

## **16 Annex - Taxation**

### **105. LAW ON PERSONAL INCOME TAX**

## THE LAW ON PERSONAL INCOME TAX

### I BASIC PROVISIONS

#### 1. General provisions

##### Article 1

(1) This law introduces the obligation of payment of the tax on income of physical persons (hereinafter: income tax).

(2) The revenues resulting from income tax belong to the Budget of the Republic of Montenegro and budgets of local self-government units in proportion regulated by special laws.

#### 2. Taxpayer

##### Article 2

(1) A taxpayer of the income tax is a resident or non-resident physical person who generates income from sources stipulated by this Law.

(2) Where two or more physical persons jointly generate income, each of these persons is a taxpayer proportionally to his/her share in generated income.

##### Resident

##### Article 3

(1) A resident physical person (hereinafter: resident), under this Law, is a physical person who:

- 1) Has his habitual residence or center of business and vital interests in the territory of the Republic of Montenegro (hereinafter: Montenegro)
- 2) Resides in the territory of Montenegro for more than 183 days in the tax year;

(2) Resident of Montenegro is also a physical person who has been assigned outside of Montenegro to conduct business for physical person or legal entity who is a resident of Montenegro, or for an international organization.

#### 3. Object of Taxation

##### Article 4

(1) Object of taxation of a resident is the income he/she generates in Montenegro and outside Montenegro.

(2) Object of taxation of a non-resident physical person (hereinafter: non-resident) is the income that a non-resident generates on the basis of activities performed through the permanent place of business in Montenegro.

(3) Permanent place of business referred to in the paragraph 2 of this Article is considered to be a place through which a non-resident carries out his activities wholly or partly in Montenegro, himself or through authorized representative. In the case of need, in determining the permanent place of business, the provisions of the law regulating tax on profit of legal entities apply accordingly.

(4) Object of taxation of a non-resident who does not have a permanent place of business in Montenegro is also the income generated on the basis of royalties, interests and rentals of immovable property located in Montenegro.

#### **4. Revenues Exempt from Income**

#### **Article 5**

Income does not include revenues generated on the following basis:

- 1) regulations on rights of disabled persons;
- 2) allowances for children and special aid for new-born babies;
- 3) basic rights in the area of social protection
- 4) assistance in the event of destruction or damage of property as a result of
  - 1) natural disasters or other extraordinary events;
  - 5) compensations paid from health insurance, except for salary
  - 2) compensation;
  - 6) inheritances and gifts;
  - 7) organized social and humanitarian assistance;
  - 8) state awards envisaged by law;
  - 9) pensions and disability allowances;
  - 10) games of chance and lotteries;
  - 11) goods, life and property insurance.

#### **4a Earnings not Subject to Income Tax**

#### **Article 5a**

(1) Personal income tax shall not be paid on allowance arising from personal earnings, or allowances for increased expenses of employees up to the amount set in the General Collective Agreement as follows:

- 1) for vacation bonuses
- 2) for food during work time (food allowance):
- 3) per diems for official travel in country;
- 4) Compensation for cost of use of own vehicle for official purposes.

(2) Personal income tax shall not be paid on income realized in respect of:

- 1) Compensation for public transportation costs (for commuting to and from work) up to the amount of the price of the monthly subscription ticket, or up to the amount of actual transportation costs in case if it is not possible to obtain a monthly subscription ticket but not exceeding 20€ a month;
- 2) Per diem for official travel abroad up to the amount set for users of the State Budget
- 3) Allowance for increased cost of work and field visits (field allowance), up to the amount of 100€ a month in case accommodation and food are not provided for
- 4) Allowances for separated life from family up to 100€ per month;

- 5) Humanitarian help in case of death of employee, member of his family and retired worker up to EUR 1.500
- 6) Humanitarian help of in case of serious illness, health rehabilitation, supply of medicine and health treatment of employees or member of his direct family up to 1.000 €
- 7) Severance payment in case of retirement up to 1.000 €
- 8) Severance payment in case of termination of work in case of redundancy up to minimal amount determined by the law regulating working relations.
- 9) Grants and credits of pupils and students in the amount up to 200€ a month;
- 10) Awards to the pupils and students for the achieved results during education, as well as awards gained in contests within the educational system
- 11) Scholarship or other documented expense for the education of the employee in case that the education and vocational training is related to the field of activity of the employer;
- 12) Allowances for food supplements to the amateur sportsmen paid by sport clubs up to 300 € a month;
- 13) Allowance for the time of unemployment paid by extra budgetary funds
- 14) Damage compensation resulting from consequences of accidents at work place according to the decision of the court or court settlement if the compensation is set as a lump sum amount;
- 15) union welfare assistance paid out from the union membership funds to union members;
- 16) Gifts to the children of the employee, up to 15 years of age, annually up to 50€ per child
- 17) Jubilee awards for:
  - 10 years up to 100 €
  - 20 years up to 200 €
  - 30 years up to 300 €
  - 40 years up to 400 €

## **5. Persons Exempt from Tax**

### **Article 6**

The following persons are exempt from payment of income tax:

- 1) members of foreign diplomatic missions in Montenegro, as well as members of their households, if they are not citizens of Montenegro;
- 2) members of consular missions, as well as members of their households, if they are not citizens of Montenegro;
- 3) officials and experts of technical assistance programs of the United Nations Organization and its specialized agencies;
- 4) honorary consuls of foreign countries, but only for earnings received by a country, which has appointed them honorary consuls;
- 5) officials, experts and administrative staff of international organizations if they are not citizens of Montenegro or do not have habitual residence in Montenegro.

## **6. Tax Period**

### **Article 7**

(1) Tax period for which the personal income tax shall be calculated shall be a calendar year, with the exemption of cases when a business activity terminates or commences during the year.

(2) Income tax shall be calculated upon the expiry of the calendar year or other period for tax determination according to the tax base realized during that period.

**7. Tax Base**

**Article 8**

Tax base of the income tax for a resident represents the taxable income of the taxpayer generated during the tax period, reduced by the amount of loss carried over and personal allowance.

Tax base of the income tax for a non-resident represents the taxable income of the taxpayer generated during the tax period.

**8. Personal Allowance**

**Article 9**

Resident is entitled to a personal allowance in the amount of EUR 840 per year (EUR 70 per month).

**9. Tax Rate**

**Article 10**

Tax rate of personal income tax shall be 9% of the tax base.

**Article 11**

Deleted.

**II INCOME**

**1. Sources of Income**

**Article 12**

(1) Income tax is paid on revenues from all sources except those that are exempt under this Law.

(2) Sources of revenues referred to in paragraph 1 of this Article include revenues generated on the basis of:

- 1) personal earnings;
- 2) self-employment;
- 3) property and property rights;
- 4) capital.

(3) Income represents the sum of taxable revenues referred to in paragraph 2 of this Article generated in the tax period.

## **2. Taxable Income**

### **Article 13**

(1) Taxable income represents the difference between the income referred to in Article 12 of this Law and recognized expenditures (expenses) incurred by the taxpayer in generating and maintaining the income, unless otherwise prescribed by this Law.

(2) The expenditures referred to in paragraph 1 of this Article must be documented, unless regulated otherwise by this Law.

## **III TYPES OF REVENUES**

### **1. Revenues on the Basis of Personal Earnings**

### **Article 14**

(1) Personal earnings are considered to be revenues that a taxpayer generates from employment.

(2) Personal earnings are also considered to be revenues generated on other basis that, in accordance with this Law, correspond to labor relation.

(3) Personal earnings are especially considered to be the following:

- 1) salaries or salary compensations generated in accordance with regulations governing labor relations;
- 2) deleted;
- 3) earnings on the basis of fees and other earnings that are paid by the employer to the employee in addition to salary, above the amount set by this Law;
- 4) reimbursement of costs for business travels, meals, and accommodation in connection to these trips, moving expenses and reimbursement for the use of own vehicle for business purposes above the amount set by this Law;
- 5) earnings of members of representative and executive bodies of the state, or the local government;
- 6) earnings of members of assemblies, managing boards, supervisory boards and other similar bodies of legal persons, members of trustees and committees that such bodies have, bankruptcy administrators and lay judges who are not in the capacity of court officials;
- 7) all other earnings arising from labor relation and earnings corresponding to labor relation (temporary or occasional work, etc.)

(4) Personal earnings are also considered to be earnings generated in the form of coupons, money certificates, shares or goods, by making or providing benefits, debt forgiveness, as well as by covering the taxpayer's expenditures by monetary compensation or through direct payment.

(5) The amount of the personal earnings referred to in paragraph 4 of this Article represents:

- 1) nominal value of coupons, money certificates and shares;
- 2) price which would be achieved through the sale of the goods in the market;
- 3) consideration which would be achieved in the market for services or benefits made to the taxpayer;
- 4) monetary amount of expenditures covered.

## **Article 15**

Taxable income from revenues based on personal earnings represents the amount of gross earnings referred to in Article 14 of this Law.

### **2. Revenue from Self-Employment Activity**

## **Article 16**

(1) Revenue from self-employment activity is considered to be the revenue generated by economic activity, freelance professions, professional and intellectual services, as well as revenue from other self-employed activities that are not the basic activity of the taxpayer, but are performed occasionally in order to generate revenue, unless they are taxed otherwise in accordance with this Law.

(2) Revenue from self-employment activity is also considered to be revenue from agriculture and forestry, if a person generating this revenue is a taxpayer of the value added tax.

(3) The provisions of the law regulating accounting shall apply to the persons acquiring revenues from self-employment activity with regard to the manner of keeping business records and preparation of financial statements , unless otherwise prescribed by this Law.

### **Taxable Revenue**

## **Article 17**

(1) Taxable revenue from a self-employment activity represents the taxable profit of the taxpayer.

(2) Taxable profit referred to in paragraph 1 of this Article is determined by adjustment of profit of the taxpayer shown in the income statement in the manner envisaged by this Law.

### **Adjustment of Revenues**

## **Article 18**

In order to determine taxable profit, revenues in the amount set in the income statement are recognized, in accordance with the law regulating accounting, except revenues for which a different manner of determination is prescribed by this Law.

## **Article 19**

Taxpayer's revenues from dividends and share in profit of other legal entities are not included in the tax base.

### **Adjustment of Expenditures**

## **Article 20**

(1) In order to determine taxable profit, expenditures in the amount set by income statement are recognized, in accordance with the law regulating accounting, except expenditures for which a different manner of determination is prescribed by this Law.

(2) Notwithstanding paragraph 1 of this Article, standard expenditures are recognized to a taxpayer who generates revenue from other self-employment activities that are not his basic activity, and who fails to document the expenditures, in the amount of 40% of the realized revenue.

## **Article 21**

The following expenditures are not recognized:

- 1) expenses not incurred for the purpose of performing a business activity;
- 2) expenses that cannot be documented;
- 3) interest for defaulted payment of taxes and contributions;
- 4) interest paid to non-residents, if they are paid at the rate higher than the usual commercial rate;
- 5) expenses for payments to a non - resident head-office;
- 6) earnings of employees or other persons based on distribution of the profit;
- 7) pecuniary fines and penalties;
- 8) contributions paid to political organizations.

## **Article 22**

Expenses incurred for materials and the purchase price of goods sold are recognized in the amounts calculated by application of the average price method or FIFO method in accordance with the law regulating accounting.

## **Article 23**

(1) Depreciation of permanent fixed assets is recognized as expenditure in the amount set in the manner envisaged by this Law.

(2) Permanent fixed assets referred to in paragraph 1 of this Article include tangible and intangible assets, with an expected life longer than one year and the value exceeding EUR 200.

(3) Fixed assets referred to in paragraph 2 of this Article are classified into five groups with the following depreciation rates:

- I group 5%
- II group 15%
- III group 20%
- IV group 25%
- V group 30%

(4) Depreciation for permanent fixed assets classified in the first group is determined by applying the straight-line rate for each asset separately.

(5) Depreciation for fixed assets classified in other groups (from the second to the fifth) is determined by application of declining rate to the value of assets classified by groups.

(6) More detailed regulation on classification of permanent fixed assets in groups and methods for determining depreciation is adopted by the ministry in charge of finance.

#### **Article 24**

Costs for health, education, scientific, religious, cultural, sports and humanitarian purposes, as well as for the environmental protection are recognized as expenditures to a maximum of 3% of the total revenue.

#### **Article 25**

Hospitality costs are recognized as expenditure in the amount up to 1% of total revenue, provided that they are incurred for the improvement of operations, that they are documented and that their receiver is not a related party.

#### **Article 26**

Membership fees for chambers, unions and associations are recognized as expenditure to the maximum of 0.1% of the total revenue, except for the membership fee the amount of which is prescribed by law, and which is recognized in the amount prescribed by law.

#### **Article 27**

(1) Correction of doubtful claims (written off value) that was made is recognized as an expenditure, provided that:

- 1) it is proven beyond doubt that those claims were previously part of the revenues of the taxpayer;
- 2) that claim is written off from the taxpayer's books as non-collectable;
- 3) the taxpayer presents adequate evidence of failed collection of those claims.

(2) Doubtful claims, which are recognized as expenditure, and then collected, are included in revenues of the taxpayer at the moment they are collected.

#### **Article 28**

Reserve funds of the taxpayer are not recognized as expenditures.

#### **Article 29**

Contributions for mandatory social insurance are recognized as expenditure in the amount of 50% of contributions prescribed by law.

### **Article 30**

Interests and related costs to a creditor with the status of a related party are recognized as expenditure in the amount not exceeding interest expenses in the open market, if those expenses do not exceed the amount actually paid.

### **Article 31**

The difference between interest calculated on the arm's length basis principle and the interest actually received is included in the tax base of the recipient of that interest.

## **Tax Relieves**

### **Article 32**

(1) Calculated tax is reduced in the amount of 50% of the investments made for the taxpayer who invests in fixed assets for his own activity, whereas that reduction cannot be higher than 70% of the total tax liability for the same tax period.

(2) Fixed assets referred to in paragraph 1 of this Article are considered to be fixed assets referred to in Article 23, Paragraph 2 of this Law, except for the fixed assets classified in the first depreciation group and the passenger vehicles, except for the special passenger vehicles used for training of the drivers and passenger vehicles used for taxi and rent-a-car services.

(3) If a taxpayer sells or divests of the fixed asset referred to in paragraph 2 of this Article prior to the expiration of the deadline of three years after the year in which the tax relief has been used, he is obliged to increase the tax base for the amount of used tax relief for the year of sale or divesture of the fixed asset.

### **Article 32a**

(1) A tax base is reduced to a taxpayer that in a business year employs new workers for an unlimited period and not less than for two years, for the amount of paid gross salaries to those employees increased for the related contributions for mandatory social insurance paid by the employer.

(2) A taxpayer may use the right to tax relief referred to in paragraph 1 of this Article one year after the employment of the new worker.

(3) If a taxpayer cancels the labor contract with a person referred to in paragraph 1 of this Article (unless it is at the request of that person) prior to the expiration of two years from the day of employment, he is obliged to increase the tax base for the amount of used tax relief for the year of cancellation of the labor contract.

(4) The tax relief referred to in paragraph 1 of this Article is recognized as the total not higher than the level of the tax base.

**Tax Losses**

**Article 33**

Losses resulting from business transactions may be transferred forward to offset profit generated in the future period but not longer than for five years.

**3. Revenue from Property and Property Rights**

**Revenues**

**Article 34**

Revenues from property and property rights are considered to be:

- 1) revenue generated by rental of immovable and movable property;
- 2) revenue from time limited assignment of copyrights, industrial property rights and other property rights.

**Expenditures**

**Article 35**

(1) Expenditures on the basis of property and property rights are considered to be actual expenses incurred by generation of that revenue, provided that they are documented.

(2) If expenditures referred to in paragraph 1 of this Article are not documented, standard expenditures are recognized in the amount of 40% of generated revenue from the property and property rights.

(3) Notwithstanding paragraph 2 of this Article, in cases of rental of rooms, apartments and holiday houses to travelers and tourists for which sojourn fee has been paid, standard expenditures shall be allowed in the amount of 50% of the generated revenue in such respect.

**Taxable Revenue**

**Article 36**

Taxable revenue from property and property rights represents a difference between the revenue referred to in Article 34 and expenditures referred to in Article 35 of this Law, incurred during the same tax period.

#### **4. Revenues from Capital**

##### **Article 37**

(1) Revenue from capital is considered to be:

- 1) Revenue from interests;
- 2) Share in profits realized by the members of management and employees in money or in shares;
- 3) Revenue from the use of property and services by the owners and co-owners of the capital for their private needs.

(2) Revenue from capital is also considered to be revenues on the basis of shares and share in capital, members of management and employees of the corporations received or bought under preferential conditions.

(3) In determining taxable income from capital, expenditures are not recognized.

#### **5. Capital gains and losses**

##### **Article 38**

Deleted.

##### **Article 39**

Deleted.

##### **Article 40**

Deleted.

##### **Article 41**

Deleted.

## **IV CALCULATION AND PAYMENT OF INCOME TAX**

### **1. Calculation and Payment of Income Tax in the Tax Return**

#### **Article 42**

- (1) Income tax is calculated annually.
- (2) The taxpayer himself calculates income tax in his tax return.
- (3) Income tax is calculated at the rate referred to in Article 10 of this Law.
- (4) Income tax is determined in accordance with the tax base referred to in Article 8 of this Law, provided that the amount of the tax paid in the form of advance installments for all sources of revenue is deducted from the total calculated tax.
- (5) Income tax is paid at the same time with the tax return filing.
- (6) If the taxpayer has paid during the year, in the form of advance installments, higher amount of taxes than he is obliged to based on the tax return, the exceeding paid amount of tax is returned at his request or is included in the advance installments for the next tax period.

#### **Tax Return**

#### **Article 43**

- (1) Taxpayer of the income tax is obliged, upon the expiration of the tax period, to submit a tax return to a competent tax authority.
- (2) A tax return is submitted at the end of April of the current year for the previous year.
- (3) The form and contents of the tax return is regulated by the competent tax authority.
- (4) Taxpayer who generates income:
  - 1) from personal earnings on the basis of wages of employees, if they are generated with one employer;
  - 2) from revenues based on other self-employment activities referred to in Article 16, paragraph 1 of this Law;
  - 3) from capital revenue;
  - 4) from revenue coming from self-employment activity subject to the lump sum taxation, shall not submit a tax return for such income and paid advance installments of tax are considered to be the final tax assessment on that basis.

(5) Taxpayer, who generates during the year only revenue referred to in paragraph 4 of this Article, may file the tax return for using personal deductions, as well as other rights determined by this Law, provided that he has not used those rights during the year.

## **2. Avoidance of Double Taxation**

### **Article 44**

(1) A resident taxpayer, who generated income outside Montenegro and who pays income tax in the other state, is allowed a tax credit in the amount of the tax paid to that state.

(2) The tax credit referred to in paragraph 1 of this Article cannot be higher than the amount that would have been obtained by applying provisions of this Law to the income generated in the other state.

### **Article 45**

Agreement on avoiding double taxation has supremacy over the provisions of this Law.

## **3. Payment of Tax on Personal Earnings**

### **Article 46**

(1) Tax on personal earnings is calculated, withheld and paid by the employer, or payer of these earnings.

(2) Tax on personal earnings is calculated, withheld and paid at the time of each payment of such earnings, according to the regulations applicable on the day of payment.

(3) Advance installments for tax on personal earnings shall be calculated from the tax base made up of the amount of gross earnings realized within a specific calculation period, reduced by the amount of proportional personal deduction (allowance).

(4) Advance installments for tax on personal earnings shall be calculated according to the rate of 9% of tax base referred to the paragraph 3 of this Law.

(5) A non-resident organization that does not have diplomatic immunity and that has a main office or permanent establishment in Montenegro is obliged to calculate a tax on personal earnings paid to its employees in accordance with the provisions of paragraphs 1 to 3 of this Article and pay it at the same time with the payment of personal earnings.

(6) A resident taxpayer employed in a diplomatic or consular mission of a foreign country, in an international organization, or in an office or organization that has diplomatic immunity on the

territory of Montenegro is obliged to calculate himself the tax on those earnings in the manner set forth in paragraphs 1 to 3 of this Article and pay it within 5 days from the day of receiving them.

(7) Resident taxpayer, who generates earnings from another country calculates himself the tax on such an income in the manner set forth in paragraphs 1 to 3 of this Article and pays it within 5 days from the day of receiving them.

#### **Article 47**

(1) The employer shall submit to the tax authority and to the employee data on the paid personal earnings related to the salary and withheld and paid income tax for such personal earnings, by the 31st of January of the current year for the previous year.

(2) Employer is obliged to submit to competent tax authority a report and other records relevant for calculation of the tax on personal earnings, the content and submission deadlines of which are prescribed by the minister in charge of finance.

(3) The obligation referred to in paragraph 2 of this Article relates also to the persons referred to in Article 46, paragraphs 6 and 7 of this Law.

(4) The payer of revenue (income) shall provide the data on paid other personal income referred to in Article 14 of this Law, withheld and paid income tax to the recipient of revenues prior to 31st January of the current year for the previous year.

#### **4. Advance Payment of the Tax on Revenues from Self- Employment Activity**

#### **Article 48**

(1) During the year, a taxpayer pays the tax on revenue from a self-employment activity in the form of monthly advance installments, the amount of which is determined based on the amount of income tax from the self-employment activity as set in the tax return for the previous year.

(2) Advance installment referred to in paragraph 1 of this Article is paid until the end of the current month for the previous month, in the amount of 1/12 of the tax liability for the previous year.

(3) Advance installment of paid tax referred to in paragraph 2 of this Article is considered to be a credit with respect to the tax liability as set in the tax return.

(4) A taxpayer, who starts to carry out the activity during the year, determines the advance installment for the tax on revenue from self-employment activity on the basis of the estimation of generation of revenues for that year.

(5) Notwithstanding paragraph 1 of this Article, tax on revenues generated from other self-employment activities referred to in Article 16, paragraph 1 of this Law is calculated, withheld and paid by the payer of revenue at the time of each payment at the rate of 15% on the tax base that represents a difference between the generated revenues and expenditures referred to in Article 20 paragraph 2 of this Law.

**Lump Sum Taxation of the Revenue from Self-Employment Activity**

**Article 49**

(1) Obligor of taxes on revenues from self-employment activities whose total turnover for the year that precedes the year for which the tax is assessed or whose planned turnover in cases of commencement of the activity is less than EUR 18,000 may be allowed, at his request, to pay tax in annual lump sum amount.

(2) The ministry in charge of finance prescribes more detailed criteria for determining the amount of tax referred to in paragraph 1 of this Article and the tax scale for payment of taxes.

(3) The tax referred to in paragraph 1 of this Article is paid monthly until the end of the current month for the previous month in the amount of 1/12 of tax liability set by the tax scale referred to in paragraph 2 of this Article.

(4) The request referred to in paragraph 1 of this Article is submitted by the end of the preceding year for the following year, and in the case of commencement of the activity during the year, the request is submitted within 5 days from the day of registration to perform the activity.

(5) The obligors referred in the paragraph 1 of this Article are obliged to keep business records on the generated turnover.

(6) If a tax authority estimates that the request referred to in paragraph 1 of this Article is grounded, it will adopt the tax decision within 15 days from the day of request submission.

(7) Notwithstanding paragraph 3 of this Article, taxpayers who perform seasonal self-employment activity, for no longer than six months, are paying taxes by the 5<sup>th</sup> of the month for the current month.

**4a. Advance Payment of Taxes on Revenues from Property and Property Rights**

**Article 49a**

(1) Advance payment of tax on revenues from property and property rights, during the year, is calculated, withheld and paid by the payer of revenue (legal entity or entrepreneur), at the time of each collection of revenue, and at the same time with collection, by applying a rate of 15% to the taxable revenue referred to in Article 36 of this Law.

(2) In case of direct generation of revenues from property and property rights, income tax shall be paid at the same time when annual tax return is submitted.

## **5. Payment of Tax on Revenues from Capital**

### **Article 50**

(1) The payer of revenues from capital is obliged to calculate, withhold and pay the tax on revenues from capital at the same time with the payment of revenue.

(2) Tax on revenues from capital is calculated at the rate of 9%, while the personal deductions referred to in Article 8 of this Law are not taken into account.

(3) Notwithstanding paragraph 2 of this Article, tax rate on revenues from interest paid to non-residents is 5%.

## **6. Payment of tax on capital gains**

### **Article 51**

Deleted.

## **7. Regulations for Implementation of This Law**

### **Article 52**

Minister in charge of finance will adopt more detailed regulations for implementation of this Law.

## **8. Application of Other Regulations**

### **Article 53**

The law regulating tax procedure applies accordingly to relations not specially regulated by this Law (appellate procedure, procedure of enforced collection, interests, etc.).

## **IVa PUNITIVE PROVISIONS**

### **Article 53a**

(1) A pecuniary fine in the amount of 10 fold to 200 fold of the minimum wage in the Republic is imposed for an offence on a legal entity, entrepreneur, if:

- 1) he fails to file a tax return with a competent tax authority by the end of April of the current year for the previous year or fails to calculate correctly or pay tax at the same time with submission of the tax return (Article 42 and Article 43, paragraphs 1 and 2);
- 2) as a payer of revenues subject to income tax, fails to calculate, fails to calculate correctly, fails to withhold or pay the tax on revenues, together with each and every payment of revenues (Articles 46, 49a and 50);
- 3) as the employer or payer of personal earnings, fails to submit to the tax authority and the employee, within the prescribed deadline, data on paid personal earnings of employees, withheld and paid tax for those personal earnings or reports and other records relevant for calculation of taxes on personal earnings (Article 47);

- 4) fails to pay within the prescribed deadline advance installment of tax on revenues from self-employment activity (Article 48);
- 5) fails to pay within the prescribed deadline the tax liability assessed as a lump sum amount (Article 49, paragraphs 3 and 7);
- 6) does not keep business records on realized turnover (Article 48, paragraph 5);

(2) A pecuniary fine in the amount of 2 fold to 10 fold the amount of minimum wage in the Republic is also imposed on a responsible person within the legal entity for the offence referred to in paragraph 1, items 2 and 3 of this Article.

(3) In addition to the pecuniary fine, a protective measure of prohibiting the performance of the activity, for the period from one to three months, may also be imposed on an entrepreneur for the offence referred to in paragraph 1 of this Article.

### **Article 53b**

On-the-spot pecuniary fine in the amount of three-fold the amount of the minimum wage in the Republic may be imposed on a taxpayer for the offence referred to in Article 53a, paragraph 1, item 6 of this Law.

### **Article 53v**

A pecuniary fine in the amount of 2 fold to 20 fold the amount of the minimum wage in the Republic will be imposed for an offence on a taxpayer, physical person, if he:

- 1) fails to submit to competent tax authority the tax return for income tax by the end of April of the current year for the previous year, or incorrectly calculates or fails to pay the tax at the same time with the submission of tax return (Article 42 and Article 43, paragraphs 1 and 2);
- 2) fails to calculate and fails to pay the tax within the prescribed deadline as a resident taxpayer employed with the diplomatic or consular mission of foreign state, international organization, office or organization that holds diplomatic immunity on the territory of the Republic and resident taxpayer who generates earnings from other state (Article 46, paragraphs 6 and 7);
- 3) fails to calculate, incorrectly calculates, fails to withhold or fails to pay tax on revenues at the time with each collection and at the same time with collection of revenues (Article 49a).

## **V TRANSITIONAL AND FINAL PROVISIONS**

### **Article 54**

Taxpayers that acquired the right to use tax relieves and exemptions in accordance with the provisions of the Law on Personal Income Tax (Official Gazette of the Republic of Montenegro 30/93, 3/94, 13/94, 42/94, 13/96 and 45/98) will continue to use the right until their expiration.

**Article 55**

Earnings based on unemployment compensation, compensation for retirement severance pay or redundancy severance pay up to the minimum amount set forth by the General Collective Agreement or regulation by the Government, shall not be taxable until 1 January 2005.

**Article 56**

Relief for dependents referred to in Article 9 of this Law shall be applied as of 1 January 2007.

**Article 57**

Notwithstanding paragraph 1 of Article 40 of this Law, purchase price of immovables acquired by the taxpayer before 1 January 2003 shall consist of the value of that immovable, which is used as tax base for payment of taxes on immovables set forth on 1 January 2003.

**Article 58**

Tax on capital gains from securities shall not be paid until 1 January 2005.

**Article 59**

Taxation of revenues from agriculture and forestry and revenues from self-employment activity based on the established lump-sum net revenue (lump sum payers) for the year 2002 shall be carried out in accordance with the Law on Personal Income Tax (Official Gazette of the Republic of Montenegro 30/93, 3/94, 13/94, 42/94, 13/96 and 45/98).

**Article 60**

Notwithstanding Article 14 of this Law, personal earnings generated based on allowance for food during work, allowance for winter supply and holiday allowance (13<sup>th</sup> salary) paid to employees whose salaries are provided from the budget of the Republic shall not be taxed until 2003.

**Article 61**

The Law on Citizens' Income Tax (Official Gazette of the Republic of Montenegro 30/93, 3/94, 13/94, 42/94, 13/96 and 45/98) shall cease to be valid as of the date of enforcement of this Law.

**Article 62**

This Law enters into force on the eighth day upon its publication in the Official Gazette of the Republic of Montenegro, and it shall be applied as of 1 July 2002.

