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*The verification and linguistic, expert and legal editing of the translation of the act was carried out by the Ministry of Economic Relations and Regional Cooperation of the Republic of Srpska – Translation Unit for the Purposes of the European Integration Process.*

Official Gazette of the Republic of Srpska 60/15

## **THE LAW ON INCOME TAX**

### **CHAPTER I BASIC PROVISIONS**

#### **Article 1**

This Law regulates the taxation of personal income of natural persons, the taxpayer, tax base, tax rates, tax exemptions, as well as the manner and procedure of payment of income tax.

#### **Article 2**

(1) The subject of taxation is the income derived by a natural person in a tax period in accordance with this Law.

(2) Income tax shall be paid by natural persons who earn income, in accordance with the provisions of this Law.

(3) The taxation of income of natural persons shall be governed exclusively by this Law.

(4) Tax exemptions and reliefs may be introduced exclusively by this Law.

#### **Article 3**

(1) The tax on personal income of natural persons is calculated and paid on income from:

- 1) personal income,
- 2) self-employment,
- 3) copyright, rights related to copyright and industrial property rights,
- 4) capital,
- 5) capital gains,
- 6) from foreign sources and
- 7) other income.

(2) Income referred to in paragraph 1 of this Article shall be taxable whether it was realised in cash, in kind, by act or otherwise.

#### **Article 4**

Income tax is paid at the rate of 10%, except for the small entrepreneur's income and income from foreign sources, which are paid in accordance with the specific provisions of this Law.

## Article 5

- (1) Income tax is levied and paid for the calendar year.
- (2) The tax period may be shorter than the calendar year if:
  - 1) the taxpayer becomes a non-resident during the calendar year and
  - 2) a resident acquires or loses the status of the taxpayer.
- (3) In the cases referred to in paragraph 2 of this Article, the tax period shall be calculated according to the number of full months in relation to that taxpayer.

## CHAPTER II TAXPAYER AND TAX BASE

### Article 6

- (1) The taxpayer is a natural person who earns taxable income under the provisions of this Law and is:
  - 1) a resident of the Republic of Srpska (hereinafter 'resident'), for income earned in the Republic of Srpska, the other Entity, Brčko District of BiH or other country or
  - 2) a non-resident, for income earned in the Republic of Srpska.
- (2) For the purpose of this Law, a resident is a natural person who:
  - 1) has residency in the territory of the Republic of Srpska,
  - 2) resides in the territory of the Republic of Serbian, continuously or intermittently, for 183 days or more over a period of 12 months commencing or ending in the fiscal year, or
  - 3) has a permanent place of residence and centre of vital interests in the Republic of Srpska.
- (3) The centre of vital interests referred to in paragraph 2, point 4 of this Article may be held by a person who meets at least one of the following conditions:
  - 1) ownership of real estate whose market value exceeds BAM 300,000,
  - 2) effective economic ties with the Republic of Srpska,
  - 3) ownership of a share in the capital of a company valued at more than 100,000 convertible marks,
  - 4) marriage or common-law marriage with a citizen of the Republic of Srpska and Bosnia and Herzegovina,
  - 5) work with the issued work permit or
  - 6) training and education.
- (4) It is considered that a person has a permanent place of residence under paragraph 2, point 3 of this Article which is accessible at all times, if the person directly or indirectly owns or has leased an apartment, house or other residential real estate in the Republic of Srpska, which is not intended for short-term stay.
- (5) The status of resident referred to in paragraph 2, point 3 of this Article shall terminate in the event that the resident ceases to fulfil any of the prescribed conditions or at the request of the resident who must notify the Tax Administration of the Republic of Srpska (hereinafter 'the Tax Administration') of the termination of resident status.
- (6) For the purpose of this Law, a non-resident is a natural person who is not considered a resident under paragraph 2 of this Article.
- (7) Notwithstanding paragraph 1, point 2) of this Article, non-residents from the Federation of BiH and Brčko District who earn income in joint institutions and BiH public companies

located in the territory of the Republic of Srpska shall not be the payers of income tax for income earned in these institutions and public companies.

(8) For the purpose of this Law, a natural person who resides in the territory of the Republic of Srpska and earns personal income outside of the territory of the Republic of Srpska, from the budget of the Republic of Srpska or budget of the institutions of Bosnia and Herzegovina is also considered a resident of the Republic of Srpska.

#### Article 7

The income tax base is the difference between total revenue generated in a tax period and the total expenses recognised in accordance with this Law.

### CHAPTER III TAX EXEMPTIONS

#### Article 8

(1) Tax on income arising from employment shall not be paid for:

1) severance pay upon retirement in the amount of up to the last three net salaries paid to the person who is retiring,

2) severance pay upon termination of employment paid in the amount of up to the minimum prescribed by the law governing labour relations,

3) reimbursement of the costs of health insurance, except salary compensation,

4) one-off aid on the basis of birth of a child, which the employer pays to the employee in the amount of up to one average net salary in the Republic of Srpska according to the latest data published by the Republic of Srpska Statistics Institute,

5) one-off aid in the event of death of an employee or a member of his immediate family, or serious disability or long-term illness of an employee, in the amount of up to three average net salaries in the Republic of Srpska according to the latest data of the Republic of Srpska Statistics Institute,

6) one-off aid for repair of damage incurred as a result of natural disasters or catastrophes which the employer pays to the employee in the amount of up to three average net salaries in the Republic of Srpska according to the latest data of the Republic of Srpska Statistics Institute,

7) presents given by employers to employees' children, aged up to 15 years, on the occasion of holidays, which amount up to BAM 100 per child per annum,

8) reimbursement of accommodation costs that the employer provides to the employee sent to work temporarily in another place where the activity is performed, if the employee needs to use accommodation to perform work tasks, up to the amount of actual costs,

9) reimbursement of travel expenses and daily allowances to employees for official travel or temporary performance of work tasks and to members of bodies of associations of citizens by invitation of the body, up to the amount specified by the act of the Government of the Republic of Srpska,

10) reimbursement of cost of transport to and from work, up to the amount of price of public transportation ticket,

11) costs of preparing a hot meal in employer's own restaurants or hot meal delivered to the employer by person registered for catering services, up to BAM 4.5 per day per employee and

12) interest on collected claims arising from employment.

(2) For the purpose of paragraph 1, point 5) of this Article, members of the immediate family of an employee mean marital and extramarital spouses, children and adopted children, parents and adoptive parents, and brothers and sisters living in the same household with the employee.

(3) The tax on income earned on other grounds shall not be paid for:

1) pensions, except pensions deriving from paid pension contributions for voluntary pension insurance in the voluntary capitalised pension funds, up to BAM 1,200 per year,

2) incomes realised on the basis of rights in the area of protection of veterans and disabled persons and protection of civilian war victims,

3) income deriving from child and maternity allowances and financial assistance for new-born children in accordance with regulations governing child protection,

4) scholarships to pupils and students in regular education, which amount up to 75% of the average net monthly salary in the Republic of Srpska according to the latest data published by the Republic of Srpska Statistics Institute,

5) unemployment compensation, in accordance with the regulations governing the field of employment and rights during unemployment,

6) cash benefits in accordance with the law governing social protection,

7) incomes derived from the organised social and humanitarian assistance,

8) disbursement of the insured sums of property and personal insurance, as well as disbursement of the insured sums to persons who are being compensated for damage suffered, except disbursement of insurance for lost benefit or profit,

9) final disbursement of life insurance, other than the paid life insurance premium of up to BAM 1,200 per year,

10) compensation for actual material and non-material damage, including interest on awarded sums for damage compensation,

11) income derived from interest on savings in banks, savings banks and savings and credit cooperatives, voluntary pension funds, bank accounts (giro account, foreign currency account, etc.),

12) premiums, subsidies and annual leave contributions from the budget of the Republic of Srpska, as well as the VAT reimbursements in accordance with the law governing value added tax, paid to a special purpose account opened with a commercial bank,

13) income from dividends and shares in profit of a company and

14) incomes from the sale of movable property used for personal purposes.

## Article 9

(1) The following are exempt from the obligation to pay tax on personal income earned for work in foreign diplomatic and consular missions or international organisations, or with the representatives or officials of such missions or organisations:

1) heads of foreign diplomatic missions accredited in the Republic of Srpska, staff of foreign diplomatic missions in the Republic of Srpska, as well as members of their households, unless these members are citizens or residents of the Republic of Srpska,

2) heads of foreign consulates in the Republic of Srpska and consular officials authorised to perform consular functions, as well as members of their households, unless these members are citizens or residents of the Republic of Srpska,

3) officials and experts of technical assistance programmes of the United Nations and its specialised agencies, unless they are citizens or residents of the Republic of Srpska,

4) employees of foreign diplomatic and consular missions and international organisations, as well as employees of the persons referred to in this Article, unless they are citizens or residents of the Republic of Srpska,

5) honorary consuls of foreign countries for incomes paid by the state that appointed them to perform the function of honorary consul,

6) natural persons in other organisations exempted pursuant to bilateral agreements between Bosnia and Herzegovina and other countries, unless they are citizens or residents of the Republic of Srpska.

(2) Residents of the Republic of Srpska employed by the United Nations and its specialised agencies and the OHR are exempted from paying income tax.

#### Article 10

(1) The tax base referred to in Article 7 of this Law shall be reduced by:

1) the amount of paid pension contribution for voluntary pension insurance, up to BAM 1,200 per year and

2) the amount of life insurance premium paid to an insurance company which has a licence of the Insurance Agency of the Republic of Srpska, up to BAM 1,200 per year.

(2) The tax base of income tax on personal income is reduced by:

1) personal deduction of the taxpayer in the amount of BAM 2,400 annually,

2) BAM 900 annually for each dependent member of the immediate family,

3) the amount of interest paid on a housing loan.

(3) Dependents of the immediate family referred to in paragraph 2 point 2 of this Article include spouse, children and parents of the taxpayer which, for the purpose of this Law, do not generate income and whose income does not exceed BAM 3,000. If more than one person is supporting the member or members of immediate family, personal deduction for these persons shall be distributed equally to all persons supporting those members unless otherwise agreed.

(4) The interest referred to in paragraph 2, point 3 of this Article means the interest paid in the tax year on the housing loan that the taxpayer took to resolve his housing issues and for the first real estate.

(5) The right referred to in paragraph 2, point 3 of this Article may not be acquired by a taxpayer who is entitled to a subsidy on the same basis from the Republic budget or budgets of local self-government units.

(6) The right referred to in paragraph 2, point 3 of this Article shall cease by repayment of that housing loan.

(7) A taxpayer who is exercising the right under paragraph 2, point 3 of this Law shall submit annually the proof of paid interest on the housing loan to the Tax Administration.

(8) Tax base reduction referred to in paragraph 2, point 1 of this Article shall be exercised when calculating the tax base on a monthly basis, and tax base reduction referred to in paragraph 1 and paragraph 2, points 2 and 3 of this Article shall be exercised based on the tax card of the taxpayer.

(9) Notwithstanding paragraph 8 of this Article, taxpayers who pay income tax only on the basis of annual returns shall exercise the reduction referred to in paragraph 1 of this Article annually.

(10) The Minister of Finance (hereinafter 'the Minister') shall issue a rulebook prescribing the procedure and manner of exercising the right to tax base reduction and the right to exemption under Article 8 of this Law.

#### CHAPTER IV INCOME FROM PERSONAL WAGES

##### Article 11

(1) Income from personal wages are all direct and indirect payments from employment and includes:

1) payment of gross wages and other employee gross earnings, including annual leave allowance, meal allowance, overtime pay, bonuses, benefits and allowances on working conditions,

2) indirect benefits, such as the sale of goods or services at a price lower than the market price, providing of interest-free loans or loans at an interest rate lower than the bank interest, release from debt obligations or debt forgiveness, transfer of taxpayer's property for use free of charge or at a price lower than the market price,

3) hidden payments of personal incomes, such as payments made by the employer in favour of the employee or any member of his family, including living expenses, rent, utilities, entertainment expenses, costs of tourist travel,

4) use of official vehicle for private purposes is an income from personal wages, calculated as 20% of the price for one litre of fuel per covered kilometre,

5) any payment or reimbursement of costs realised by the employee,

6) presents that the employer has given to the employee,

7) value of shares received free of charge, or value difference of shares from their market price,

8) bonuses and rewards for work well done are personal income in the year in which they are received, and in case that the rewards and recognitions are received in the form of goods and services, the total income is the market value of such goods or services at the moment of receiving and

9) other payments and benefits from employment if they are not exempted or otherwise taxed in accordance with this Law.

##### Article 12

Contributions paid in accordance with the Law on Contributions are recognised as expenses when determining income from personal wages.

##### Article 13

The tax base of the income tax on the income from personal wages represents the difference between the revenues from personal incomes referred to in Article 11 and expenditures referred to in Article 12 of this Law.

CHAPTER V  
INCOME FROM INDEPENDENT ACTIVITIES

Article 14

(1) Income from independent activity includes all incomes obtained from any source, received in cash, goods and services, realised through independent or joint performance of activity.

(2) The income from independent activities includes incomes from:

- 1) entrepreneurial activity,
- 2) agriculture, forestry and fisheries and
- 3) independent occupations.

(3) For the purpose of this Law, independent activities are professional activities of natural persons who are registered on that basis in the relevant register, in particular lawyers, notaries, engineers, architects, tax advisors, bankruptcy trustees, interpreters, translators, journalists, artists, athletes and other similar professions.

(4) If the income from independent activity is not earned in cash but in goods or services, the amount of income equals the market value of received property or service.

(5) For the purpose of paragraph 4 of this Article, the market value is the amount that an unrelated buyer would pay to an unrelated seller at the same time and in the same place for the same or similar goods or services under conditions of fair market competition.

Article 15

(1) The tax base for calculation of tax on income from independent activity is the difference between revenues and expenditures incurred by performing independent activities in the tax period.

(2) The tax base is calculated using the simple method of accounting (cash principle).

Article 16

Tax on income from independent activity shall be paid:

- 1) on income from independent activity or
- 2) on total income earned by the performance of small-scale independent activity.

Article 17

(1) Expenditures which may be deducted from income are costs paid during a tax period and connected with performance of that independent activity.

(2) Expenditures which are recognised are also the following:

1) costs of a hot meal, reimbursement of travel expenses, subsistence (food costs on a business trip), reimbursement of costs of transport to and from work, if corresponding tax and contributions have been paid on them in accordance with the law,

2) advertising and commercials in the amount of actual expenses, to a maximum of 5% of the total income in the fiscal year,

3) sponsorship and donations amounting to 2% of the total income in the fiscal year,

- 4) shortage of stock which can be justified by force majeure, up to the amount recorded in the business books of the taxpayer; the shortage shall be established by inventory of the commission of the competent authority, and presented in a report and inventory list and
  - 5) depreciation of fixed assets in accordance with Article 18 of this Law.
- (3) Expenditures which are not recognised:
- 1) taxes paid on income from independent activity in the Republic of Srpska,
  - 2) interest and penalties paid for violation of laws and other regulations,
  - 3) expenditures registered in business books, for which there is no reliable documentation,
  - 4) life insurance premiums paid by employer for its employee, except premiums included in the salary of the employee,
  - 5) expenditures incurred in connection with the business of related persons in the amount which exceeds the market value of goods or services on the market,
  - 6) loss from the sale or transfer of any property between related persons,
  - 7) donations to political parties and
  - 8) all other expenditures which are not in accordance with paragraphs 1 and 2 of this Article.

#### Article 18

- (1) Depreciation of fixed assets shall be recognised as an expense in the amount calculated on the purchase value under the straight line method by applying annual depreciation rates.
- (2) The fixed assets are intangible assets and tangible assets with a useful life longer than 12 months.
- (3) Land, forests and similar renewable natural resources, investment assets, cultural monuments and works of art shall not be subject to depreciation.
- (4) Tangible and intangible assets acquired or produced for less than BAM 1,000, which are used for the purpose of performance of activities of a taxpayer in the Republic of Srpska, may be deducted in the full amount in the tax period in which they were purchased or produced.
- (5) Depreciation of fixed assets shall be recognised as an expense from the first day of the month following the month in which these assets were put to use.
- (6) Depreciation expenses shall not be recognised for the assets not used for the performance of taxpayer's activity.
- (7) Depreciation calculated on a written-off basis of asset shall not be recognised as tax expense.
- (8) Depreciation shall be tax deductible expense only for the assets owned by the taxpayer.
- (9) Notwithstanding paragraph 8 of this Article, for the assets acquired by financial leasing, the lessee shall be treated as the owner of the leased asset, and on that basis have the right to recognition of depreciation on leased asset.
- (10) If the lessee improves the leased property, deduction for depreciation in the amount of depreciation calculated on the value of improvements shall be allowed to the lessee, and in the event that the lease expires before the end of depreciation and there is no extension of the lease, the lessee shall be entitled to deduction only up to the amount not depreciated at the time of termination of the lease.
- (11) Carrying value of the fixed assets destroyed by natural disasters or catastrophes (flood, fire, earthquake, etc.) declared by an act of the competent authority, which may not be used to perform the activity, shall be recognised as an expense.



(12) Inventory commission of the competent authority shall determine the assets destroyed by natural disasters or catastrophes by inventory, and prepare the report and the inventory list about the conducted inventory.

(13) Rates applied in calculating the profit tax base shall apply in the calculation of depreciation under the straight line method referred to in paragraph 1 of this Article.

#### Article 19

(1) When several persons are deriving income through a joint independent activity, each of them shall pay the tax for its share of the jointly derived income.

(2) Income derived by a natural person through joint performance of independent activity referred to in paragraph 1 of this Article shall be determined as single income divided between all participants in this income in a proportion determined by mutual agreement, and if it has not been defined in the agreement, the income shall be divided in equal parts.

(3) The portion of income or loss belonging to an individual on the basis of jointly derived income, determined in accordance with paragraph 2 of this Article, shall be added the incomes derived by each of them for their work, as well as other benefits, if they decreased the jointly derived income as operating expenses. The portion of income or loss of each person, determined in accordance with paragraph 2 of this Article, shall be deducted the expenses incurred by that individual person, which had no impact as business expense on the reduction of income from joint activities.

(4) The provisions of paragraphs 1 and 2 of this Article shall apply also where several persons jointly derive income from property and property rights.

(5) Joint income determined in accordance with paragraph 2 of this Article shall include also shares in the profit of business association realised by participants in joint income, if those shares were not taxed as business association's profit.

(6) Persons deriving joint income referred to in paragraphs 1 to 4 of this Article shall appoint a holder of the joint activity to be responsible for bookkeeping, paying tax and other obligations, submitting returns and performing other prescribed obligations arising from joint activity and joint property and property rights.

(7) A non-resident may not be appointed the holder of joint activity, and if the holder of joint activity has not been appointed, it shall be appointed by the Tax Administration.

(8) Upon termination of tax period, within the prescribed deadline, the holder of joint activity referred to in paragraph 6 of this Article shall submit to the Tax Administration a return on assessed income from joint activity according to its residence or usual place of residence.

#### Article 20

If the expenses which were subject of deduction in any tax period exceed the income for that tax period, the difference or loss may be carried forward in five consecutive tax periods and used to reduce the tax base in those tax periods.

#### Article 21

For the purpose of this Law, a small entrepreneur is a natural person who meets each of the following conditions throughout a fiscal year:

- 1) that physical person performs an independent activity, except independent occupations referred to in Article 14, paragraph 3 of this Law,
- 2) that small entrepreneur employs no more than three employees,
- 3) total annual income of the small entrepreneur derived from the performance of that activity does not exceed the amount of BAM 50,000 and
- 4) that natural person does not derive income through joint performing of independent activity.

#### Article 22

A small entrepreneur which meets the conditions referred to in Article 21 of this Law may choose to pay tax on small entrepreneur's income in accordance with the provisions of this Law.

#### Article 23

- (1) Annual tax for a small entrepreneur shall be calculated at the rate of 2% of the total derived income of the small entrepreneur.
- (2) Annual tax of a small entrepreneur may not be less than BAM 600.

#### Article 24

- (1) Small entrepreneur shall pay the tax on total monthly income by the 10<sup>th</sup> of the month for the previous month.
- (2) The tax paid by a small entrepreneur, which was calculated on total income derived during a tax year, shall be considered the final tax obligation and not be included in the annual tax return.

#### Article 25

- (1) A taxpayer performing independent activity, and wanting to be taxed as a small entrepreneur, shall submit a notification to the competent tax authority with evidence of fulfilment of the conditions referred to in Article 21 of this Law, by 31 January of the year to which the status of small entrepreneur is to be applied.
- (2) If a natural person starts performing independent activity for the first time during a calendar year and chooses to be taxed in that year as a small entrepreneur, that natural person shall submit an application to the Tax Administration within 30 days from the date of commencement of the activity.
- (3) In the application referred to in paragraph 2 of this Article, the taxpayer shall enclose the evidence of fulfilment of conditions referred to in Article 21 of this Law.

#### Article 26

- (1) If a small entrepreneur does not meet the conditions of Article 21 of this Law during any part of a calendar year or renounces the choice to be taxed as a small entrepreneur, then the small entrepreneur status shall be revoked.

(2) In the year of revocation, the small entrepreneur shall submit an annual tax return and pay taxes based on the annual return, deducting from the income tax an amount paid during the year of revocation.

(3) If the status of small entrepreneur is revoked in accordance with paragraph 1 of this Article, the small entrepreneur may not reclaim the small entrepreneur status for a period of three years from the year of revocation.

#### Article 27

(1) A taxpayer performing independent activity shall assess income based on the information from the prescribed business books and records, except small entrepreneurs.

(2) The business books and records referred to in paragraph 1 of this Article are:

1) record, general ledger and subsidiary ledgers which have the content and are kept in accordance with the regulations governing the field of accounting and auditing, for payers of income tax from independent activity which keep the books based on the double entry bookkeeping system, on an accrual basis;

2) books of incomes and expenditures, inventory list of fixed assets and records of receivables and liabilities, for payers of income tax from independent activities which keep their books according to the principle of simple accounting, or the cash method of accounting, in accordance with this Law.

(3) A small entrepreneur shall only keep the book of turnover.

(4) In the book of incomes and expenditures or other records, a taxpayer shall ensure information on realised daily turnover.

(5) For the purpose of this Law, the principle of simple method of accounting (cash principle) implies that income means the income actually received by the taxpayer at the time of receipt, or the income which has been made available or received in favour of the taxpayer, while the expenses are recorded when they are paid.

(6) The Minister shall issue a rulebook prescribing the content and manner of keeping books and records, as well as rules for reconciling revenues and expenditures set out in the business books and records with the revenues and expenditures to be included in the tax base.

### CHAPTER VI INCOME FROM COPYRIGHTS, RIGHTS RELATED TO COPYRIGHT AND INDUSTRIAL PROPERTY RIGHTS

#### Article 28

The payer of tax on income from copyright, rights related to copyright and industrial property rights is a natural person who is the author, holder or owner of the rights which derives income from these rights.

#### Article 29

(1) The taxpayer receives income from copyrights on the following grounds:

1) written works (literary, scientific, professional, publicist and other works, studies, reviews, etc.),

- 2) verbal works,
  - 3) dramatic and musical works,
  - 4) cinematographic works,
  - 5) works of art,
  - 6) conceptual designs, sketches, drawings and other works made of plastic materials that relate to architecture, geography, topography or any other field of science or art,
  - 7) translation, editing, music arrangements and other alterations of works of authorship and
  - 8) other works of authorship.
- (2) The taxpayer receives income from rights related to copyright on the following grounds:
- 1) right of performance artist,
  - 2) right of phonogram producer,
  - 3) right of producers of videograms and
  - 4) right of broadcast producer.
- (3) The taxpayer receives income from industrial property rights on the following grounds:
- 1) patents,
  - 2) stamp,
  - 3) model and pattern and
  - 4) technical improvement.

#### Article 30

(1) The tax base for calculation of tax on income from copyright, rights related to copyright and industrial property rights is the income from these rights, which is obtained by subtracting the amount of recognised expenses from total revenues.

(2) The recognised expenses are recognised in the amount of 40%, 50% and 60% of revenue, depending on the type of copyright, rights related to copyright and industrial property rights.

(3) The Minister shall issue a rulebook prescribing the amounts of individual recognised expenses referred to in paragraph 2 of this Article.

### CHAPTER VII INCOME FROM CAPITAL

#### Article 31

Income from capital represents the income generated by lease or sublease of movable and immovable property, as well as interest on loan.

#### Article 32

Incomes from immovable and movable property are incomes that a taxpayer earns by leasing or sub-leasing property and the value of all realised liabilities and services undertaken by the lessee of immovable property (land, residential and commercial buildings, parts of these buildings, apartments, parts of apartments, business premises, garages, etc.) and movable property (equipment, transport vehicles and other movable property).

#### Article 33

(1) The interest referred to in Article 31 of this Law means interest on loans and interest on the funds that a member of a general partnership, a limited partner or general partner of a limited partnership, or a founder of a partnership shop, has given for use to the partnership or shop, of a minimum amount equal to the interest on savings deposit for the same period in the Republic of Srpska.

(2) The income referred to in paragraph 1 of this Article shall be included in the income of the tax year for which the interest is paid.

(3) Interest paid in advance shall be proportionally allocated as interest income over the period of loan repayment.

(4) If the interest rate on a debt obligation is zero or lower than the interest rate applied to a similar amount of loan by commercial banks in the Republic, the provider of the loan shall present the amount of unaccounted interest as interest income. This amount implies the full amount of the interest if the loan is given at an interest rate of zero, or the interest differential if it is calculated at an interest rate lower than the bank rate. These amounts represent accrued interest.

#### Article 34

(1) The tax base for calculation of tax on income from leasing immovable or movable property shall be the income earned by leasing immovable or movable property, which is a result of deduction from the total revenue of recognised expenses in the amount of 20% of that revenue.

(2) For the purpose of determining the tax base referred to in paragraph 1 of this Article, the price of lease shall be the agreed price, i.e. the market price established by the Tax Administration by assessment if it finds that the agreed price is lower than the market price or in the event that there is no lease or sublease agreement.

(3) If the taxpayer is a lessee who is subleasing the subject of lease, the rent paid to the lessor shall be deducted from the rent received.

#### Article 35

(1) In determining the tax base, rents received in advance for several years shall be divided upon the taxpayer's request in as many equal parts as there are years for which the rent has been paid, but not longer than five years.

(2) In the case referred to in paragraph 1 of this Article, a proportional part of income shall be taxed each year.

### CHAPTER VIII TAX ON INCOME FROM CAPITAL GAINS

#### Article 36

(1) Capital gain is the positive difference between the sale price of rights and property and its purchase value, which the taxpayer realises by selling or otherwise transferring, with or without consideration:

- 1) real rights on immovable property,
  - 2) rights to use and rights to build on building land,
  - 3) copyrights, patents, licences, franchises, and other assets consisting of rights only and
  - 4) investment assets other than bonds issued for war damage at first transaction.
- (2) Capital loss is the negative difference referred to in paragraph 1 of this Article.

#### Article 37

The taxpayer of tax on income from capital gains is a natural person, the transferor of rights under Article 36, paragraph 1 of this Law.

#### Article 38

(1) For the purpose of assessment of capital gain and capital loss under this Law, the sales price shall be the agreed price, i.e. the market price established by the Tax Administration if it finds that the agreed price is lower than the market price.

(2) For the purpose of assessment of capital gain and capital loss in the transfer of rights without consideration or through exchange for another right, the sales price shall be the market price of the rights that the taxpayer is transferring without consideration or exchanging.

#### Article 39

(1) For the purpose of determining capital gain and capital loss under this Law, the purchase price shall be the price at which the taxpayer acquired the right and property referred to in Article 36 of this Law.

(2) For the purpose of determining capital gain and capital loss in the case of a transfer without consideration or through exchange, as well as in the case the purchase price cannot be determined, the purchase price shall be the market price in the year in which the right or property was acquired, as determined by the Tax Administration.

(3) In sale of immovable property built by the taxpayer, the purchase price referred to in paragraph 1 of this Article shall be the market price of immovable property in the year of completion of construction or the amount of construction costs that the taxpayer can prove.

(4) In sale of immovable property under construction, the purchase price referred to in paragraph 1 of this Article shall consist of the amount of construction costs incurred by the taxpayer before the day of sale or the market value of the newly constructed building adjusted by the degree of construction.

(5) The purchase price of received shares or share in capital for the assets transferred to the taxpayer shall be equal to the market value of the transferred assets plus the costs of the transfer.

(6) The purchase price of individual securities shall be calculated as a weighted arithmetic mean of all purchases of that security for each taxpayer, for the period for which the purchase price is being calculated.

(7) For all securities registered in the Central Registry of Securities a.d. Banja Luka (hereinafter 'Central Registry'), the taxpayer shall document the purchase price of the security referred to in paragraph 5 of this Article with the corresponding report from the Central Registry.

(8) The purchase price of securities which are not traded on a stock exchange, or were not traded on a stock exchange at the time of the acquisition, shall be the price documented as the actually paid by the taxpayer.

(9) If a taxpayer fails to document the actually paid price of securities for any reason, the purchase price shall be their nominal value.

#### Article 40

(1) Investment assets are assets of the taxpayer acquired solely for investment purposes, which are not used for the taxpayer's activity performance, and include shares, shares in capital, securities, old coins, old currency, precious stones and jewellery, postal stamps, gold, silver and other precious metals and various works of art.

(2) Investment assets do not include assets intended for sale within the regular activity of the taxpayer, assets being depreciated, immovable property used for the performance of activity, copyrights or patents on products produced or created by the taxpayer.

(3) Capital gains or losses from trade or other form of transfer of investment assets of the taxpayer incurred during a tax year, may be offset and the net gain shall be added to the tax base of business activity of the taxpayer if they are not included in revenues.

(4) Loss from trade or other form of transfer of investment assets may not be deducted from the tax base of the taxpayer's business activity in that fiscal year.

(5) Capital loss from the sale or other form of transfer of investment assets may only be covered at the expense of capital gain from the sale or other form of transfer of investment assets.

#### Article 41

Capital loss produced by the sale of one right and property may be offset by capital gain produced by the sale of another property and right in the same year, where the net capital loss shall be deducted from income when determining the tax base of the taxpayer.

### CHAPTER IX INCOME FROM FOREIGN SOURCES

#### Article 42

(1) Income from foreign sources is the income which a resident, qualified investor from the Republic of Srpska derives on any grounds, or on the basis of labour, property, insurance and capital outside of the borders of Bosnia and Herzegovina.

(2) For the purpose of paragraph 1 of this Article, income from foreign sources shall be the income paid to the resident, qualified investor, by the payer who is not a resident of the Republic of Srpska at the time of payment.

#### Article 43

(1) A qualified investor is a natural person, resident of the Republic of Srpska, who has made investments in accordance with this Article, in person or through a legal entity in its majority ownership or under its control, and has duly settled tax obligations in the Republic of Srpska.

(2) Qualified investments are total direct and indirect investments made in the economy of the Republic of Srpska in the amount which exceeds BAM 5,000,000, invested from 1 January 2012, where the investments in working capital may not exceed 10% of the total investment value.

(3) The direct investments referred to in paragraph 2 of this Article are investments in new or existing domestic companies, as well as capital investments which result in the increase of the share capital or assets of the company.

(4) The indirect investments referred to in paragraph 2 of this Article are investments in the primary issue of bonds issued by the Republic of Srpska, except investments in war damage compensation bonds.

#### Article 44

Tax on income from foreign sources shall be paid annually in absolute amount and for reported annual income in the amount of:

- 1) up to BAM 2,000,000, the annual tax shall amount to BAM 150,000,
- 2) BAM 2,000,000 to 10,000,000, the annual tax shall amount to BAM 250,000,
- 3) BAM 10,000,000 to 20,000,000, the annual tax shall amount to BAM 500,000,
- 4) BAM 20,000,000 to 30,000,000, the annual tax shall amount to BAM 600,000,
- 5) BAM 40,000,000 to 50,000,000, the annual tax shall amount to BAM 700,000,
- 6) over BAM 50,000,000, the annual tax shall amount to BAM 800,000.

#### Article 45

(1) A qualified investor shall declare its tax liability in accordance with Article 44 of this Law to the Tax Administration according to its place of residence or seat of one of the business entities in which it has invested, not later than 31 March of the current year, for the total income from foreign sources in the previous year.

(2) Along with the return referred to in paragraph 1 of this Article, a qualified investor shall submit records and documentation of earned incomes.

(3) The taxpayer referred to in paragraph 1 of this Article shall pay the tax in accordance with this Law no later than ten days from the date of tax return filing.

#### Article 46

(1) A qualified investor may be taxed in accordance with Article 44 of this Law after submitting to the Tax Administration a written request clearly opting for that manner of taxation.

(2) Along with the request referred to in paragraph 1 of this Article, the qualified investor shall provide evidence of fulfilment of the conditions referred to in Article 6, paragraph 2 and Article 43 of this Law.



(3) Exceptionally, the Tax Administration shall obtain ex officio the evidence of fulfilment of the conditions referred to in Article 43 of this Law concerning the settled tax obligations.

(4) The Tax Administration shall decide on the request referred to in paragraph 1 of this Article in accordance with the provisions of the regulations governing tax procedure and general administrative procedure.

(5) In the case of fulfilment of the conditions referred to in Article 6, paragraph 2 and Article 43 of this Law, the director of Tax Administration shall issue a decision approving the taxation of income from foreign sources in accordance with this Law, for a period of five years.

(6) After the expiry of five years from the date of issuing of the decision, the taxpayer's status of qualified investor shall be renewed automatically if it still meets all the conditions of Article 6, paragraph 2 and Article 43 of this Law, and if it has duly settled all tax obligations towards the Republic of Srpska.

(7) The Minister shall issue a rulebook prescribing the conditions, manner and procedure for exercising the right to taxation in accordance with the provisions of Articles 42 to 50 of this Law.

#### Article 47

(1) The director of the Tax Administration shall issue a decision cancelling the status of a qualified investor in the following cases:

1) if the qualified investor no longer meets the conditions of Article 6, paragraph 2 and Article 43 of this Law,

2) at the request of the qualified investor,

3) if the qualified investor does not settle its tax obligations regularly or

4) if the qualified investor otherwise violates the provisions of this or other tax laws.

(2) Notwithstanding paragraph 1, point 3 of this Article, before issuing the decision on cancellation, the Tax Administration shall notify the qualified investor of the unpaid tax liabilities by issuing a notice providing for a period of 15 days for the payment, in accordance with the law governing the tax procedure.

(3) The decision referred to in paragraph 1 of this Article shall establish the termination of the status of a qualified investor as of the year in which the decision is issued.

(4) In the year of status termination, the qualified investor shall report and pay taxes for that year in accordance with Article 44 of this Law.

(5) In the cases referred to in paragraph 1, points 1, 3 and 4 of this Article, the qualified investor may not regain that status for a period of three years from the year of decision cancellation.

#### Article 48

A qualified investor shall open an account with the organisation in charge of payment operations in the Republic of Srpska for the purpose of settling this tax.

#### Article 49

A qualified investor shall pay the tax on income earned in the Republic of Srpska in accordance with this Law, as a resident of the Republic of Srpska.

## Article 50

The rights and privileges of a qualified investor and obligations under previous regulations and this Law may not be revoked or cancelled by entry into force of subsequently adopted laws and other regulations, and if such subsequently adopted laws and regulations are more favourable for qualified investors, they shall have the right to choose the regime to be applied to their taxation.

## CHAPTER X OTHER INCOME

### Article 51

The term 'other income' means all income earned by a natural person on any grounds, other than the income referred to in Article 3, points 1 through 6 of this Law, unless exempted in accordance with this Law.

### Article 52

The other income is:

- 1) income from membership in management boards, supervisory boards, audit committees and other bodies whose members are paid for their work,
- 2) income of elected, nominated and appointed officials,
- 3) income from practicing a professional sporting activity,
- 4) income derived from the activity of interpreters, expert witnesses, referees and sports delegates, translators, entertainers, independent journalists and other similar activities,
- 5) income from contractual agreements (income of salesmen, agents, sales agents and other persons performing those tasks on the orders of the payer),
- 6) athletic scholarships,
- 7) scholarships to students in regular education above the amounts referred to in Article 8, paragraph 3, point 4) of this Law,
- 8) income arising from difference between the value of acquired assets and proven amount of funds for its acquisition and
- 9) any other cash or non-cash incomes and benefits realised by a natural person, the taxpayer, except income from personal wages, independent activity, copyright, rights related to copyright and industrial property rights, capital prescribed by this Law, capital gains and income from foreign sources, unless they are exempted or taxed otherwise under this Law.

### Article 53

The tax base for other income is the difference between the revenues under Article 52 of this Law and paid contributions.

## CHAPTER XI TRANSACTIONS BETWEEN RELATED PERSONS

#### Article 54

(1) For the purpose of this Law, a transfer price is the price originated from transactions of assets or creation of obligations between related and unrelated persons if the transaction violates the standards of market price.

(2) In the case of transactions referred to in paragraph 1 of this Article, the competent office of the Tax Administration may increase the amount of income or expense in order to harmonise the transfer price with the market price of goods and services provided in the transaction.

(3) Market price is the amount that an independent unrelated buyer or service beneficiary would pay to an unrelated seller at the same time and in the same place for the same or similar goods and services under the conditions of fair market competition.

(4) Related persons are persons who have a special relationship that may materially influence the economic results of transactions between them.

(5) The special relationships referred to in paragraph 4 of this Article are relationships between persons who are:

- a) business partners,
- b) in an employer - employee relationship,
- c) members of the immediate and extended family, including spouses, direct ancestors and descendants, sisters and brothers, spouse's brother and sister, sister and brother of parents or spouse's parents.

#### Article 55

If a taxpayer does business with a related person, when applying tax regulations the following rules shall apply:

- 1) any gain realised from doing business with a related person is a gain which shall be included in the tax base and
- 2) no loss arising from doing business with a related person may be deducted from taxable income.

#### Article 56

(1) A taxpayer shall present separately in the tax return the value of transactions between related persons at transfer prices, and at prices that would be achieved on the market under the conditions of free competition (the principle of 'arm's length').

(2) If there is a difference between the market price and the transfer price, the Tax Administration shall increase or decrease the amount of income or expense presented by the taxpayer, and the price difference shall be included in the tax base.

(3) One of the following methods shall be used to determine the compliance of transactions between related persons with the arm's length principle:

- 1) comparable uncontrolled price method,
- 2) cost plus method (cost plus gross margin method),
- 3) resale price method,
- 4) transactional net margin method,
- 5) profit split method,

6) any other method by which it is possible to determine the price of the transaction based on the arm's length principle, provided that the application of the methods specified in points 1 to 5 of this paragraph is not possible.

(4) Notwithstanding paragraph 3 of this Article, a combination of several methods may be used in determining the price of the transaction based on the arm's length principle, when necessary.

(5) When filing a tax return, the taxpayer shall attach information on related persons in accordance with this Law.

#### Article 57

(1) Transfer price is also the price originated from transactions of assets or creation of obligations between unrelated persons if the transaction violates the standards of market price.

(2) The methods prescribed for determining and assessing the value of transactions between related persons shall be used when determining and assessing whether the asset transactions and obligations created between unrelated persons were contracted at market prices.

(3) The Minister shall issue a rulebook prescribing the manner of determining the market value of transactions between related persons.

### CHAPTER XII TAX RETURNS AND TAX PAYMENT

#### Article 58

(1) Tax on the incomes referred to in Article 3 of this Law shall be paid in advance:

- 1) at the time of payment of each individual income (withholding tax) and
- 2) based on the tax return.

(2) The payers of monthly salary shall reduce the base for the calculation of the advance payment of withholding tax by the amount of 1/12 of the tax base reduction under Article 10 of this Law.

(3) The taxpayer shall deduct the amount of tax paid under paragraph 1 of this Article from the determined annual amount of income tax.

#### Article 59

(1) On the basis of tax return, tax shall be paid on:

- 1) income from independent activities,
- 2) income from capital gains,
- 3) income from capital on which withholding tax was not paid,
- 4) income from foreign sources and
- 5) other incomes, if withholding tax was not paid or a lower amount was paid, except the income referred to in Article 52, point 8 of this Law.

(2) Withholding tax for each individual realised income shall be paid at the time of payment of:

- 1) personal incomes,
- 2) other incomes,

- 3) incomes from copyrights, rights related to copyright and industrial property rights and
- 4) income from capital.

#### Article 60

(1) Annual tax on natural person's income shall be paid on the basis of the annual tax return of a natural person for income realised in the calendar year, in accordance with this Law.

(2) The annual tax return shall present all incomes during the tax year and paid taxes, except incomes and taxes paid of a small entrepreneur referred to in Article 23, paragraph 2 of this Law and of a qualified investor declaring its obligation in accordance with Article 45 of this Law.

(3) A taxpayer earning income in terms of this Law shall submit a tax return to the Tax Administration by 31 March of the current year for the previous year, unless otherwise provided by this Law.

(4) An employee for whom employer pays withholding tax need not submit the annual tax return, except if realising income on other grounds.

(5) A taxpayer paying tax on the basis of the annual return shall have the right referred to in Article 10, paragraph 1 of this Law when filing the annual tax return, on the basis of a request for refund.

#### Article 61

(1) At the moment of payment of incomes, the payer shall calculate and pay to the prescribed accounts the withholding tax for each taxpayer and for each separately paid income referred to in Article 59, paragraph 2 of this Law.

(2) At each payment and at the expiration of the tax year, the payer referred to in paragraph 1 of this Article shall issue to the taxpayer a certificate including information about the income, costs, wages, base reductions and amount of tax paid.

(3) A natural person making payment to another natural person shall not be considered a payer, except the natural person performing independent activity.

(4) By the 10<sup>th</sup> of the month, the payer of the income subject to withholding tax shall submit to the Tax Administration of the Republic of Srpska a monthly return of withholding tax for all payments made in the previous month.

(5) In the event that the payer of the income subject to withholding tax fails to calculate and pay the tax at the time of payment, such payment shall be considered to not include tax (net payment).

#### Article 62

(1) For the purpose of this Law, a tax card is a document containing information on the taxpayer, information for the exercise of right to tax base reduction and information on calculation of income, income tax and tax base reduction.

(2) A taxpayer may only have one tax card, which is valid permanently and issued by the Tax Administration at the request of that taxpayer.

(3) The payer may reduce the tax base when calculating the withholding tax only for a taxpayer who has handed over his tax card.

(4) A taxpayer with several payers shall choose a payer to submit the tax card to.

(5) Data in the tax card may only be changed by the Tax Administration.

#### Article 63

The Minister shall issue a rulebook prescribing the form and content of tax return and tax card.

#### Article 64

(1) Income tax shall be paid according to the place of residence of the taxpayer for incomes arising from:

- 1) personal income,
- 2) copyrights, rights related to copyright and industrial property rights,
- 3) capital,
- 4) capital gains referred to in Article 36, paragraph 1 of this Law and
- 5) other income.

(2) The tax on income from independent activity shall be paid according to the place of registration of activity, and if the activity is performed in several places, the taxpayer shall designate one of those places as the place of business for the purpose of settlement of tax obligations.

(3) The tax on capital income realised from lease or sublease of real estate and capital gains from immovable property shall be paid at the place where the property is located.

(4) A non-resident shall pay income tax according to the location of income realisation, except non-residents referred to in Article 6, paragraph 7 of this Law, which shall pay income tax according to the place of residence.

(5) Income from foreign sources shall be paid in accordance with Article 45, paragraph 1 of this Law.

#### Article 65

Taxpayers for incomes referred to in Article 64, paragraph 1, points 1 to 5 of this Law shall pay the tax by the 10<sup>th</sup> of the month for the previous month.

#### Article 66

The taxpayer who is a resident, except qualified investor referred to in Article 43 of this Law, and earns income in other parts of Bosnia and Herzegovina or abroad, as well as the taxpayer earning personal income or other income with a diplomatic or consular mission of a foreign country or an international organisation, or a representative or official of such office or organisation which has a diplomatic immunity, unless exempted in accordance with Article 9 of this Law, shall calculate and pay the withholding tax within seven days of receiving the payment, if that tax has not been calculated and paid by the payer, and file the annual tax return.

## Article 67

(1) If a natural person from the Republic of Srpska generates income in other parts of Bosnia and Herzegovina or abroad, and the generated income is taxed in the Republic of Srpska and in other parts of Bosnia and Herzegovina and abroad, in that case the income tax paid in other parts of Bosnia and Herzegovina or abroad shall be deducted from the income tax in the Republic of Srpska.

(2) The reduction of income tax in the Republic of Srpska for taxes paid in other parts of Bosnia and Herzegovina or abroad in a tax period may not exceed the amount of income tax calculated by applying the income tax rate of the Republic of Srpska to the taxpayer for that tax period.

(3) The taxpayer of the income tax in the Republic of Srpska may deduct the income tax paid in other parts of Bosnia and Herzegovina or foreign country exclusively based on valid documentation certified by the competent authority where the tax was paid.

## Article 68

Control, determination and collection of income tax shall be performed in accordance with the provisions of the Law regulating the tax procedure.

## Article 69

The law governing tax procedure shall apply to the violations of the provisions of this Law characterised as minor offences, as well as the sanctions and accountability for minor offences.

## Article 70

The Ministry of Finance shall carry out the supervision of the application of this Law while the Tax Administration shall carry out the inspection.

## CHAPTER XIII TRANSITIONAL AND FINAL PROVISIONS

## Article 71

Within 90 days from the date of entry into force of this Law, the Minister of Finance shall issue the following:

- 1) Rulebook on procedure and manner of exercising the right to exemption and reduction of the tax base of income tax (Article 10, paragraph 10),
- 2) Rulebook on the content and manner of keeping books and records and the rules for reconciling income and expenses from independent activity (Article 27, paragraph 6),
- 3) Rulebook on the type and amount of expenditures necessary for the realisation of incomes based on copyright, rights related to copyright and industrial property rights (Article 30, paragraph 3),
- 4) Rulebook on conditions, manner and procedure of exercising the right to taxation of income from foreign sources (Article 46, paragraph 7),

5) Rulebook on the method of determining the market value of transactions between related persons (Article 57, paragraph 3) and

6) Rulebook on the form and content of tax returns and tax card (Article 63).

#### Article 72

Pending issuing of the rulebook referred to in Article 71 of this Law, the Rulebook on the application of the Law on Income Tax (Official Gazette of the Republic of Srpska 22/11, 22/14 and 2/15) shall apply in part in which the provisions of that Rulebook are not contrary to this Law.

#### Article 73

Upon entry into force of this Law, the Law on Personal Income Tax (Official Gazette of the Republic of Srpska 91/06, 128/06, 120/08, 71/10, 1/11 and 107/13) shall cease to have effect.

#### Article 74

This Law shall be published in the Official Gazette of the Republic of Srpska and enter into force on 1 September 2015.

No: 02/1-021-895/15  
16 July 2015  
Banja Luka

President of the  
National Assembly  
**Nedeljko Čubrilović, m.p.**