraph 1 of this Article shall run from the moment the legal entity that came into being by change of status sells the property taken over on the basis of such change of status.

Any capital gain referred to in paragraph 2 of this Article shall be calculated as the difference between the sale price of property and its acquisition price paid by the legal entity that had brought that property into the legal entity that came into being by the change of status, adjusted in the way referred to in Article 29 of this Law, from the date of acquisition to the date of sale.

The right to the deferment of payment of enterprise profit tax on the capital gains made in the way referred to in paragraph 1 of this Article shall apply if the owner of the legal entity which had transferred property on the occasion of take-over, merger or partition has received compensation in the form of shares or interest in the legal entity to which the property was transferred, as well as any compensation in cash, the amount of which is not greater than 10% of the par value of the obtained shares or interests.

If the compensation in cash referred to in paragraph 4 of this Article is greater than 10% of the par value of the obtained shares or interests, the tax liability on capital gain runs from the moment the change of status is made and the capital gain shall be calculated as the difference between the price at which the property could have been sold on the market and the acquisition price referred to in Article 29 of this Law.

Tax Treatment of Operating Losses

Article 32

Any losses incurred in the conduct of commercial, financial and non-commercial transactions declared in the tax statement, with the exception of those from which the capital gains and losses determined in conformity with this Law originate, may be transferred to the account of the profit declared in the tax statement in future accounting periods, but not for longer than 10 years.

Article 33

The utilization of the tax facility referred to in paragraph 32 of this Article shall not be terminated in the event of change of status based on merger and take-over, or in the event of a socially owned enterprise being set up as a stock company or a limited liability company or in other cases of a taxpayer's organization.

In the event of partition, the facilities referred to in Article 32 of this Law shall be divided proportionally and the competent tax office shall be notified accordingly.

Part three

TAX TREATMENT OF LIQUIDATION AND BANKRUPTCY OF A TAXPAYER

Article 34

Any profit determined in the proceedings for the liquidation of any taxpayer shall be taxable.

The profit of a taxpayer shall be determined in the liquidation proceedings as the positive difference between the taxpayer's assets at the beginning and at the end of the liquidation proceedings.

Any taxpayer in relation to which the liquidation proceedings have been instituted shall file with the competent tax office an announcement and a tax statement, as follows:

- 1) with the balance on the date of institution of liquidation proceedings - within 15 days from the date of institution of liquidation proceedings;
- 2) with the balance on the date of completion of liquidation proceedings - within 15 days from receipt of the decision ending the liquidation proceedings.

The period for which the base referred to in paragraph 2 of this Article is determined shall correspond to the actual duration of liquidation proceedings, but it may not be longer than one year, and if proceedings are carried over to the next year, the taxpayer concerned shall also compile a tax statement as on 31 December of the current year and file it within 10 days from the expiration of the term prescribed for filing of financial reports.

Article 35

The assets remaining in the liquidation estate after debts have been paid to creditors (liquidation surplus) over and above the invested capital, shall be regarded as capital gain.

Article 36

If the revalued invested capital is greater than the liquidation surplus, a capital loss is incurred.

Article 37

The provisions of Articles 34 through 36 of this Law shall also apply to bankruptcy proceedings accordingly.

Part four

TAX PERIOD

Article 38

The tax period for which the tax on the profit is calculated is business year.

Business year is a calendar year, except in case of cessation or commencement of business activity in the course of a year, including the change of status.

Part five

TAX RATE

Article 39

The enterprise profit tax rate shall be proportional and uniform.

The enterprise profit tax rate shall be 10%.

Article 40

On the income gained by the non-resident taxpayer from the resident taxpayer on the basis of dividends and share in the profit of a legal entity, copyright fees, interests, capital gains and compensations for the lease of real-estate and movables, withholding tax at the rate of 20% is calculated and paid, if not otherwise prescribed by the international agreement on the avoidance of double taxation.

Withholding tax is not assessed and paid if the income from paragraph 1 hereof is paid to the permanent business unit of the non-resident taxpayer from Article 4 of this Law.

Article 40a

In case of calculation of withholding tax on income of the non-resident, the payer of the income implements the stipulations of the agreement on the avoidance of double taxation, provided that the non-resident proves the status of the

resident of the state with which the State union of Serbia and Montenegro has concluded the agreement on avoidance of double taxation and that the non-resident is the actual owner of the income.

Status of the resident of the state with which the agreement on the avoidance of double taxation, as stated in paragraph 1 hereof, has been concluded, the non-resident shall prove with the payer of the income by a certificate or other corresponding document certified by the competent authority of the other contracting state, whose resident he/she is.

If the payer of the income implements the stipulations of the agreement on avoidance of double taxation and conditions from paragraphs 1 and 2 hereof have not been fulfilled, having as a consequence less tax paid, it is obliged to pay the difference between the paid tax and the tax owed under this Law.

The competent tax authority is obliged, at the request of the taxpayer, to issue a certificate on the tax paid in the Republic.

Part six

TAX INCENTIVES

Article 41

Taxpayers shall be granted tax incentives for the purpose of achieving economic policy aims relating to the fostering of economic growth, development of small enterprises, concession-related investment, employment and improvement of the environmental situation.

This Law alone shall determine the tax incentives relating to enterprise profit tax.

Accelerated Depreciation

Article 42

Any taxpayer shall have the right to accelerated depreciation of fixed asset on conditions determined by this Law.

Accelerated depreciation shall be conducted in the manner determined by Article 10 this Law at rates that may be up to 25% higher than the prescribed ones.

Article 43

Any taxpayer shall have the right to accelerated depreciation in relation to the fixed assets serving for the following purposes:

- 1) Prevention of air, water and soil pollution, noise control, energy saving, afforestation and collection and utilization of waste as industrial raw materials and fuels;
- 2) Science research;
- 3) Education and staff training.

Any taxpayer shall also have the right to accelerated depreciation in relation to IT equipment.

Tax Exemptions

Article 44

Tax exemption shall apply to any taxpayer referred to in Article 1, paragraph 3, of this Law (hereinafter: non-profit organization), which declares income that is up to 300,000 dinars higher than its expenditures in the year for which the right to exemption is granted, on the following conditions:

- 1) That the non-profit organization does not distribute the thus generated surplus to its founders, members, executives, employees or persons associated with them;
- 2) That the salaries paid by the non-profit organization to its employees, executives and persons associated with them are not greater than twice the average salary paid in the branch to which the non-profit organization belongs;
- 3) That the non-profit organization does not distribute assets in favor of its founders, members, executives, employees or persons associated with them.

The right to exemption shall not apply to any non-profit organization which declares income that is by more than 300,000 dinars higher than its expenditures, as well as to any non-profit organization that enjoys a monopolistic or dominating position on the market as determined by the law dealing with the curbing of monopolistic or dominating positions.

Any non-profit organization shall declare in its tax statement particularly the income earned on the market and the expenditures associated with it.

Associated persons shall be understood to mean the persons referred to in Article 59 of this Law.

The minister of finance shall specify the contents of the tax statement referred to in paragraph 3 of this Article.

Article 45

In the case of any concession-related investment, the concession-receiving enterprise or concessionaire owning an enterprise registered for engagement in concession-related activities shall be exempt from tax on the profit earned on the basis of the income stemming from the subject matter of concession up to five years from the contracted date of completion of the concession-related investment wholly.

If the concession-related enterprise or concessionaire referred to in paragraph 1 of this Article earns profit prior to completion of the concession-related investment, it shall be exempt from profit tax.

The term referred to in paragraphs 1 and 2 of this Article shall be set by the Government of the Republic of Serbia in the concession deed or concession-granting agreement, depending on the time necessary for the exploitation of the

subject matter of concession to be started up.

For the purpose of exercising the right to exemption from profit tax, any concessionaire not bound to form a concessionaire enterprise under the law dealing with concessions, shall separately account and determine the profit accrued on the basis of income stemming from the subject matter of concession in conformity with law.

The minister of finance shall specify the manner of stating the income and expenditures of the concessionaire from paragraph 4 of this article.

Article 46

Any enterprise engaged in vocational training, professional rehabilitation and employment of disabled persons shall be exempt from enterprise profit tax, in proportion to the share of such persons in the total number of its employees.

Tax Credits

Article 47

Any taxpayer which has generated profit in a newly established operating unit in an underdeveloped region shall be entitled to an enterprise profit tax reduction for the duration of two years, in proportion to the share of such profit in the total enterprise profit.

The condition for utilizing the facility in the form of tax reduction (hereinafter: tax credit) referred to in paragraph 1 of this Article shall be the keeping of separate books for that unit.

Article 48

In case of a taxpayer who invests in fixed assets in the scope of its registered business, shall have the right to tax credit in the amount of 20% of the investments made in that year, but it may not be greater than 50% of the accounted tax in the year in which the investment was made.

Exceptionally from paragraph 1 of this Article, the right to tax credit shall be acknowledged to the taxpayer who, according to the law regulating bookkeeping is classified as small enterprise, in the amount of 40% of the investment made in the fixed assets in its own registered activity, but it cannot be greater than 70% of the calculated tax in the year in which the investment was made.

The non-utilized part of tax credit may be carried over to the profit tax account in future accounting periods to the limit referred to in paragraphs 1 and 2 of this Article, but not for longer than 10 years.

In each year of the period referred to in paragraph 3 of this Article, the tax credit relating to the investment made in that year shall be applied first and thereafter, the carried over tax credits shall be applied in the order of investment, up to the limit referred to in paragraphs 1 and 2 of this Article.

The fixed assets referred to in paragraph 1 of this Article shall not be understood to mean: passenger cars, other than automobiles intended for taxi service, rent-a-car service, driver schools and special automobiles with built-in appliances for the transport of patients; furniture, other than furniture intended for furnishing hotels, motels, restaurants and youth, children's and workers' holiday camps; carpeting; works of fine and applied arts and interior decoration items; and tools and inventory subject to calculated writing off.

In the event of the fixed assets referred to in paragraphs 1 and 2 of this Article being transferred prior to the expiration of three years from the date of acquisition, the taxpayer concerned shall forfeit the right to the tax credit referred to in paragraph 1 of this Article and shall have to pay the unpaid tax, which shall be indexed by the retail price growth rate, as published by the republic authority in charge of statistics.

In a case referred to in paragraph 6 of this Article, the taxpayer concerned shall report the transfer of fixed assets to the competent tax office within five days from the transfer of such assets.

Article 48a

Exceptionally from Article 48, paragraphs 1 and 2 of this Law, the taxpayer shall be granted the right to a tax credit from that Article in the amount of 80% from the investment in that year made in fixed assets for performing the activity, provided that, in accordance with the law that defines classification of activities and the register of classification units, he is classified in one of the following activities:

- 01 – agriculture;
- 05 – fishing;
- 17 – manufacturing of yarn and fabrics;
- 18 – manufacturing of clothes, finishing and dyeing of fur;
- 19 – refining of leather and leather products;
- 27 – production of basic metals;
- 28 – production of standard metal products;
- 29 – manufacturing of machines and appliances;
- 30 – production of office and calculating machines;
- 31 – manufacturing of electrical machines and devices;
- 32 – production of radio, TV and communication equipment;
- 33 – production of medical, precise and optical instruments;
- 34 – manufacturing of motor vehicles, trailers and semi-trailers;
- 35 – manufacturing of other transportation means;
- 37 – recycling;

92 – group 9211 – cinematographic and video production.

The taxpayer classified in accordance with paragraph 1 of this Article, shall be granted the right to a tax credit for all activities from this paragraph for which he is registered.

The tax credit shall be granted to the taxpayer from paragraph 1 and 2 hereof without limitations with regard to the calculated tax in the year in which the investment has been made and for the consequent 10 years in which the unused part of the tax credit can be transferred.

When realizing the tax credit from paragraphs 1 – 3 hereof, stipulations of Article 48, paragraphs 5 – 7 shall be applied.

Article 49

The accounted enterprise profit tax of any taxpayer which employs new workers for an indefinite period of time shall be reduced by an amount that is equal to 100% of the gross wages/salaries paid to such employees plus the corresponding public revenues paid as a charge to the employer.

The tax credit referred to in paragraph 1 of this Article shall be recognized even if the employer cancels the employment contract with a number of employees, if during that period it employs more persons for indefinite time than is the number of the employees with whom he cancelled the employment contract

In case of a situation from paragraph 2 of this Article, the calculated tax shall be reduced for the positive difference between the wages/salaries, increased for the corresponding public revenues at the employer's expense that the employees with whom the employment contract was cancelled would have received from the date of the cancellation of their contract until the end of the tax period.

Article 50

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Investment Incentives

Article 50a

Any taxpayer that invests 600 million dinars in its fixed assets or such amount is invested in its fixed assets by another person, and uses such assets in the conduct of its registered business in the Republic and employs during the investment period at least additional 100 persons for an indefinite period of time, shall be exempt from enterprise profit tax for a period of ten years, in proportion to that investment.

Following the fulfillment of the requirements referred to in paragraph 1 of this Article, the tax exemption period runs from the first year in which taxable profit is made.

For the purposes of paragraph 1 of this Article, newly employed persons shall not be understood to mean the ones who have been employed indirectly or directly by a subsidiary of the investor.

Article 50b

Any taxpayer that pursuant to the regulations dealing with incitement to investment in the economy of the Republic, is conducting a business in a region of particular interest to the Republic, shall be exempt from the enterprise profit tax for five years on following conditions:

- 1) That it or some other person has invested more than six million dinars in its fixed assets;
- 2) That it is using 80% of the value of its fixed assets in the conduct of its registered business in a region of special interest to the Republic;
- 3) That the taxpayer employs at least five persons for an indefinite period during the investment period;
- 4) That at least 80% of employees employed for an indefinite period live in a region of special interest to the Republic.

The tax exemption referred to in paragraph 1 of this Article may be enjoyed in proportion to investment.

The tax exemption applies following the fulfillment of the requirements referred to in paragraph 1 of this Article, as of the first year in which taxable profit is obtained.

An employee employed for an indefinite period by an employer referred to in paragraph 1 of this Article in a region of special interest to the Republic, shall be understood to mean a person who has been employed by that taxpayer and has resided in the region of special interest to the Republic for at least nine months in the calendar year.

For the purposes of paragraph 1, item 3, of this Article, newly employed employees shall not be understood to mean persons who have not been employed indirectly or directly in a subsidiary of the investor.

Article 50c

If a taxpayer referred to in Articles 50a and 50b of this Law reduces the number of its employees to less than the number set in Article 50a, paragraph 1, and Article 50b, paragraph 1, item 3, or reduces the percentage set in Article 50b, paragraph 1, item 4, it shall forfeit the right to tax exemption for the whole period in which it has been enjoying it and pay tax valorized by applying the retail price growth rate as published by the republic authorities in charge of statistics.

Article 50d

If before the expiration of the period of exemption from tax, a taxpayer referred to in Articles 50a and 50b of this Law goes out of business, stops using or transfers the assets referred to in Article 50a, paragraph 1, and Article 50b, paragraph 1, and does not invest in new fixed assets a sum that is equal to the market price of transferred assets, it shall pay tax valorized by applying the retail price growth rate as published by the republic authorities in charge of statistics.

Article 50e

The amount invested in fixed assets pursuant to Articles 50a and 50b of this Law shall not include the value of the equipment that is already in use in the Republic.

Article 50f

Should a taxpayer referred to in Articles 50a and 50b of this Law acquires property on the basis of merger or partition, where capital gain is deferred pursuant to Article 31 of this Law, in the period of three years preceding the fulfillment of requirements and during the period of tax exemption from Articles 50a and 50b, it shall pay tax on the profit accrued, in proportion to thus acquired property.

Article 50g

The proportion referred to in Articles 50a, 50b and 50f shall be determined in the way specified by the Minister of Finance.

Article 50h

The Minister of Finance shall determine in greater detail the keeping of books on the performance shown by the beneficiaries of tax incentives referred to in Articles 50a and 50b of this Law.

Article 50i

The competent organizational unit of Tax Administration shall determine fulfillment of requirements for the use of tax incentives from Articles 50a and 50B of this Law.

Article 50j

If by a special law the general interest for stimulation of development of a certain area of activity is established, the government of the Republic of Serbia may prescribe additional tax incentives for stimulating development of that area.

Part seven

ELIMINATION OF DOUBLE TAXATION OF PROFITS ACCRUED IN THE OTHER REPUBLIC AND IN OTHER STATES

Profits of the resident taxpayer's permanent operating unit

Article 51

If a resident taxpayer earns profit by conducting business in the other republic or in another state and tax was paid on that profit in the other republic or another state, it shall be granted a tax credit on its enterprise profit tax account determined in conformity with the provisions of this Law, amounting to the tax paid in the other republic or another state.

The tax credit referred to in paragraph 1 of this Article may not be greater than the amount that would be calculated by applying the provisions of this Law on the profit accrued in the other republic or abroad.

Inter-company Dividends

Article 52

The accounted enterprise profit tax of a parent enterprise, which is a resident taxpayer of the Republic, may be reduced by an amount corresponding to the tax its non-resident affiliate would have paid in the other republic or another state on the profit from which the dividends included in the parent enterprise's income were paid and on such paid dividends.

The income from dividends coming from a non-resident affiliate shall be included in the resident enterprise's income plus the paid enterprise profit tax and withholding tax on the dividends referred to in paragraph 1 of this Article.

The tax credit referred to in paragraph 1 of this Article may be used towards reducing the parent enterprise's accounted tax up to the amount of tax that would have been levied on profit and dividends in conformity with the provisions of this Law.

The unused part of the tax credit from paragraph 1 of this Article, may be transferred to the account of the parent enterprise's tax for the future periods calculation, but not longer than for 10 years.

For the purposes of this Law, a parent enterprise shall be understood to mean a legal entity that owns the shares of or interests in other legal entities on conditions determined by this Law.

For the purposes of this Law, an affiliate shall be understood to mean any legal entity in whose capital the parent enterprise has a share on conditions determined by this Law.

Article 53

The right to the tax credit referred to in Article 52 of this Law may be exercised by any parent enterprise that has possessed 25% or more shares or interests of the non-resident affiliate for at least the whole year preceding the presentation of statement.

Any taxpayer referred to in paragraph 1 of this Article shall present to the competent tax office appropriate evidence of the size of its share in the capital of its non-resident affiliate, duration of holding that share and tax paid by the affiliate in the other republic or another state, together with its income statement and tax statement.

The provisions of paragraphs 1 and 2 of this Article shall apply accordingly also when a parent enterprise is exercising indirect control over its non-resident affiliate on the basis of owning 25% or more shares of or interests in another non-resident affiliate.

Article 54

The minister of finance shall regulate in greater detail the modality of exercising the right to the tax credit referred to in Articles 52 and 53 hereof.

Part eight

GROUP TAXATION AND TRANSFER PRICES

Tax Consolidation

Article 55

For the purposes of this Law, any parent enterprise and its affiliates make up a group of associated enterprises, if direct or indirect control over at least 75% of shares or interests exists among them.

Associated enterprises shall have the right to apply for tax consolidation on condition that all of them are residents of the Republic.

The parent enterprise concerned may file the application for tax consolidation with the competent tax office.

Article 56

Each member of a group of associated enterprises shall file its own tax statement and the parent enterprise shall file the consolidated tax statement for the group of associated enterprises.

The losses of one or several associated enterprises may be offset in the consolidated tax statement at the expense of other associated enterprises in the group.

Each member of a group of associated enterprises shall be a payer of the tax accounted in the consolidated tax statement, in proportion to the taxable profit declared in individual tax statements.

The minister of finance shall regulate in greater detail the modality of avoiding double exemption or double taxation of certain items in the consolidated tax statement.

Article 57

Once approved, any tax consolidation shall be applied for at least five years.

If prior to the expiration of the term referred to in paragraph 1 of this Article, the conditions referred to in Article 55, paragraph 1 and 2, of this Law change or if one enterprise, several associated enterprises or all associated enterprises in a group subsequently opt for individual taxation prior to the expiration of the term referred to in paragraph 1 of this Article, all associated enterprises shall pay proportionally the balance of the privilege they had used.

Article 58

- deleted -

Transfer Prices

Article 59

A transfer price shall be understood to mean the price that comes into being in connection with transactions involving assets or making commitments among associated persons.

A person associated with a taxpayer shall be understood to mean an individual or legal entity in whose relations with the taxpayer, there is a possibility of exercising control over or exerting considerable influence on business decisions.

The possession of more than 50% or the largest single portion of shares or interests shall mean that control over the taxpayer is possible.

Besides the case referred to in paragraph 3 of this Article, influence on a taxpayer's business decisions also exists when a person associated with a taxpayer has more than 50% or the largest number of votes individually in the taxpayer's controlling bodies.

A person associated with a taxpayer shall also be understood to mean a legal person in which, like in the taxpayer, the same legal entities, directly or indirectly participate in control, supervision or capital in the way determined in paragraphs 3 and 4 of this Article.

Article 60

Any taxpayer shall declare in its tax statement the transactions referred to in Article 59, paragraph 1, of this Law separately.

Any taxpayer shall declare in its tax statement separately, together with the transactions referred to in Article 59, paragraph 1, of this Law, the value of such transactions at prices that would have been fetched on the market for such or similar transactions, had an associated person not been involved (the "arm's length" principle).

The obligations referred to in paragraphs 1 and 2 of this Article shall also apply to transactions between any operating units referred to in Article 4 of this Law and its non-resident head office.

Article 61

The difference between the price determined by the "arm's length" principle and the taxpayer's transfer price shall be included in the tax base.

Comparative market prices shall be used in the determination of the transaction price by the "arm's reach" principle and when that is not possible, by the cost plus the usual profit margin method or the resale price method.

The minister of finance shall regulate in greater detail the application of the methods referred to in paragraph 2 of this Article.

"Arm's Reach" Interest and Prevention of Thinned Capitalization

Article 62

In case of a debt to a creditor having the status of an associated person referred to in Article 59 of this Law, the interest and related costs greater than four times the value of the taxpayer's own capital shall not be recognized as expenditure of any taxpayer other than a bank or other financial organization and, 1) in case of a loan denominated in dinars, 110% of the interest rate charged by the National Bank of Yugoslavia on the loans it extended to commercial banks as on 31 December of the previous year; and 2) in case of a loan in foreign exchange, 110% of the interest rate charged by the central bank of the country whose currency is involved on the loans it extended to commercial banks as on 31 December of the previous year.

For the purposes of this Law, the taxpayers own capital shall be understood to mean the difference between the assets on the basis of which a taxpayer earns income, which is included in the total income, and the debts associated with it, where assets and debts are declared in their average amount as on 1 January and 31 December of the current year.

Interest and related costs in excess of the amount referred to in paragraph 1 of this Article may be included as expenditure in the tax statement for the following year.

In case of banks and other financial organizations, the limit referred to in paragraph 1 of this Article shall be equal to the result of ten times the value of own capital and the interest rate referred to in item 1) and item 2) of that paragraph. .

The minister of finance shall regulate in greater detail the application of the "arm's reach" interest and the modality of preventing thinned capitalization.

Part Nine

DETERMINATION AND COLLECTION OF ENTERPRISE PROFIT TAX

Filing of tax declaration

Article 63

Any payer of enterprise profit tax shall file to the competent tax office the tax declaration with the calculated tax and tax statement for the period for which the tax is being determined.

Besides the tax declaration and tax statement, any taxpayer shall also present to the competent tax office the income statement, account balance, monetary flow statement, capital account balance, as well as other documents determined by this Law.

The tax declaration is filed within 10 days from the date of expiration of the term for filing of financial statements.

The contents of the tax account referred to in paragraph 1 of this Article shall be prescribed by the minister of finance and economy.

Article 64

Any taxpayer that starts its operation during the year shall file its tax declaration within 15 days from the date of its registration with the competent body.

In the tax declaration from paragraph 1 of this Article the taxpayer gives its estimated income, expenditures and profit for that year.

Article 65

Any taxpayer whose right to tax exemption expires in the current year shall file with the competent tax office its tax declaration with the tax statement within 15 days from the date of expiration of that time.

Calculation and payment of Tax

Article 66

The taxpayer is obliged in the tax declaration to calculate income tax for the tax period for which the tax declaration is filed.

If the taxpayer as advance paid less taxes than he was obliged to pay under the obligation calculated in the tax declaration, he must pay the difference at the latest until filing of the tax declaration.

With the tax declaration, the taxpayer must also submit proof on the payment of the tax difference from paragraph 2 of this Article.

If the taxpayer as advance paid more taxes than he was obliged to pay under the obligation calculated in the tax

declaration, the excess tax shall be calculated as advance payment for the subsequent period, or is returned to the taxpayer upon his request.

Article 67

The taxpayer during the year pays the income tax in monthly advance payments, the amount of which is established on the basis of the tax declaration for the previous year, in which it declares the data relevant for determination of the amount advance payment in the current year.

Monthly advance payment is paid on the 15th of the current month for the previous month.

Payment of the monthly advance payments in accordance with the tax declaration from paragraph 1 of this Article is effected on the first day of the month following the month in which the declaration was filed.

Until starting payment of the monthly advance payment in accordance with paragraph 3 of this Article, the taxpayer in the current year pays its monthly advance payment in the amount corresponding to the monthly advance payment from the last month of the previous tax period.

The taxpayer is obliged to calculate and pay interest for the amount of monthly advance payments that were not paid within the term established by paragraph 2 of this Article, in accordance with the law that regulates tax procedure and tax administration.

Article 68

In case in the current year significant changes occur in the operation of the taxpayer, changes in tax instruments, or other circumstances that significantly effect the amount of monthly advance payment of tax, the taxpayer can file tax declaration with the tax statement, in which it will show data important for the change of the monthly advance payment and calculate its amount, at the latest within 30 days after expiration of the period for which the tax statement is made.

The taxpayer can start payment of the advance payments in accordance with tax declaration from paragraph 1 of this Article, from the first day of the month that follows the month in which the declaration was filed.

Article 69

In case the taxpayer does not file tax declaration, or if in the course of tax control it is established that the tax declaration is incomplete, that it contains wrong data or if there are other deficiencies and irregularities significant for the determination of tax obligation, Tax Administration shall determine the tax obligation for the tax period, i.e. monthly advance payment for the current year, in accordance with the law that regulates tax procedure and tax administration.

Article 70

In the event of institution of liquidation or bankruptcy proceedings, the liquidator or receiver shall secure, within 15 days from the date of institution of proceedings, an account of the outstanding debts to be paid from the liquidation assets or bankrupt's estate and notify the competent tax office accordingly.

The competent tax office shall render a ruling determining the tax liability within 30 days from receipt of the tax declaration referred to in Article 34, paragraph 3, of this Law.

Withholding Tax

Article 71

Any taxpayer shall account, withhold and pay in the prescribed accounts at the moment of payment of income the withholding tax on the income referred to in Article 40 of this Law for each taxpayer and each paid income individually.

Withholding tax from paragraph 1 of this Article is calculated and paid under the regulations that are valid at the time when the income was paid.

Complaint

Article 72

- ceased to be valid -

Re-institution of Proceedings

Article 73

- ceased to be valid -

Implementation of the law that regulates tax procedure

Article 74

With regard to determination, collection and refund of tax, legal remedies, penalty provisions and other issues not regulated by this Law, the provisions of the law that regulates tax procedure and tax administration are implemented.

Article 75

- deleted -

Article 76

- deleted -

Forced Collection

Article 77 – 110

- Ceased to be valid -

Guarantee

Article 111

The payer of income shall guarantee the payment of withholding tax.

All partners in a legal entity set up as a general partnership shall be jointly and severally liable for that general partnership's outstanding tax debts to the extent of their assets.

The general partner in a legal entity set up as a limited partnership shall be jointly and severally liable for outstanding debts of that partnership.

Any shareholder owning more than 75% of shares of a subsidiary company shall be jointly and severally liable for the outstanding tax debts of that subsidiary company.

The tax debts referred to in paragraphs 2 through 4 of this Article shall also include the forced collection costs, interest and fines.

Part ten

PENALTY PROVISIONS

Article 112

Any taxpayer shall be fined 100,000 o 600,000 dinars for breach of regulations in the following cases:

- 1) If it fails to charge and pay in the withholding tax on dividends and interests, royalties, interest, capital gains and compensations from lease of immovable and movable property (Article 40);
- 2) If it fails to notify the tax office of the transfer of fixed assets within the prescribed term (Article 48, paragraph 7);
- 3) If it fails to declare separately in the tax account the value of the transactions conducted with associated persons in accordance with the "arm's reach" principle (Article 60);
- 4) If it fails to present to the tax office income statement, state of account and other documentation prescribed by this Law * Article 63, paragraph 2);
- 5) If it fails to present the tax account or if in the tax account it states false data, that could as a consequence have reduction of tax base or unfounded gaining of the right to tax incentives, or if it fails to attach other prescribed documents (Article 34, 63, 65 and 70);
- 6) If upon starting up its business, it fails to present the tax declaration and the estimate of income for the business year within the prescribed term (Article 64);
- 7) If it fails to increase the monthly advance or pay in the monthly advance within the prescribed term (Article 67, paragraphs 2 and 3 and Article 68, paragraph 2);
- 8) If it fails to pay in within the prescribed term the difference of the tax calculated in the tax declaration and paid monthly advance payments of tax (Article 66, paragraphs 2 and 3)

The responsible person in a legal entity for any act referred to in paragraph 1 of this Article shall also be fined 2.500 to 20,000 dinars for breach of regulations.

Article 113

Any taxpayer which/who fails to file the tax declaration and tax account or presents inaccurate data in the tax declaration and tax statement, which could have resulted in a reduction of the tax base or unfounded exercise of the right to tax incentives, or fails to enclose with the tax declaration other documents pursuant to Articles 34, 63, 64, 65 and 70 of this Law, may be subjected to a protective measure prohibiting it/him from conducting certain business in the duration of three months to a year.

Article 114

- Ceased to be valid -

Part eleven

TRANSITIONAL AND FINAL PROVISIONS

Article 115

Any taxpayer who acquired the right to the tax exemptions and facilities referred to in Article 42 and 46 of the Enterprise Profit Tax Law ("Official Gazette of RS", Nos. 43/94, 53/95, 52/96, 54/96, 42/98, 48/99 and 54/99) shall have the right to utilize such exemption until the end of the term it has been set for.

Article 116

Any procedure for the determination and collection of the enterprise profit tax for the year 2001, commenced with pursuant to Articles 43 and 60a of the Enterprise Profit Tax Law ("Official Gazette of RS", Nos. 43/94, 53/95, 52/96, 54/96, 42/98, 48/99 and 54/99) shall be finalized in conformity with that law.

Article 117

The tax account for the 1 January to 30 June 2001 period shall be compiled in conformity with the regulations valid

until the effective date of this Law.

The tax account referred to in paragraph 1 of this Article shall be filed within eight days from the end of the term set for filing the half-yearly statement of accounts.

Article 118

On the date of this Law coming into force it shall supersede on its effective date the Enterprise Profit Tax Law (“Official Gazette of RS” Nos. 43/94, 53/95, 52/96, 54/96, 42/98, 48/99 and 54/99).

Pending the adoption of regulations pursuant to the provisions of this Law, the provisions of the regulations adopted pursuant to the law referred to in paragraph 1 of this Article shall apply.

Article 119

This Law comes into force on the eighth day from its publication in the “Official Gazette of the Republic of Serbia” and shall be implemented as of July 1, 2001, except for Article 107, that shall be implemented from the date when this Law comes into force.