

LAW ON PROFIT TAX
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I. GENERAL PROVISIONS

Article 1

This Law introduces profit tax and governs the manner of profit taxation.

Article 2

The profit tax rate shall be proportionate.

Article 3

Each taxpayer shall compute and pay the profit tax.

II. THE TAXPAYER

Article 4

Each legal entity or natural person performing a registered activity - resident of the Republic of Macedonia earning profit by performing an activity in the country and abroad shall pay the profit tax.

The resident under paragraph 1 of this article is an entity that is incorporated or has a head office on the territory of the Republic of Macedonia.

Article 5

Each legal entity or natural person performing a registered activity, that is not a resident of the Republic of Macedonia, shall also pay tax for profits earned by performing an activity on the territory of the Republic.

The taxpayer under paragraph 1 of this article is an organizational unit earning profit by performing an activity on the territory of the Republic of Macedonia.

Article 6

The main office of a legal entity and its branch offices, that constitute a group of legal entities, may pay profit tax as a single taxpayer (tax consolidation), provided that they are all residents of the Republic of Macedonia.

The main office of a legal entity and its branch offices shall constitute a group of legal entities under this Law, providing there is mutual direct or indirect control over at least 90% of the stocks or shares.

The main office of a legal entity shall file a tax consolidation request with the Public Revenue Office.

An approved tax consolidation shall be applicable for a minimum of five years.

Article 7

A natural person that performs a registered activity and pays personal income tax in a lump sum shall be exempted from profit tax.

III. TAX BASE

Article 8

The base for computation of profit tax shall be the profit shown in the tax balance.

Profit is the balance between the total revenues and expenditures of the taxpayer, in amounts provided for in the accounting regulations, except revenues and expenditures that are otherwise provided for in this Law.

Article 9

The value of the inventory of uncompleted production, semi-products and ready goods shall be estimated at the full cost price, in compliance with the accounting regulations.

The value of the inventories determined in compliance with paragraph 1 of this article may not exceed the sales value on the date when the tax base was established.

Article 10

When determining the profit that is subject to taxation, only those expenditures incurred by performing an activity shall be acknowledged as deductive rates.

Article 11

Material expenses and the purchase value of sold goods shall be calculated by applying the method of average prices.

If other methods are applied to estimation of value of inventories, material expenses and purchase value of sold goods shall be stated in the tax balance as corrected amounts that would result from the application of the method pertaining to paragraph 1 of this Article.

Article 12

Business expenditures resulting from shipment of goods, materials and services among associated legal entities and natural persons performing a registered activity, shall be calculated according to the prices that may be obtained on the domestic or comparable foreign market, if associated parties are not in question.

An entity associated with a taxpayer shall be a legal entity or natural person performing a registered activity, that in the relations with the taxpayer has a possibility to control or influence business decisions.

The possibility of control exists in cases of ownership over the half or of the single largest part of the stocks or the share.

Substantial influence on business decisions shall be considered in cases of large mutual purchases and sales, technological dependency or other instruments of management control are established.

Article 13

All transactions of the taxpayer with associated persons shall be reported separately in the tax balance, along with the transfer prices, at which the transactions were completed.

The difference between the market price and the transfer price shall be included in the tax base.

Article 14

Computed gross salaries of employees shall be acknowledged in full as a deductive item, in the business expenditures, for the period for which the profit is being determined, up to the paid amount.

Income of employees, based on the participation in the profit of the legal entity or natural person performing a registered activity, shall not be shown as expenditures in the tax balance.

Article 15

Depreciation of fixed assets shall be shown as an expenditure in the tax balance up to the amount provided for with the Law on Accounting to the provisions of the law on accounting. The determined method of depreciation is applied until the final depreciation of the base of the single asset or group of assets.

Once the depreciation method has been selected, it shall be applied until the base of the individual asset or the group of assets has been fully depreciated.

When determining the tax base, depreciated assets or group of assets may not be included again in the computation of the depreciation.

The remaining current value of the assets, that are no longer usable, may be depreciated in full, regardless of the prescribed duration period. If such depreciation is to be regarded as an expenditure, when determining the tax base, the Public Revenue Office must give its consent.

Article 16

When by application of the functional method of depreciation the total depreciation of the taxpayer is increased for more than 10% of the depreciation computed through proportionate methods, the Public Revenue Office shall approve the computation of the depreciation with the functional method.

Article 17

Costs related to interest on credits used for businesses shall be shown as expenditures in the tax balance. In cases of credits among associated persons, the interest costs shall be acknowledged up to the amount of the interest at which a respective credit could have been obtained in the period of computation.

Article 18

Fines, penalties and penalty interest for default in payment of public expenses to be paid by the taxpayer shall not be acknowledged as expenditures in the tax balance.

Article 19

Expenses incurred by members of the Managing Board or shareholders for vehicle usage, food and beverages, gifts, for purchase of personal property and real estate, shall not be acknowledged as expenditures in the tax balance.

Article 19-a

Reimbursements on the basis of per diem for business trips in the country and abroad, living separate from the family and expenses of employees for using a vehicle in individual property for business purposes shall be acknowledged as expenditures in the tax balance in the amount set by the Collective Bargaining Agreement per industry.

If the amount of the expenses pertaining to paragraph 1 of this Article is not determined in the Collective Bargaining Agreement within the relevant industry, such expenses shall be acknowledged as expenditures in the tax balance in the amount determined in the General Collective Bargaining Agreement for public administration, public utilities, government authorities, local government bodies and other legal entities that perform non-commercial activities, i.e. the provisions pertaining to expenses for business trips and moving abroad approved for governing bodies and government organizations as material expenses.

Article 20

All costs incurred for promotion, propaganda, advertising and representation shall be acknowledged as expenditures in the tax balance at a maximum of 3% of the total income.

Total expenses pertaining to donations and sponsorships for cultural, scientific, health purposes and promotion of international sport, shall additionally be acknowledged in compliance with the criteria determined by the authorized Ministries as expenditures in the tax balance up to 10% of the profit prior to the taxation.

Article 20a

Claims and financial investments that may not be collected and are written off as a rectified value, shall be acknowledged as expenditures in the tax balance, provided that a complaint has been filed with a court, in an amount up to the difference in price for the subject claim or investment.

Rectified value of the individual claims of entities that have mutual claims pertaining to paragraph 1 of this Article shall not be acknowledged as expenditures in the tax balance.

Article 21

The calculated long-term reserves of tangible and intangible costs shall not be acknowledged as expenditures in the tax balance, except for those reserves prescribed by the Law on

Forests.

Article 22

Payments for stipends shall not be acknowledged as expenditures in the tax balance, except for payments effectuated through “funds and foundations” provided by the Law.

As exception to paragraph 1 of this Article, payments of stipends for leading sportsmen shall, according to criteria determined by the Ministry in charge, be acknowledged as expenditures in the tax balance.

Article 23

The tax base for banks and saving houses shall be reduced by the allotments made to a special fund for the purpose of securing potential losses.

The tax base for insurance companies shall be reduced for the allotments made to a special fund for insurance and other risks.

The allotments into the funds, from paragraph 2 of this Article, may reach the amount of maximum 75% of the reserves made for these purposes.

IV. TAX ON CAPITAL RETURNS AND CAPITAL GAINS AND LOSSES

Article 24

Income from dividends effectuated through participation in the capital of another taxpayer - resident of the Republic, as well as income from participation in the profits of limited liability companies, shall not be included in the tax base, if they are taxable with the taxpayer who effects payment according to the general rate from Article 28 of this Law.

Article 24a

Income earned as effect of allotment of revaluated reserve (in compliance with the Law on Accounting) made by another entity in which the taxpayer has invested money, shall not be included in the tax base if the taxpayer has not earned money.

Article 25

Capital gains from sale of securities, equipment and real estate shall be included in the tax

base of the taxpayer.

Capital gain from paragraph 1 of this Article is the difference between the sales (market) value of the securities, equipment and real estate and their accounting values, revalued on the date of the sale.

Negative difference from paragraph 2 of this Article shall constitute a capital loss.

Purchase value shall be revalued according to the accounting regulations.

Article 26

Short-term capital gains from sale of stocks and bonds, kept in the taxpayer's portfolio for less than 12 months and capital gains realized from sale of equipment and real estate, shall be fully included in the tax base.

Long-term capital gains from sale of stocks and bonds, kept in the taxpayer's portfolio for 12 months or longer, shall be included in the tax base for up to 50% of the difference.

Article 27

Long-term capital loss from sales of stocks and bonds shall be set-off against the capital gains from Article 26 paragraph 1 of this Law, that have been earned in the same year.

If capital loss appears after the set-off pertaining to paragraph 1 of this Article, the surplus shall be transferred to upcoming capital gains in the following three years.

V. TAX RATE

Article 28

The profit tax rate shall be 15%.

Article 29

When taxpayers of profit tax from certain fields and activities, who are in exceptional economic difficulties due to natural disasters or *vis major* cannot perform their duties, the Government of the Republic of Macedonia may grant a reduction, postponement or exemption from taxation according to the determined profit tax rate, provided for in paragraph 28 of this Law for a particular period of time, to taxpayers from certain fields or to certain taxpayers.

VI. TAX REDUCTIONS AND EXEMPTIONS

Article 30

Taxpayers shall be entitled to expedited replacement costs in cases of technological renovation and structural adaptation, not exceeding 25% of the replacement, computed in accordance with Article 15 of this Law.

As an exception to paragraph 1 of this Article, taxpayers shall be entitled to expedited replacement costs intended for protection of the environment and nature.

Taxpayers shall realize the rights provided for in paragraphs 1 and 2 of this Article by filing a written request with the Public Revenue Office on the basis of appropriate documentation.

Article 31

The tax base of the taxpayer shall be reduced by the amount of the investment in the Republic made out from the profit into new investments (reinvested profit), for the purpose of purchasing fixed assets or shares.

The term “reinvested profit” from paragraph 1 of this Article denotes profit shown in the annual statement of accounts that has been allocated from the capital of the taxpayer and has been reinvested for the purposes pertaining to paragraph 1 of this Article.

The term “invested funds” from the profit denotes funds used for purchase of fixed assets (buildings, equipment, etc.) for expanding of the business activity, but not for automobiles,

furniture, carpets, artistic works and other things for furnishing of administrative premisses.

The term “invested funds” from the profit for purchasing of shares or stock denotes assets invested from the profit for buying shares or stock for the purpose of increasing the basic capital of the entity. Tax exemption may be granted if such funds are invested in fixed assets, provided that such investment is proved by submission of all necessary documentation to the Public Revenue Office.

Article 32

The tax base for a taxpayer who has reinvested profit in commercially underdeveloped regions and in specific regions (mountainous areas, border zones and backward regions) shall be reduced by the amount of the investments.

Article 33

The tax base of a taxpayer who is a recipient of a foreign investment shall be reduced by the amount of the proportional part of the profit which belongs to the foreign entity on the base of invested funds for a period of the first three years after the date of incorporation of the company and under the condition that the foreign capital be 20% from the total capital.

The tax exemption from paragraph 1 of this Article shall apply to taxpayers that are fully incorporated with foreign capital.

The tax exemption from paragraphs 1 and 2 of this Article is single and may not be higher than the amount of the contribution to the basic capital and it shall be granted with an approval from the Public Revenue Office.

Where the contribution in the basic capital has been made during the first half of the year, the year in which the investment was made shall be considered as the first year of operation under paragraph 1 of this Article.

Where the contribution in the basic capital has been made during the second half of the year, the following year shall be considered as a first year of operation under paragraph 1 of this Article.

The tax exemption from paragraphs 1 and 2 of this Article does not apply to taxpayers that have been incorporated by merger separation or ownership transformation.

Taxpayers that have been granted such tax exemption shall continue their operations at least three years following the conclusion of the third year provided for in paragraph 1 of this Article.

Should a taxpayer terminate its operation prior to the expiration of the six year period provided for in paragraph 7 of this Article, it shall lose the right to a tax exemption on such

ground. The tax that the taxpayer would have paid if it had not used such an exemption shall be paid on basis of an annual statement of accounts prepared in compliance with Article 79 of the Law on Accounting in the amount which has been revaluated through application of retail prices pursuant to the data from the Bureau of Statistics of the Republic of Macedonia.

Article 34

Revenue earned from funds strictly intended for performing the activity of the legal entity - taxpayer (budgets, funds) shall not be included in the tax base for computation of profit tax.

Article 35

The tax base shall be reduced by the amount of the profit invested for protection of the environment and the nature.

Article 36

Production and service companies for professional rehabilitation and employment of disabled persons, which products and services are completely made or rendered in protected workshops, shall be exempted from payment of profit tax by filing of a written request with the Public Revenue Office based on appropriate documentation.

Should the conditions for granting a tax exemption change during the year pertaining to paragraph 1 of this Article, the profit tax shall be paid with the first semi-annual or interim statement of accounts.

VII. AVOIDANCE OF DOUBLE TAXATION ON PROFIT

Article 37

A taxpayer residing in the Republic, who has paid tax in a foreign country on profit earned through work abroad, shall be entitled to reduced taxation in the country, at the amount of the profit tax paid abroad, but not to exceed the tax anticipated by the application of the tax rate provided for in Article 28 of this Law.

Article 38

The main office of a legal entity residing in the Republic, shall be entitled to a reduction of the computed tax in the country for the tax amount paid by its branch office in another

country, for the profits included in the revenue of the domestic legal entity.

The main office of a legal entity, that has permanently, within a period of at least one year, before submission of the balance, held 25% or more of the stocks or a share in a non-resident branch office, verified with appropriate documentation, positive balance and tax balance, shall be entitled to a tax reduction pursuant to paragraph 1 of this Article.

Article 38a

A taxpayer who has made a reservation in a previous accounting period and has paid profit tax for such period, may obtain an approval for a tax credit in the amount of the paid profit tax.

VIII. COMPUTATION AND COLLECTION OF PROFIT TAX

Article 39

Interim computation and payment of profit tax in the course of a year shall be carried out within the period set for submission of the semiannual statement of accounts. The final statement of accounts and payment of profit tax shall be carried out in the period set for submission of the annual statement of accounts in conformity with the Law on Accounts.

Should the taxpayer of profit tax prepare statements of accounts for periods shorter than those stated in paragraph 1 of this Article, the profit tax is computed and paid upon submission of such computations.

The taxpayer of profit tax shall compute and pay profit tax with the interim, semiannual and annual statement of accounts by using a special form that together with the statement shall be submitted to the Public Revenue Office.

The taxpayer of profit tax shall pay profit tax according to the special form, that together with the statements of accounts has been submitted to the payment institution where the account is maintained.

Article 40

In the course of a year, profit tax shall be computed and paid as an advance for each previous month by the 15th day of the current month.

The monthly advance amount for the current month is computed by applying the prescribed rate for:

- the period February-June, according to the profit tax base determined following the annual statement of accounts for the previous year, increased by the percentage of the cumulative

retail price increase in the Republic from the previous period of the first six months compared to average retail prices in the previous year, or according to the profit tax base determined after the annual statement of accounts for the previous year, increased by the percentage for the average net salary increase per employee of the legal entity or natural person performing a registered activity, which is earned in the taxable month, compared to the earned average monthly net salary per employee of the legal entity or natural person performing a registered activity in the previous year, should it be more favorable.

- the period July-December, in the current year and for the month of January in the following year, according to the profit tax base determined following the semiannual statement of accounts increased by the percentage of the cumulative retail price increase in the Republic in the second six months of the previous period, i.e., by January 31 the following year, compared to the average retail prices in the first six months, or according to the profit tax base determined after the semiannual statement of accounts and increased by the percentage of the average net salary increase per employee of the legal entity or natural person performing a registered activity, which is earned in the taxable month, compared to the earned average monthly net salary per employee of the legal entity or physical person performing a registered activity in the first six months, should it be more favorable.

Should a taxpayer of profit tax fail to submit an order for payment of profit tax the payment institution shall collect the tax from the account and notify the Public Revenue Office.

Newly incorporated legal entities and natural persons performing a registered activity shall pay the advance for profit tax upon submission of the first interim or semiannual statement of accounts in the current year.

Article 41

If a taxpayer of profit tax has made a smaller advance payment of profit tax than the one determined with the interim, semiannual or annual statement of accounts, the difference between the paid advance and the actual liability of the computed tax on profit must be paid within a period of 15 days from the termination of the period for submission of interim, semiannual or annual statement of accounts.

If a taxpayer of profit tax has made a higher advance payment of profit tax than the one due for payment with the interim, semiannual or annual statement of accounts, s/he shall be entitled to request reimbursement of the overpaid amount from the Public Revenue Office.

A taxpayer shall receive reimbursement of the overpaid profit tax from the Public Revenue Office upon his/her request, within a period of 15 days following the date of submission of the reimbursement request.

Shall a taxpayer fail to request reimbursement of overpaid profit tax, the overpaid amount shall be considered as advance payment for the following period.

Article 42

The Law on Personal Income tax shall accordingly apply in instances of mandatory collection, interest and time-barred profit tax liability.

Article 43

The Public Revenue Office shall control the procedure of computation, payment and reimbursement of profit tax.

Should it be confirmed during the control of paragraph 1 of this Article that a taxpayer does not keep company books or that they are kept in a manner to show lower profit tax base, the provisions of the Law on Personal Income Tax shall be accordingly applied.

Article 44

The Republic Bureau of Statistics shall publish the percentage of the retail price increase in the Republic, pursuant to Article 40 paragraph 2 of this Law, by the 10th day in of the month.

IX. PENALTY PROVISIONS

Article 45

The taxpayer of tax on profit, who for a computed tax base and tax reductions, has indicated incorrect figures on the tax computation form, due to which a smaller tax base has been determined, shall be fined for violation with a penalty amounting to ten times of the underpaid profit tax sum.

The taxpayer's person in charge of profit tax shall also be fined for violation pursuant to paragraph 1 of this Article in the amount of one to three [monthly] salaries.

Article 46

The legal entity that has failed to submit the computation on the prescribed form (Article 39 and 40) to the Public Revenue Office, shall be fined for violation with a penalty from 4 to 20 salaries.

The person in charge of profit tax in the legal entity shall be fined with a penalty from one to three [monthly] salaries for violation pursuant to paragraph 1 of this Article.

Article 47

A natural person who performs a registered activity - taxpayer of profit tax, shall be fined with a penalty from one to three [monthly] salaries, for the actions from Article 46 of this Law, should s/he fail to submit the computation on the prescribed form to the Public Revenue Office within the set period.

Article 48

For violations under Article 45 paragraph 1 of this Article, in addition to the penalty, a protective measure may also be pronounced against a legal entity or a natural person, that performs a registered activity, that shall ban the activity of the legal entity or the natural person for a period of six months to one year, whereas the person in charge of profit tax in the legal entity may be prohibited to perform his/her work for a period of three months to one year.

X. TRANSITORY AND CONCLUDING PROVISIONS

Article 49

The Minister of Finance shall adopt a more defined regulation pertaining to the procedures of computation and payment of the profit tax, the prevention of double exemption or double taxation and shall prescribe the tax balance form used for computation and payment of profit tax, within a period of 30 days following the date when this Law shall come into effect.

Article 50

As an exception to the provisions under Articles 39 and 40 of this Law, the legal entity, as a taxpayer of profit tax shall during payment of profit tax with the annual 1993 statement of accounts (balance sheet) as well as for the payment of the monthly advance for the period February-June 1994 be obliged to increase the base of the profit tax computed on the basis of the figures of the 1993 statement of accounts and the part from leveling the prices of the goods, that is included in the revaluation fund for the proportional part of sold goods.

Article 51

As an exception from the provisions pertaining to Articles 39 and 40 of this Law, a natural person that performs a registered activity shall compute and pay the monthly profit tax advances for the period January-June 1994 together with the semiannual statement of accounts for the said period.

Article 52

The Profit Tax Law (Official Gazette of the Republic of Macedonia No. 5/93) shall become derogated following the day when this Law shall become effective.

Article 53

This Law shall enter into force on the date of publication in the Official Gazette of the Republic of Macedonia and shall apply as of January 1, 1994.