

16 Annex - Taxation

101. LAW ON TAX ADMINISTRATION

Pursuant to Article 78 of the Law on Amendments to the Law on Tax Administration and Article 35 of the Rules of Procedures of the Parliament of the Republic of Montenegro, Legislation Committee of the Parliament of the Republic of Montenegro, at its session held on _____ 2005 drew up consolidated text of the Law on Tax Administration that includes:

- Law on Tax Administration (Official Gazette of the Republic of Montenegro 65/01) and
- Law on Amendments to the Law on Tax Administration (Official Gazette of the Republic of Montenegro 80/04).

LAW ON TAX ADMINISTRATION

(Consolidated text)

I. BASIC PROVISIONS

General provisions

Article 1

This Law shall regulate the rights and obligations of tax authority and taxpayers in procedure of determination, collection and control of taxes and other duties (hereinafter referred to as the "tax").

Article 2

(1) State bodies and bodies of local self-government units shall act in accordance with this Law when deciding on rights and obligations of a taxpayer.

(2) This Law shall apply to individuals (citizens), legal persons, organisations, 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 determination and collection of liabilities of the taxpayer.

Article 3

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

Definitions

Article 4

Certain terms used in this Law shall have the following definitions:

"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 determination, collection and control 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 in accordance with the tax and other laws.

"Payer of tax, i.e. intermediary" shall mean a person that has duty to, in accordance with tax regulations, collect taxes from another person, either by suspension or in another manner, and transfer those taxes to the appropriate tax account.

"Tax representative" shall mean a person authorised in accordance with law to conduct part

or all activities of the taxpayer relating to fulfilment of tax liabilities.

“Tax authorised legal representative” shall mean a person authorised in writing by the taxpayer to conduct activities relating to fulfilment of tax liabilities in accordance with tax regulations in his/her name and for him/her.

“Books and records” shall represent the documentation prescribed by a special law that the taxpayer has duty to keep on his operations, and they serves for the purpose of tax liability determination.

“Person” shall mean a legal person, a part of a legal person, organisation, entrepreneur and natural person that has duty to act in accordance with this Law.

“Order for transfer” shall mean a document used for transfer of resources from the taxpayer’s account to accounts for payment of taxes.

“Principal place of business” 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 in the Republic.

“Tax liability” shall include tax, interest and costs of the procedure.

II COMPETENCY OF THE TAX AUTHORITY

Article 5

(1) The competent Republic administration authority (hereinafter referred to as the “tax authority”) shall carry out activities relating to determination, collection and control of taxes introduced by the Republic.

(2) The competent authority of local government shall carry out activities related to determination, collection and control of taxes introduced by a local self-government unit.

(3) By way of exception to paragraph 2 of this Article, the tax authority may carry out, upon the request of a local self-government unit, the activities relating to determination, collection and control of surtax on personal income tax and consumption tax.

Tax authority authorisations

Article 6

(1) Within the scope of competency prescribed by law, the tax authority shall be authorised to:

- 1) perform inspection control, take 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 the tax register;
- 4) determine the tax in the manner and in accordance with the procedure prescribed by law;
- 5) require that taxpayers and other legal persons submit documentation and provide other information necessary for determination of tax liability;
- 6) summon 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) exclude business books, records, and other objects necessary for application of tax regulations in accordance with this Law;
- 9) impose penalties for tax violations prescribed by this or other tax regulations;
- 10) use services of experts and expert witnesses, natural and legal persons, in the procedure of determination of tax liabilities, when the expertise is necessary;

- 11) initiate and conduct a first-instance administrative and misdemeanour procedure;
- 12) plan and implement training of employees;
- 13) perform tax book-keeping;
- 14) inform taxpayers on the course of inspection control and their rights and obligations during procedure;
- 15) provide expert help to taxpayers concerning application of tax regulations;
- 16) provide the taxpayers with a copy of tax return free of charge;
- 17) keep tax secret;
- 18) treat the taxpayers and other persons with due respect;
- 19) bring criminal charges, economic offence charges or request for initiation of misdemeanour procedure;
- 20) forward the information, including the tax secret revealed in the course of criminal investigation or gathering other information in cases when there is a reasonable doubt of a misdemeanour or criminal action, to the authorities in charge of law enforcement;
- 21) apply international treaties and agreements on avoidance of double taxation and other conveniences relating to payment of taxes;
- 22) prepare reports on the condition 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 authorities and organisations in the country and abroad regarding the issues of tax crimes, in accordance with international treaties or agreements;
- 25) take measures necessary for safety of tax officials;
- 26) take measures aimed at prevention of corruption of officials while performing their official activities;
- 27) organise 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 performing the tax book-keeping referred to in paragraph 1 item 13 of this Article shall be prescribed by the ministry in charge of financial activities.

III GENERAL PROVISIONS ON TAX PROCEDURE

Summons

Article 7

- (1) The tax authority shall be entitled to summons any person when it deems the person's presence necessary during 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 person shall be summonsed by the means of written summons, unless otherwise provided by this Law.
- (4) The person shall be summonsed upon the order of the head of the tax authority, or the person authorised by him/her.

(5) When persons are summonsed for the purposes of interrogation, testimony, expert witnessing, or presentation of documents, books and records, the tax authority shall deliver the summons referred to in paragraph 3 of this Article no later than three 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) name and surname, or name of the person that has been summonsed and fiscal identification number (hereinafter referred to as the "FIN");
- 3) place, day and hour when the summonsed person should arrive;
- 4) subject matter and capacity in which the person has been summonsed (party, witness, expert witness, interpreter etc.);
- 5) auxiliary means that the summoned person should obtain, or bring as evidence.

(7) 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 an authorised legal representative that shall represent him, and the summonsed person shall be warned about the consequences in case he/she fails to respond to the summons or inform the authority that issued the summons that he/she is prevented to come.

(9) Persons younger than 18 years shall be summonsed through their parents or another legal representative.

(10) In justified 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) As a rule, persons shall be summonsed during working hours of the tax authority and in cases of urgent and imperative 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 has duty to respond to the summons.

(2) If the summonsed person is prevented to respond to the summons due to illness or other justified reason, the person has duty to inform thereof the tax authority that issued the summons immediately after receiving the summons, if possible, and if not, the summonsed person has duty to appear at the tax authority after cessation of the reason and justify his/her absence.

(3) 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 competent authority for the purpose of taking 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 at the competent tax authority as a taxpayer shall be considered a party.

- (2) The party may be interrogated in the tax procedure upon the tax authority's summons or upon his/her own request.
- (3) The party shall be interrogated by an authorised official of the tax authority (hereinafter referred to as the "authorised official") that conducts the procedure of determination, control and 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 realise and protect their rights and interests.
- (4) The authorised official 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 evidence for establishing these facts; contest the statements contrary to his/her statements; give statements about all circumstances and facts presented in investigation, proposals and offered evidence; participate in the evidence deduction and asking other parties, witnesses and expert witnesses questions through the authorised official, or directly if the authorised official allows it; get familiar with the results of the evidence deduction and make a statement about it.
- (5) In the course of interrogation procedure, the authorised official conducting the procedure may decide to interrogate the party about all or individual facts and circumstances important for that tax matter.
- (6) As a rule, the party shall give verbal statements in the course of interrogation, but the party may also submit statements in writing.
- (7) The authorised legal representative of the party shall be entitled to participate in the interrogation procedure of the party. The party, his authorised legal representative and the tax authority shall be entitled to record the entire course of the interrogation on the tape.
- (8) The authorised official conducting the procedure shall not be entitled to extort the 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 authorised official conducting the procedure has duty 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 a witness.
- (2) The person that participates in the procedure in the capacity of the authorised official may not be considered as a witness.
- (3) A person that may violate duty of keeping the state, military or official secret with his statement may not be interrogated as a witness until the competent authority 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 persecution;
- 2) by 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 his/her attorney who has been summonsed as a witness in the procedure;
- 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 shall be interrogated later on.
- (2) Interrogated witness shall not leave without the permission of the authorised official conducting the procedure.
- (3) The authorised official conducting the procedure may re-interrogate already interrogated witness and confront 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 shall speak the truth, shall 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: name and surname, FIN (if assigned), profession, place of permanent residence, i.e. temporary residence, place of birth, age, marital status, place of employment.
- (3) The authorised official conducting the procedure shall instruct the witness about which questions he/she may refuse to give an answer.
- (4) After that, the witness shall be interrogated about the subject matter and shall be invited to give a statement about his/her knowledge about that matter.
- (5) It shall be prohibited to ask the witness questions that would suggest the answer.
- (6) The witness shall always be asked to state where he has gained the knowledge related to what he/she is testifying about.

Article 14

- (1) If the witness does not know the language in which the procedure 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 an interpreter.

Related persons

Article 15

- (1) Related persons shall be considered the persons having special mutual relations that may have a direct impact on the conditions or economic results of transactions between them.
- (2) The special relations referred to in paragraph 1 of this Article shall include individual relations between:
 - 1) 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 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) persons presenting subsidiaries or are under direct or indirect control of a third person;
- 5) 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 defined, as such, by the law regulating family relations.

Tax secret

Article 16

(1) Tax secret shall mean any information or data about the taxpayer at the disposal of the tax authority, with the exception of information and data:

- 1) for which the taxpayer states in a written form that they are not considered to be 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 have been registered in public books;
- 4) on registration of the taxpayer, FIN, name (name and surname) and principal place of business;
- 5) on value of immovable property.

(2) Data that present a tax secret may be made available to the competent state authority, upon its request, in accordance with law.

Record

Article 17

(1) Record shall be kept about the course of interrogation of a summonsed person, inspection control procedure and on important verbal statements of the party, witnesses, expert witnesses or third person in the procedure.

(2) The authorised official conducting the procedure or a person he/she authorised, provided that this person is employed with the tax authority, shall keep the record.

(3) The record shall be made 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 record: name of the tax authority that is performing the action, the place where the action is taken, date 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 authorised legal representatives.

(5) Record shall contain a precise and brief description of the course and contents of actions taken, as well as of statements given. The record 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 record, and, if necessary, attached to the record.

(6) The statements of the party, witnesses and expert witnesses who participate in the procedure shall enter the record as precisely as possible, in their own words when necessary. All conclusions adopted by the authorised official during the procedure shall enter the record.

(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 record.

(8) The record shall be taken during the procedure. If the procedure cannot be concluded on the same day, each day shall be separately entered in the same record and duly signed. If the procedure on which the record is taken could not have been finished without interruptions, a note on interruptions shall be made in the record.

Article 18

(1) Record must be duly taken, legible and nothing shall be erased from the record.

(2) Parts of the record that are crossed out prior to the closing of the record must be kept legible and certified with the signature of the authorised official conducting the procedure.

(3) Nothing shall be altered or added to the already signed record, and additions shall be entered in the appendix to the record.

Article 19

(1) Before closing the record, it shall be read to persons that participated in the procedure, provided that such persons have the right to review the record themselves and give remarks.

(2) The authorised official or person who took the record shall be obliged to note, at the closing of the record, that the record was read and that there were no remarks, or in case there were remarks, contents of the remarks shall be briefly entered in the record. The record shall be signed by persons who participated in the procedure, and certified by the authorised official conducting this procedure by his signature, as well as by the person who took the record, if any.

(3) If the record consists of more than one page, each page of the record shall be marked with an ordinal number. The authorised official conducting the procedure and the person whose statement has been written at the end of the page shall certify each page with their signatures at the bottom of each page.

(4) Amendments to the already closed record shall be signed and certified again.

(5) When the person who should sign the record is illiterate or cannot write, a literate person shall affix his/her signature to the record. That person cannot be the official conducting the procedure or the person who took the record.

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

Article 20

(1) The record taken in accordance with the provisions of this Law shall be considered as a public document. The record shall be considered as evidence of the course and contents of the procedure and statements given in the procedure, with the exception of the parts of the record on which the interrogated person made a remark that they were not correctly taken.

(2) Party to the procedure may give remarks on the record within three working days from the day of receiving the record. The tax authority shall decide on the remarks on the record in the form of a decision on the principal subject matter.

Acts in 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, record on inspection control, order for performance of inspection control, record on 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

(1) The tax act shall be adopted in a written or verbal form.

(2) The verbal tax act may be adopted by the authorised official based on the record, and its immediate execution may be ordered, in case there is a reasonable doubt that the collection of taxes shall be prevented.

(3) After issuance of the verbal tax act, it shall be published in written form no later than three days following that 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 and surname or name of the person it is submitted to;
- 3) legal and factual basis;
- 4) signature of the authorised official;
- 5) impression of stamp.

(5) Tax act imposing an action or sufferance shall also contain the warning about the consequences in case of failure to act accordingly.

Submission of acts

Article 23

An act shall be deemed submitted:

1) to a legal person if it has been submitted to a legal representative or authorised legal representative of the legal person, if the authorised official 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 referenced mail to the last known address of the legal person or in electronic form;

2) to a natural person, if it has been submitted to that person or his/her legal representative or authorised legal representative, or if the authorised official 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 referenced 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 determination of tax liability are kept

Article 24

(1) The authorised official 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 authorised official referred to in paragraph 1 of this Article may enter an apartment or any other place without the consent of its owner and search the place on the basis of a judicial decision.

(3) The search shall be performed in the presence of two witnesses.

IV. RIGHTS AND OBLIGATIONS OF TAXPAYERS

Rights of Taxpayers

Article 25

(1) The taxpayer shall be entitled to:

- 1) be accurately and timely informed on all issues allowing him/her to file and pay tax liabilities;
- 2) require from the tax authority to keep secret collected data on tax liability determination and use them or assign only to institutions and bodies, in the manner and in accordance to procedure prescribed by this Law;
- 3) request re-examination and new determination of his/her tax liability, in a manner prescribed by this Law;
- 4) receive from the tax authority free of charge information on tax legislation and rights and obligations arising from them;
- 5) get tax return and other tax forms;
- 6) enjoy respect and consideration of the tax authority;
- 7) represent personal interests before the tax authority, alone or by his/her authorised legal representative;
- 8) use tax relief in accordance with tax regulations;
- 9) get an insight into data on determination and collection of tax liability, which are kept related to him/her by the tax authority and demand changing of inaccurate data or updating of incomplete data;
- 10) be present during inspection control;
- 11) use also other rights defined by this Law.

(2) Taxpayers whose rights referred to in this Article are violated shall have the right to be protected, which is exercised by filing appeal to 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

The taxpayer shall be obliged to:

- 1) file a registration application form to the competent tax authority;
- 2) calculate tax accurately and to file tax return in due time and in the manner prescribed by tax regulations;
- 3) report to the tax authority any change of the principal place of business, residence and other data from the register of taxpayers;
- 4) keep books and records in a prescribed manner and keep them in compliance with the law;
- 5) pay tax liabilities in a manner and in due time, as prescribed by the law and secondary legislation;

- 6) submit documents and other data necessary for determination of the tax liability, upon the request of the tax authority;
- 7) enable undisturbed work of tax authority officials in performing their legal competences;
- 8) fulfil other obligations provided for by the tax legislation.

V. IDENTIFICATION AND GENERAL REGISTRATION OF THE TAXPAYER

Article 27

(1) General registration of the taxpayer at the competent tax authority shall be performed on the basis of a registration application form by registration in the tax register, in due time 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 organisation generating revenues in the Republic or outside the Republic;
- 2) the natural person generating revenues or owning property in the Republic or outside the Republic;
- 3) the foreign legal person or organisation generating revenues in the Republic;
- 4) the foreign natural person generating revenues or owning property in the Republic.

(3) The tax authority shall, for the purpose of identification of taxpayers, issue a decision on registration by which Fiscal Identification Numbers (FIN) are assigned to legal and natural persons.

(4) FIN shall be a unique and sole number of a legal or natural person for all types of taxes and shall be kept in case of a change of headquarters, 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 register of taxpayers.

(2) The register 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 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 family household;
- 3) ownership certificate;
- 4) proof of employment.

Place and time of registration

Article 29

- (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) With the exception of paragraph 1 of this Article, legal persons categorised 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

- (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 inform in writing the tax authority, where they have been registered, about a change of the principle place of business within five working days following that of the change occurrence.

Article 31

Shall be deleted.

Article 32

- (1) The persons referred to in Article 27 paragraph 2 items 1 and 3 of this Law shall submit the registration application form within five working days following that of entry into the court or other register.
- (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 working days following that of taxable income generation, registration in adequate register, 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 time limit, 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 register of taxpayers, within 15 days following that of the change occurrence.

Obligations of administration and judicial bodies in charge of registration

Article 34

(1) The court keeping the register of legal persons, organisations and entrepreneurs shall inform the competent tax authority on registration, change in the status or bankruptcy of a legal person, organisation and entrepreneurs within five working days following that 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 inform the tax authority on birth, death, registration of permanent and temporary residence, change in permanent and temporary residence of citizens, within 5 working days following that 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 organisations competent for registration of persons performing specific activities in adequate register, shall be obliged to submit to the tax authority, within 5 working days following that of registration, a notification about registration, cancellation of registration and deletion from the register, as well as other changes important for determining taxes.

Termination of registration

Article 35

The tax authority shall be obliged to make changes in the tax register within 5 working days following that 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

(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 register, whereas the specific part shall consist of the data important for determination of a tax liability.

(3) The taxpayer shall submit, together with the tax return, any documentation important for the determination of the tax liability prescribed by tax regulations.

(4) The taxpayer shall submit the tax return to the tax authority where he/she is registered in the register 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 time limits 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 authorised legal representative shall sign the tax return under the threat of penalty for perjury. The liability, in that case, shall also be borne by the expert who prepared the tax return or its part. The expert shall enter his/her FIN while signing.

(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

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

Amended tax return

Article 38

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

Article 39

Shall be deleted.

Tax Return for Withholding Tax

Article 40

- (1) Tax return for withholding tax shall mean the report that the payer of tax, i.e. intermediary submits to the tax authority.
- (2) The collective tax return shall contain data on calculated and paid withholding tax by one payer of tax, 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 payer of tax, 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 completed.
- (5) The individual tax return shall be submitted once a year, no later than 31 January of the current year for the previous year.
- (6) Payer of tax, i.e. intermediary shall 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 31 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.

Authorisation of the tax authority to extend the deadline for submission of the tax return

Article 41

- (1) The head of the tax authority may approve, at the request of a taxpayer, the extension of the deadline for submission of the tax return prescribed by law, for the period not exceeding 90 days upon the expiration of the deadline.
- (2) The extension of the deadline referred to in paragraph 1 of this Article may be approved in case of an illness, absence from the country and other circumstances on which the taxpayer could not have influence.

(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 following that of receiving the request.

(5) The extension of the deadline in accordance with this Article shall not have an impact on time due for payment of taxes 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 on the day following that of submission of the decision on rejecting the request.

VII. TAX LIABILITY

Article 42

(1) Tax liability shall mean the liability of the taxpayer to pay 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 person or organisation under bankruptcy

Article 43

Tax liability of a legal person or organisation under bankruptcy shall be paid in the manner prescribed by the law regulating undertakings insolvency.

Tax liability in case of status changes of legal person or organisation

Article 44

(1) In case of status changes of a legal person or organisation, 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 forms of performing economic activities.

Tax liability of deceased person, persons who lost capacity to exercise rights or Is missing

Article 45

(1) The heirs of a deceased person shall pay the deceased person's tax liability up to the value of inherited property, proportionally to their share in inheritance.

(2) Legal representative or executor of the will of the person who is declared missing by court shall settle the missing person's tax liability from his property.

(3) Legal representative of the person who lost his/her capacity to exercise right by a court decision shall settle tax liability from the property of that person.

Article 46

Shall be deleted.

Article 47

Shall be deleted.

Article 48

Shall be deleted.

Article 49

Shall be deleted.

VIII. PAYMENT OF TAX LIABILITY

Article 50

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

Order for payment of tax liability

Article 51

- (1) The order for payment of tax liability shall mean a financial document submitted by the taxpayer on the prescribed form.
- (2) When submitting the order, the taxpayer shall 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 sequence:
 - 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 according to the sequence referred to in paragraph 3 of this Article.

IX. DETERMINATION OF TAX LIABILITY

Article 52

- (1) The taxpayer shall make the tax determination by himself when the tax law prescribes self-taxation.
- (2) Tax authority shall determine tax liability when the taxpayer fails to calculate or incorrectly calculates taxes and when it is prescribed by tax law.

(3) The determination of tax liability referred to in paragraph 2 of this Article shall be made in the form of a decision.

Tax Decision

Article 53

(1) The tax authority shall adopt the tax decision referred to in paragraph 3 Article 52 of this Law, on the basis of business books and records of the taxpayer.

(2) If the tax authority cannot adopt the decision referred to in paragraph 1 of this Article on the basis of business books and records of the taxpayer, it shall adopt the decision on the basis of evaluation of the tax base.

(3) When assessing the tax base referred to in paragraph 2 of this Article, the tax authority shall begin from the following:

- 1) available duly business documentation, if not entered in the books;
- 2) proper available business documentation on business activity during a specific period shorter than the taxation period (daily, weekly or monthly);
- 3) data and facts on achieved turnover (daily, weekly or monthly), found by the inspection control;
- 4) data obtained by comparison with other taxpayers carrying out an equivalent or similar activity, in the equivalent or similar location, under approximately equal conditions;
- 5) other relevant data and facts.

(4) The ministry in charge of financial activities shall prescribe more detailed manner for determination of tax base by assessment, at the proposal of the tax authority.

Form and contents of tax decision

Article 54

(1) The tax decision shall be adopted in the written form and it shall be designated as such.

(2) The tax decision shall contain:

- 1) name of the tax authority, number and date of decision;
- 2) introduction, operative part and explanation;
- 3) instruction on legal remedy,
- 4) signature of the authorised person and stamp of the tax authority.

(3) The operative part shall contain in particular: the name and surname (name) of the taxpayer, fiscal identification number (FIN), type of tax, tax base, tax rate, amount of the determined tax, tax period, tax relief, the revenue account, payment order, payment deadline, interest, interest rate and the note that the appeal shall not postpone the execution of the decision.

(4) An appeal may be filed to the second instance body against the tax decision referred to in paragraph 1 of this Article within 15 days following that of receiving the decision.

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

Payment of tax liability according to decision

Article 55

Tax liability determined by the tax decision shall be due for payment within 10 days following that of submission of the decision, unless otherwise provided by tax law.

Tax liability recording

Article 55a

- (1) Tax authority shall record the tax liability determined 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. FORCED COLLECTION OF TAXES

Article 56

- (1) Forced 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 forced collection procedure by adoption of the conclusion on forced collection of tax liability.
- (3) The taxpayer shall bear the costs of forced collection.
- (4) The Government shall prescribe the amount of costs of forced collection.

Article 57

- (1) The conclusion on forced 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 forced collection;
 - 5) number of the account to which the payment shall be made;
 - 6) the reference of taxpayer's debtor;
 - 7) more detailed identification of immovable property in accordance with the data from the public book;
 - 8) note that costs of the forced collection procedure shall be covered by the taxpayer;
 - 9) name of the payer of tax and his headquarters.
- (2) If the forced collection is made on salaries, pensions and other personal income of the taxpayer, the conclusion of the forced collection shall also be submitted to his payer of tax.

Article 58

- (1) Appeal may be filed against the conclusion on forced collection within 3 days following that of its adoption.
- (2) The appeal shall not postpone the enforcement of the conclusion.

Article 59

- (1) The following may be subject matters of forced collection:
 - 1) funds of the taxpayer;

- 2) claims of the taxpayer;
- 3) property (movable and immovable) of the taxpayer.

(2) Forced collection may be carried out on one or several subject matters referred to in paragraph 1 of this Article.

Article 60

1) In the procedure of forced collection of tax liability, a mortgage may be imposed on the property of the taxpayer for the purpose of securing the tax claim.

2) The mortgage referred to in paragraph 1 of this Article shall be imposed in the manner envisaged by the law regulating pledge, i.e. mortgage.

Forced collection from funds and claims of taxpayer

Article 61

(1) Forced collection from 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) Forced collection from the claims of the taxpayer shall be executed in the manner and pursuant to the procedure prescribed by the Law regulating forced collection procedure.

(3) The conclusion on the forced collection shall be submitted to the Central Bank of Montenegro for the purpose of its enforcement.

Collection of tax liability from monetary funds

Article 62

Shall be deleted.

Collection of tax liabilities from property

Article 63

(1) Forced 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 forced 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

(1) Authorised official 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 authorised official 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 forced collection is terminated.

Article 65

Shall be deleted.

Article 66

(1) The authorised official shall take minutes on the seizure including the following information:

- 1) the name of the tax authority and the name of the authorised official conducting the collection procedure;
- 2) name and surname, name, 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 authorised official conducting the procedure, taxpayer, his/her authorised legal representative or authorised person or a member of his household, authorised legal representative or authorised person, debtor of the legal person, witnesses, appraisers and other officials witnessing the seizure.

(4) If the taxpayer or his/her authorised legal representative or authorised person, or the representative of authorised person or legal person (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 be provided with a copy of the minutes.

Article 67

(1) The authorised official shall 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 to the

competent court, for the purpose of proving the ownership right on the respective property, within 8 days following that 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 are present during inventory procedure, and that 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

(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

(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 following that of the 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 following that of the 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 competition.

(4) The taxpayer whose property is seized in accordance with this Law may pay, prior to the sale of the property, his tax liability and costs of the seizure. The tax authority shall return the seized property to the taxpayer the following day after 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 sequence referred to in Article 51 of this Law.

(7) The ministry in charge of financial activities shall prescribe in more details the sale of property, at the proposal of the tax authority.

Article 71

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

Article 72

Shall be deleted.

XI. INSPECTION CONTROL

General Provisions

Article 73

Inspection control 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 authorisations prescribed by law regulating specific types of taxes.

Subject matter of inspection control

Article 74

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

Period of inspection control

Article 75

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

Inspection control order

Article 76

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

Article 77

(1) The order shall be submitted to:

- 1) the large taxpayer 30 days prior to the commencement of the inspection control;
- 2) other taxpayers 15 days prior to the commencement of the inspection control.

(2) With the exception of paragraph 1 of this Article, if the submission referred to in paragraph 1 of this Article would jeopardise the purpose of inspection control, the order shall be submitted to the taxpayer immediately prior to the commencement of inspection control.

(3) The tax authority may postpone the commencement of inspection control if the taxpayer submits an objection within 3 days following that of receiving the order, and state the justified reasons for postponement of the inspection control 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 control

Article 78

(1) Inspection control shall be exercised using field and office control method.

(2) The tax inspector shall perform inspection control activities.

Article 79

Shall be deleted.

Control of tax return

Article 80

(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) Authorised officials shall verify the tax return, and the taxpayer may be present during the control.

(4) If an authorised official determines during the control that the tax return is incomplete or incorrectly completed, the authorised official shall complete or remove the mistakes on the basis of the submitted documentation. If the inspector determines that the tax return and the attached documents are incorrect, he shall forward the tax return together with the documentation to the tax inspector in charge of office control for further procedure.

Office control

Article 81

(1) Office control shall be conducted in the premises of the tax authority where the taxpayer is registered.

- (2) During the office control, 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) 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 working days. The head of the tax authority may exceptionally extend this deadline.

Article 83

- (1) Tax inspector, in the procedure of gathering proofs for determination 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 business 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, work assets, 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) achieved 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 of inspection control

Article 84

- (1) Inspection control 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 control.

(2) If a commenced action in the procedure of inspection control may not be completed during the taxpayer's working hours and the taxpayer does not agree with the continuation of the control after the termination of the working hours, the tax inspector may temporarily close the business premises or warehouse.

(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

(1) In addition to the obligations from Article 26 of this Law, during the inspection control 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 control

Article 86

(1) The minutes shall be taken on the course of inspection control.

(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 control, 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 control shall be submitted to the taxpayer within 3 days from the day the control is completed. Objections may be given to the minutes within 3 days following that 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.

Inspection control measures

Article 87

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

- 1) submission of necessary documentation and data;
- 2) temporary seizure of documentation, equipment and work assets;
- 3) enforced opening or closure of premises for the purpose of conducting the inspection control;

- 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 misdemeanour procedure;
- 9) impose fines;
- 10) take other measures for which he is authorised by law and other tax regulations.

Article 88

(1) When tax inspector orders the measure of seizing the objects subject to control 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

Shall be deleted.

Article 90

(1) The tax inspector shall order the measures referred to in Article 87 of this Law in the form of a decision.

(2) 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 control or verbal decision when he estimates that in such a manner the damage of greater value would be prevented and when it is in 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 control.

(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 implementation of the measure determined by the tax inspector who adopts the decision.

Article 91

If new facts and circumstances are determined in the course of inspection control indicating that the taxpayer has incorrectly determined his/her tax liability, the tax authority shall, on the basis of the minutes on inspection control, determine his/her tax liability in the form of a decision.

Article 92

Shall be deleted.

Article 93

Chapter “**XII. APPLICATION**” and Article 93 shall be deleted.

Article 94

Shall be deleted.

XIII. INTEREST

Article 95

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

Article 96

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

XIV. TAX DEDUCTIONS AND REFUNDS

Article 97

- (1) If the taxpayer executes the payment in the amount exceeding the amount of 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 following that of overpayment of taxes.
- (3) The tax authority shall be obliged to refund the exceeding amount within 5 days following that of receiving the request for the refund.

Article 98

- (1) The amount of debt of the taxpayer having the tax debt shall be reduced by the 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

Shall be deleted.

XV. STATUTE OF LIMITATIONS

Statute of limitations for the right to tax determination

Article 100

The right to tax liability determination shall fall under the statute of limitations within 5 years following 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

(1) The right to tax collection shall fall under the statute of limitations within 3 years following the expiration of the year for which the tax is assessed.

(2) The right to collection of interest and procedural costs shall fall under the statute of limitations within the deadline referred to in paragraph 1 of this Article.

(3) Any official action undertaken by the tax authority shall suspend the statute of limitations for the right to tax collection.

(4) Statute of limitations shall not run during the procedure before the court or in the case when a taxpayer who is a natural person is outside of the Republic for an uninterrupted period longer than six months.

(5) In cases when the taxpayer is under bankruptcy procedure, the statute of limitations referred to in paragraph 1 of this Article shall be prolonged for six months from the day of the termination of the procedure.

(6) If the extension of the deadline for the payment of tax liability is approved to the taxpayer, the statute of limitations for the right to collect shall be prolonged for that period.

Statute of limitations for the right to tax refund

Article 102

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

Absolute statute of limitations

Article 103

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

Article 104

Chapter “**XVI. CODE OF CONDUCT**” and Article 104 shall be deleted.

XVII. PENALTY PROVISIONS

Tax Offences

Article 105

(1) A fine in the amount of 10 fold to 200 fold of the minimum wage in the Republic shall be imposed on a taxpayer – legal person and entrepreneur for an offence, if it:

- 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 fine referred to in paragraph 1 of this Article shall be imposed for an offence on the payer of tax or intermediary, if he fails to submit a request for withholding tax within the prescribed deadline (Article 40).

(3) A fine in the amount of 1 fold to 10 fold of the minimum wage in the Republic shall be imposed on a taxpayer – natural person and responsible person of the legal person for the offence referred to in paragraph 1 of this Article.

Article 106

Shall be deleted.

Article 107

Shall be deleted.

Article 108

Shall be deleted.

Article 109

Shall be deleted.

Article 110

Shall be deleted.

Article 111

Shall be deleted.

XVIII. FINAL AND TRANSITIONAL PROVISIONS

Article 112

More detailed regulations for implementation of this Law shall be adopted within 6 months after the date of the entry into force of this Law.

Article 113

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

Article 113a

The existing secondary legislation shall apply until secondary legislation for implementation of this Law is adopted.

Article 113b

From the date on which this Law enters into force, the following secondary legislation shall cease to have effect:

- Rulebook on the Manner and Procedure of Registration of Pledge Right on Real Estate (Official Gazette of the Republic of Montenegro 24/02);
- Methodological Instructions on the Manner and Procedure of Inspection Control (Official Gazette of the Republic of Montenegro, No 33/02);
- Rulebook on Conduct of Tax Authority Employees (Official Gazette of the Republic of Montenegro).

Article 114

From the date on which this Law enters into force, the Law on Public Revenue Operations (Official Gazette of the Republic of Montenegro 3/92, 3/94, 42/94, 13/96 and 45/98).

Article 115

From the date on which this Law is applied the following provisions related to tax procedure shall cease to have effect:

- Law on Personal Income Tax (Official Gazette of the Republic of Montenegro 30/93, 3/94, 13/94, 42/94, 1/95, 13/96 and 45/98);
- Law on Corporate Profit Tax (Official Gazette of the Republic of Montenegro 3/92, 30/93, 3/94, 42/94 and 45/98);
- 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);
- Law on Tax on Turnover (Official Gazette of the Republic of Montenegro 4/94, 13/94, 42/94, 13/96 and 45/98);
- Law on Contributions for Social Insurance (Official Gazette of the Republic of Montenegro 23/93, 3/94, 42/94, 13/96 and 45/98);
- Law on Public Revenue System (Official Gazette of the Republic of Montenegro 31/93, 3/94, 42/94, 13/96 and 45/98).

Article 116

This Law shall enter into force on the eighth day following that of its publication in the Official Gazette of the Republic of Montenegro and it shall apply from 1 January 2002.