

## PROFIT TAX LAW

### *I GENERAL PROVISION*

#### Article 1

The purpose of this Law is to establish the legal framework for the taxation of a Republic of Srpska legal person and a foreign legal person obtaining revenue from the Republic of Srpska.

### *II DEFINITIONS OF TERMS USED IN THE LAW*

#### Article 2

The following definitions are applied for the terms in this Law:

- a) **Republic of Srpska** – means the territory of the Republic of Srpska, including its territorial waters and the air space above the territory.
- b) **Legal Person** - means a legal person registered to independently perform its business operations for the purpose of making a profit, in accordance with the laws of Republic of Srpska. A legal person does not include a physical person subject to Personal Income Tax as the result of performing an independent business activity.
- c) **Branch Office** – means an organizational part of a legal person performing a part of a registered activity of the legal person, at the territory of another Entity and/or Brcko District.
- d) **Foreign Legal Person** – means a legal person with principal place of business abroad.
- e) **Market price** – means the amount that an unrelated buyer would pay to an unrelated seller at the same time and place for the same or similar goods or services under conditions of fair competition.
- f) **Interest** – means any amount required to be paid in money or in kind for the use of money, whether payable under a debt obligation, or with respect to a deposit, or in accordance with a financial lease contract, installment sale or other deferred payment sale to include instruments and arrangements which provide the functional equivalent of interest.
- g) **Stock** – means a ownership securities constituting the share of a stockholder in the basic capital of a stockholding company.
- h) **Stockholder** – means any legal or physical person that is the owner of stock in a stockholding company
- i) **Dividend** – means a share of the net profit distributed to a stockholder, according to the decision of the managing body.
- j) **Related Person** –a person is related to another person if the relationship between the persons is described in any of the following:
  - 1) a physical person is related to a legal person if the physical person owns, directly or indirectly, 10% or more of the stock in the legal person;

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2) a legal person is related to another legal person if a legal person owns, directly or indirectly, 10% or more of the stock in the stock holding company, i.e. share in ownership of 10% or more in the capital of a non-stock entity;

3) in the sense of this Law, a physical person is considered to own stock that are owned by his or her spouse, children, adopted children, parents, siblings, grandparents, children, and grandchildren.

k) **Basis of Asset** – means the cost or purchase price of an asset and is used in calculation of gain and loss arising from sale or transfer of an asset and for the purpose of depreciation.

l) **Adjusted Basis of Asset** – means the basis reduced by depreciation and increased by the cost of investments and other non-deductible expenditures that increase the value of the asset.

m) **Capital Assets** – means assets subjected to depreciation, which are used by a legal person for the purpose of performing a business activity.

n) **Investment asset** – means all assets or property that a legal person acquires or holds, which is not used in the legal person’s independent activity and does not include the following: (a) inventory, (b) property held for sale to customers pursuant to the economic activity, (c) business property that is depreciated, (d) buildings used in the economic activity, (e) copy rights.

o) **Accrual accounting** - means recording of revenues and expenses at the moment the revenue is actually received or the expense actually paid

p) **Permanent Establishment** - means a fixed place of business through which business is performed. A permanent establishment also includes:

1. A building site or construction, installation, or assembly project in Republic of Srpska, installation or structure used for the exploration or exploitation of natural resources, or supervisory activity connected therewith; and

2. where another physical or legal person is acting in behalf of the foreign legal person and has the authority to conclude contracts in the name of such foreign legal person, that foreign legal person shall be deemed to have a permanent establishment in Republic of Srpska.

### **III TAXPAYER**

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#### **Taxpayer Article 3**

(1) In accordance with the provisions of this Law, the taxpayer is:

a) a Republic of Srpska legal person for profits obtained from any source whether from Republic of Srpska or from a foreign state;

b) a branch office of a legal person for the profit realized in Republic of Srpska;

c) a foreign legal person carrying out economic activity through a permanent establishment in Republic of Srpska for the profit that is attributable to the permanent establishment;

d) a foreign legal person obtaining revenue from immovable property located in Republic of Srpska for the profit that is attributable to the immovable property;

e) a foreign legal person obtaining revenue from Republic of Srpska other than revenue described in Lines b) and c) is to be taxed by means of withholding as provided in Chapter VI of this Law;

f) legal persons described in Paragraphs a), b) and c) shall be considered taxpayers even in the case when though respective economic activity they have produced a loss in the fiscal year.

### **Persons exempt from Profit Tax**

#### **Article 4**

- (1) The Central Bank of Bosnia and Herzegovina is exempt from profit tax.
- (2) Public institutions and humanitarian organizations are exempt from the payment of profit tax for profit attributable to the following revenues:
  - a) revenues from the budget or public funds;
  - b) sponsorships or donations in money or in kind;
  - c) Interest, dividends and other investment revenue to include revenue from immovable property;
  - d) membership dues;
  - e) revenue from the sale or transfer of assets other than assets that are or have been used in an economic activity.
- (3) In the case of a Humanitarian organization or a Public institution that carries out an economic activity unrelated to its humanitarian purpose or the purpose of a public institution, the Humanitarian organization or public institution is subject to tax on the profit that is attributable to such economic activity.

## ***IV DETERMINATION OF TAX BASE***

### **General Provisions for determination of Tax base**

#### **Article 5**

The tax base for a fiscal year is the difference between taxable revenues and deductible expenditures for such fiscal year, in accordance with this Law.

### **Revenues Included in the Computation of Tax Base**

#### **Article 6**

- (1) Taxable revenue for the purpose of computing the tax base includes all revenue from whatever source derived whether in cash or in kind or whether related or un-related to the legal person's economic activity except for revenues specified in Article 7 of this Law.
- (2) In the case of revenue received in the form of property (other than cash) or services, the amount of revenue is equal to the market price of the property or services received.

### **Non-Included Revenues in the Computation of Tax Base**

#### **Article 7**

- (1) The following revenues are not to be included in computation of tax base:
- a) Dividends and profit share received by a Republic of Srpska legal person;
  - b) Revenue resulting from the collected written-off receivables that have been included in the tax base in previous fiscal periods, and were not excluded from tax base as recognized expenditures;
  - c) Revenue in the form of interest from securities issued and/or guaranteed by the Bosnia and Herzegovina, Republic of Srpska, Federation of Bosnia and Herzegovina, Brcko District, local self-governance unit, the Central Bank of Bosnia and Herzegovina, companies, insurance companies, investment funds, and banks or other financial institutions acting as authorized agents thereof;
  - d) If an asset is involuntarily converted and the proceeds from the involuntary conversion are reinvested in an asset of a same or similar nature before the end of the second year following the year in which the asset is converted, then any cash received to compensate the taxpayer for the loss of property is not to be included in taxable revenue. For this purpose, an asset is involuntarily converted if the asset is destroyed, stolen, seized, or condemned or the taxpayer is otherwise forced to transfer the property by reason of the threat or imminence of any of the foregoing;
  - e) Interest on bank deposits;
  - f) Revenue to which withholding tax has been paid by the payer of the revenue;
  - g) Revenue from exchange or transfer of like kind property.

**Reconciliation of expenditures**  
**Article 8**

- (1) Expenditures are deductible from revenue in computing the tax base, if the expenditures directly relate to the realized revenue.
- (2) Expenditures that are recognized and deductible from revenue also include the following:
- a) 30% of the cost of entertainment, meals and amusements related to the legal person's economic activity;
  - b) awards to employees limited to amounts stated in the Rule Book implementing this Law (hereinafter: the Rule Book);
  - c) expenses for travel, meals, lodging, moving and per diem limited to the amounts prescribed in the Rule Book;
  - d) research and development expense as prescribed in the Rule Book;
  - e) Inventory losses shall be computed separately as prescribed in the Rule Book;
  - f) contributions to Public Institutions, humanitarian, cultural and educational organizations in the amount not exceeding 3% of the fiscal year's total revenue, and any excess contribution may be carried forward three years to apply against future contributions;
  - g) sponsorship expenses in an amount not exceeding 2% of the fiscal year's total revenue.

h) scholarships to students in an amount up to 75% of average monthly net salary per employee in Republic of Srpska in accordance with the latest published data from the body in charge for statistics (hereinafter: the average monthly net salary);

(3) The following expenditures are not recognized:

- a) fines and interests payable by reason of the violation of any law and other regulations;
- b) expenditures that relate to non-taxable income from Article 7 of this Law;
- c) expenditures registered in the accounting books that are not supported by documents as provided in applicable law;
- d) insurance premiums that are paid by an employer for the personal benefit of an employee except if the premiums are included in the salary of the employee;
- e) expenditures in favor of a related person to the extent that the expenditures exceed the market price for goods or services provided to the taxpayer by the related person;
- f) loss on the sale or transfer of any property between related persons;
- g) donations to political parties and organizations;
- h) capital expenditures, which are expenditures to acquire or create depreciable assets that have a normal economic life of more than 1 year;
- i) personal expenses and expenses not related to respective economic activity;
- j) expenditures related to purchase of office carpets, art works and decorative items and other investment property.
- k) Expenditures based on depreciation of goodwill.

### **Transactions between related persons (Transfer Pricing Rule)**

#### **Article 9**

(1) Transfer price pertains to a price related to transactions of funds or creation of obligations between related persons.

(2) In the case of transactions from preceding paragraph the Tax Administration of Republic of Srpska (hereinafter: the Tax Administration) may increase or decrease the amount of revenue or expense in case it establishes that the transfer price does not reflect the market price.

(3) The Rule Book shall regulate the manner of determining transaction market value.

### **Bad Debts and Reserves**

#### **Article 10**

(1) A legal person using the accrual form of accounting is allowed a deduction with respect to bad debts and reserves.

2) Legal persons other than banks, other authorized credit institutions or insurance companies shall be entitled to a bad debt deduction that arose in connection with a sale of goods or services but only if the revenue from the sale was previously included in the tax

base of the legal person. For this purpose, a credit or trade receivable is considered a bad debt only if it is more than 12 months overdue commencing on the due date for payment of the invoiced receivable and if the creditor has sued for the receivables or an enforced collection procedure is initiated due to receivables, if they are registered in the bankruptcy procedure of the debtor or if an agreement has been reached with the debtor who is not a physical or related person in the bankruptcy or liquidation procedure.

(3) In the case of a bank or other authorized credit institutions, a deduction is allowed for increases in the reserve account for customary losses due to unpaid loans, and the amount may not exceed 20% of the tax base.

(4) In the case of an insurance or reinsurance company, a deduction is allowed for increases in reserves as registered in accounting documents and as authorized according to applicable law. For insurance contracts pertaining to reinsurance, reserves are to be reduced so that they cover only the part of the risk remaining with the insurer, and the amount may not exceed 20% of the tax base.

(5) The tax savings resulting from a reduction or cancellation of any reserve that are collected later on comprise the taxable revenues at the moment of collection in accordance with this Law.

### **Depreciation Article 11**

(1) Depreciation deductions are allowed only with respect to depreciable assets placed in service.

(2) For purposes of this Law a depreciable asset is any tangible or intangible asset that is held for use in the production or supply of goods and services, for rental to others, or for administrative purposes. Land or any other asset that does not decrease in value through wear and tear or obsolescence is not considered a depreciable asset.

(3) For depreciable machinery and equipment a deduction shall be allowed for accelerated depreciation calculated in the following manner:

- (a) First year: 40%
- (b) Second year: 30%
- (c) Third Year: 30%

(4) Depreciable assets having a purchase price less than 1,000KM may be deducted in full in the year of purchase, provided the assets are placed in service.

(5) Computer hardware and software purchase price may be deducted in full in the year of purchase provided the computer hardware and software are placed in service.

(6) If the costs of repair or maintenance to depreciable assets exceed 5% of the adjusted basis of the asset at the beginning of the tax period, the repair cost shall be added to the adjusted basis of the asset for depreciation purposes.

(7) The Rule Book prescribes the determination of depreciation deductions, as well as the guidance regarding the normal period of operation and entry values of depreciable assets and the treatment of depreciable assets that are temporarily or permanently removed from operation.

### **Gains and losses from sale of capital and investment assets Article 12**

(1) Capital gain is realized through sale or other type of transfer of capital or investment assets and represents a difference between the sales price and adjusted base of an asset. The sales price is the contracted price, i.e. the market price established by the competent tax authority in case it finds the contracted price to be lower than the market price.

(2) The capital loss occurs in case the difference from paragraph (1) of this Article is negative.

(3) Capital gains and losses occurring during the fiscal year can be offset, and net gain or loss is added or subtracted from the tax base, in case they are not included in the revenues, i.e. expenditures.

### **Fiscal Losses** **Article 13**

(1) Fiscal loss is the negative difference between revenues and expenditures in determining the tax base.

(2) Fiscal loss from preceding Paragraph is carried over and compensated for through reduction of tax base in the following five years.

(3) If a taxpayer has a fiscal loss in more than one fiscal year, the fiscal loss from an earlier fiscal year is to be used before the fiscal loss from a later fiscal year.

(4) In the case of foreign legal persons carrying out economic activity through a permanent establishment in Republic of Srpska, only the taxable revenue and deductible expenditures are taken into account that are attributable to such permanent establishment.

(5) In the case a Republic of Srpska legal person produces a fiscal loss pertaining to a branch office in the Federation of Bosnia and Herzegovina or Brcko District, such loss is not available against the Republic of Srpska legal person's domestic tax base, and the profit tax base of a Republic of Srpska branch office of a Federation of Bosnia and Herzegovina or Brcko District's legal person can not be reduced by the loss of such legal person from Federation of Bosnia and Herzegovina or Brcko District.

(6) In the case a Republic of Srpska legal person produces a loss pertaining to a permanent establishment in a foreign country, such loss can not be deducted from the Republic of Srpska tax base of that legal person.

### **Foreign currency exchange gains and losses** **Article 14**

(1) Foreign currency exchange gains and losses shall be separately included in the calculation of tax base in the event the legal person receives revenue or a loan or pays expenses or repays a loan in a foreign currency.

(2) The change in foreign currency exchange rate shall be calculated in accordance with this Law, as follows:

- a) in regard to the repayment of principal, the positive or negative exchange rate difference is recognized, to the debtor and the creditor, between the value in local currency of the loan principal at the time the loan is made and its value in local currency at the time the principal is repaid;
- b) in regard to rollovers or refinancing a foreign loan, the provisions from Item a) shall apply to the new loan;

(3) In the case where there exists a currency fluctuation between the time any item of revenue is derived or expense is incurred and the time the revenue is actually received or the expense actually paid, the difference between the currency value of local currency and the foreign currency is regarded positive or negative exchange rate difference.

## **Legal Entity Liquidation and Transformation**

### **Article 15**

(1) In the case of the liquidation of a taxpayer, the profit or loss shall be assessed in the period of liquidation which continues on the last tax period. The initial balance sheet for the period of liquidation shall be equal to the balance sheet at the end of the preceding tax period. In the absence of such final balance sheet, the value of assets and liabilities shall be estimated. The final balance sheet for the period of liquidation shall show the assets to be classified as liquidation profit or liquidation loss.

(2) At the end of the period of liquidation, the assets shall be valued at their market value.

(3) In case of a bankruptcy, the provisions from Paragraphs 1 and 2 of this Article shall be applied.

## **Merger, Acquisition and Division**

### **Article 16**

(1) A merger is a transaction whereby one or several legal persons cease to exist, without a liquidation procedure, by transferring their entire assets and liabilities to new a legal person in accordance with the relevant regulations.

(2) An acquisition is a transaction whereby one or several legal persons cease to exist, without a liquidation procedure, by transferring their entire assets and liabilities to another existing legal person, in accordance with the relevant regulations.

(3) A division is a transaction which includes a split-up and a split-off:

a) In the case of a split-up, a legal person ceases to exist without a liquidation procedure, by transferring its entire assets and liabilities to two or more newly established or existing legal persons in accordance with the relevant regulations.

b) In the case of a split-off, a legal person transfers one or several of its activities to one or several newly established or existing legal persons in accordance with the relevant regulations. A transfer of business activities shall be the transfer of the entire assets and liabilities to a part of a legal person which constitutes a separate organizational unit.

(4) The rights and duties of merged, acquired or divided taxpayers shall be taken over by legal successors.

(5) The taxpayers who merge, acquire or divide shall submit to the Tax Administration their financial reports and tax declarations bearing the date preceding the date of the merger, acquisition or division.

## **Acquisition and Valuation of Rights in Respect of a Merger, Acquisition and Division**



### **Article 17**

(1) Where there is continuity in taxation in the case of a merger, acquisition or division referred to in Article 16 of this Law, it shall be considered that the taxpayer involved continues its business activity and this shall have no influence on taxation.

(2) The continuity in taxation pursuant to Paragraph 1 of this Article shall exist, if there are no changes in the valuation of assets and liabilities during their transfer to the takeover company.

(3) Paragraphs 1 and 2 of this Article shall apply irrespective of the number of transferred legal persons, i.e. newly established legal persons.

### **Tax Base Adjustment**

#### **Article 18**

If, in the case of a change in the legal form or of liquidation, things and rights are withdrawn from the assets or if the assets are used in investments, the tax base shall be adjusted for the respective amount, in accordance with this Law.

### **Associations for joint economic activities**

#### **Article 19**

(1) The term “association for joint economic activities” means two or more, but less than 10, independent legal persons contractually join to perform a joint economic activity.

(2) The association is exempt from paying the profit tax. Each legal person that is a member of the association shall determine its tax obligation arising from the profit of the association in proportion to its contractual participation interest in the association, whether or not profit is distributed to such legal person. Fiscal losses may only be applied against a member’s proportionate share of association profit up to the member’s basis in the association. Excess loss may be carried forward for a period of 5 years against the member’s proportionate share of association profit.

(3) The gain from the sale of the association assets for purposes of inclusion into a legal person’s Annual Tax Declaration is limited to the amount that is larger than the legal person’s basis in the association. Basis means the legal person’s original investment into the association, increased by the legal person’s proportional share of undistributed profit and decreased by profit that is distributed and the legal person’s share of association losses. If losses exceed basis, the losses may be carried forward for a period of 5 years to offset gains attributable to the future sale of association assets. The association’s losses may not be used by the legal person to reduce its tax base, unless the loss is as a result of the member’s complete liquidation of membership in the association.

(4) The association shall appoint one of the member legal persons who is a resident of Republic of Srpska as the Tax Manager for the purpose of maintaining the books and records, payment of advance profit tax of association for each member and filing the annual tax declaration in the same manner as if the economic activity was conducted by a single legal person. The Tax Manager shall provide information regarding the proportional profit or loss of

each member legal person and the portion of advance tax attributable to each member legal person.

(5) The Tax Manager described in paragraph 4 is to provide notice in writing to each legal person that is a member of the association stating the portion of the tax base of the association profit or loss of such legal person and the amount of advance profit tax paid and attributed to such legal person.

#### ***V TAX RATE***

##### **Tax Rate Article 20**

(1) The profit tax shall be paid at the rate of 10% to the tax base for the respective fiscal year.

(2) The withholding tax shall be assessed according to the rate and method prescribed in the provisions of the Chapter VI of this Law.

##### **Tax year Article 21**

(1) Tax year for legal persons shall be the calendar year, unless the Ministry of Finance determines a different tax year to be used, which is not the calendar year.

(2) In case when a legal person becomes a taxpayer during a tax year or ceases to exist as a taxpayer during a tax year, the tax year shall be considered the period in the calendar year in which the respective legal person was the taxpayer.

(3) In case of a foreign legal person performing an economic activity through permanent establishment in Republic of Srpska, the foreign legal person's tax year can be used for assessment of profit attributable to the permanent establishment in Republic of Srpska, in accordance with the Ministry of Finance regulation.

##### **Tax Declaration Filing and Payment of Tax Article 22**

(1) Tax declaration for a tax year shall be filed no later than 90 days upon the end of the tax year, and in case of a calendar year, no later than March 31 of the current year for the previous year.

(2) Taxpayer shall pay the profit tax pursuant to the final tax declaration, within the deadline specified for in the Paragraph (1) of this Article.

##### **Advance Tax Article 23**

(1) Profit tax shall be paid in advance, on a monthly basis, until the 10<sup>th</sup> of the current month for the preceding month, pursuant to the information from annual tax declaration for the previous tax year.

(2) In case the taxpayer plans to realize more or less profit in the current year, he/she can file a request for determination of advanced tax in accordance with the Schedule.

(3) Legal person registering as a taxpayer for the first time shall file a tax declaration with estimated profit until the end of the tax year, within 30 days' period from the day of start of economic activity.

***VI TAXATION OF FOREIGN LEGAL PERSONS FOR INCOME EARNED IN  
REPUBLIC OF SRPSKA AND REDUCTION IN TAX FOR PAYMENT OF  
FOREIGN PROFIT TAX***

**Incomes from a permanent establishment  
Article 24**

(1) A foreign legal person carrying out economic activity through a permanent establishment in Republic of Srpska is to pay enterprise tax on the tax base that is attributable to the permanent establishment.

(2) The tax base described in paragraph (1) of this Article is to be determined in accordance with the provisions provided in Chapter IV of this Law, as follows:

- a) only revenue that is attributable to the permanent establishment is to be included in determining the tax base;
- b) only expenditures that are related to the realization of such permanent establishment revenue are to be included in deductible expenditures.

**Revenue from Immovable Property  
Article 25**

(1) A foreign legal person obtaining revenue from immovable property located in Republic of Srpska is to pay tax on the profit attributable to such revenue.

(2) Revenue from immovable properties located in Republic of Srpska includes the following:

- a) revenue from the rental of, or other grant of the right to use, immovable property located in Republic of Srpska;
- b) gain from the transfer of ownership rights or any other rights related to immovable property located in Republic of Srpska;
- c) gain from the transfer of stock in a legal person if the majority of the value of the tangible assets of the legal person (either directly or through one or more legal persons) is immovable property located in Republic of Srpska;
- d) revenue obtained from the exploitation of natural resources located in Republic of Srpska, including gain from the transfer of any right related to such natural resources.

(3) The tax base for immovable property located in Republic of Srpska is to be determined in accordance with the rules provided in Chapter IV of this Law and an Annual Tax declaration must be filed.

**Reduction in Profit Tax for payment of Foreign Profit Tax  
Article 26**

(1) If a Republic of Srpska legal person obtains revenue from a foreign state and the revenue is taxed both in Republic of Srpska and in the foreign state, then the tax paid to the foreign state, whether paid directly or withheld and remitted by another person, is to be credited from

the Republic of Srpska profit tax, unless such Republic of Srpska legal person elects to treat the foreign tax as a deductible expenditure in determining the fiscal year tax base.

(2) The reduction to the profit tax for the payment of foreign tax for a fiscal year is not to exceed the profit tax amount calculated by applying the rate of profit tax of such person for such fiscal year in Republic of Srpska. In case the payment of foreign profit tax exceeds the amount of tax on profit realized in Republic of Srpska, the excess foreign tax is to be carried over for up to 5 fiscal years and is to be subject to the same limitations for such fiscal years.

(3) Taxpayer may reduce the profit tax by foreign taxes or may deduct foreign taxes in determining the tax base, if the taxpayer presents adequate documentation certified by the fiscal authorities of the foreign state that the tax was paid to the foreign state.

## ***VII WITHHOLDING OF TAX FROM REVENUE EARNED IN REPUBLIC OF SRPSKA BY FOREIGN LEGAL PERSONS***

### **General Provisions**

#### **Article 27**

(1) Any legal or physical person from Republic of Srpska, as well as any foreign legal and physical person with permanent establishment in republic of Srpska that pays revenue as defined in Article 28 to a foreign legal person is to withhold tax from the total payment of revenue and is to remit the withheld tax to the Public Revenues Account of Republic of Srpska.

(2) The tax withheld in accordance with this Article with respect to any revenue of a foreign legal person is the final tax with respect to such revenue.

### **Revenues to which the withholding tax applies**

#### **Article 28**

(1) The withholding of tax applies to the following revenue payments, regardless whether the revenues are received in Republic of Srpska or abroad:

- a) payment of interest or its functional equivalent under financial instruments and arrangements from a resident;
- b) payment for entertainment or sporting activities carried out in Republic of Srpska regardless whether the revenue is received by the entertainer or sportsman or by another person;
- c) payment for the performance of management, consulting, financial, technical or administrative services, if the revenue is from a resident or if the revenue is paid by or included in the books and records of a permanent establishment in Republic of Srpska or if such payment is deducted for the purpose of determining tax base;
- d) payment in the form of insurance premiums for the insuring or reinsuring of risks in Republic of Srpska;
- e) payment for telecommunication services between Republic of Srpska and a foreign state;
- f) payment of royalties;
- g) payment of lease for movable property;
- h) payment for the performance of other services in Republic of Srpska.

(2) The withholding of tax does not apply to the following revenues:

- a) repatriated profit to a foreign legal person that is attributable to its permanent establishment, provided the foreign legal person owns 10% or more of the stock of the Republic of Srpska subsidiary. Repatriated profit means the legal person's remaining profit after payment of taxes;

- b) revenues in the form of interest from debt instruments issued and/or guaranteed by persons from Article 7, Paragraph 1, Item (C);
  - c) revenue in the form of interest from deposits;
  - d) revenue in the form of dividends;
  - e) revenue in the form of interest or its functional equivalent paid on a debt obligation between a permanent establishment or subsidiary to its foreign parent, if no corresponding deduction was taken by the payor of the interest in computing its tax base;
  - f) revenue in form of royalties paid by a permanent establishment or subsidiary to its foreign parent, if no corresponding deduction was taken by the payor in computing its tax base;
- (3) For purposes of this Chapter, a royalty is any amount required to be paid in money or in kind for the use of, or the right to use, any of the following:

- a) any copyright of a literary, artistic or scientific work, including films or tapes for radio or television broadcasts or other transmissions to the public, and audio or video recordings;
- b) any patent, invention, innovation, license, trademark, trade name, franchise, design, drawing, model, plan, sketch, secret formula or production process, or software;
- c) any direct or indirect cable transmission, relay transmission, or satellite transmission;
- d) any information or knowledge concerning industrial, commercial or scientific experience;
- e) the name or image of any physical person or other similar rights with respect to a physical person;
- f) the right to record or broadcast a performance, show, sporting event or other similar activity.

(4) For purposes of this Chapter, a resident is any Republic of Srpska legal person and any resident physical person.

#### **Tax to be withheld Article 29**

(1) The tax to be withheld from revenue payments to a foreign legal person is **10%** of the total revenue paid.

(2) For purposes of paragraph (1), the total revenue is the revenue that would have been paid to the foreign legal person if tax had not been withheld from the payment of the revenue.

#### **Coordination with international treaties regarding taxes on revenue and capital Article 30**

(1) If the beneficiary of revenue to which the withholding of tax applies is a resident of a foreign state that has entered into a treaty with BiH regarding the tax on revenue, then for purposes of Article 29 of this Law the tax rate applicable to each such source of revenue is not to exceed the tax rate specified in the treaty.

(2) An exemption from tax or a lower rate of tax is to apply to revenue to which the withholding of tax applies only if the legal person beneficiary of the revenue provides to the payer of the revenue a proof on obtaining the right for exemption or application of a lower rate pursuant to the international treaty.

#### **Payment of Withheld Tax Article 31**

The tax that is to be withheld in accordance with the provisions of this Chapter is to be remitted to the Public Revenues Account at the moment of payment of revenues subjected to withholding tax.

**Annual Withholding Tax Declaration**  
**Article 32**

(1) Any person that is required to pay the tax in accordance with the provisions of this Chapter is to submit an annual tax declaration to the Tax Administration within the deadline prescribed in the Article 22 of this Law.

(2) The annual withholding tax declaration is to include the following information for each foreign person on whose behalf tax is required to be withheld for such year:

- a) the name of the legal person and the country of its establishment;
- b) the type and the total amount of revenue;
- c) the amount of calculated tax; and
- d) the amount of tax withheld.

***VIII TAXATION OF LEGAL PERSON WITH THE STATUS OF MICRO-ENTERPRISE***

**General Provision**  
**Article 33**

(1) A legal person with the status of micro-enterprise as defined in Article 34 of this Law may elect to pay a micro-enterprise profit tax in accordance with the provisions of this Law.

**Definition of micro-enterprise**  
**Article 34**

(1) For purposes of this Law, a micro-enterprise is a Republic of Srpska legal person that satisfies each of the following requirements throughout the fiscal year:

- a) the legal person carries out an economic activity other than banking or financial services, or insurance and reinsurance activities;
- b) the number of employees of the legal person does not exceed nine;
- c) the total annual revenue received by the legal person from any source does not exceed 100,000 KM;
- d) the legal person did not receive more than 50% of its total revenue from a single client/customer or a person related to such client/customer;
- e) all of the stock in such legal person is owned by not more than two physical persons.

**Micro-Enterprise Tax**  
**Article 35**

The annual micro-enterprise tax is calculated at the rate of **2%** of the micro-enterprise's total annual revenue.

**Monthly Payment of Tax**  
**Article 36**

(1) The micro-enterprise shall pay the tax at the rate of **2%** to its total monthly revenue within 10 days following the end of the month.

**Maintenance of accounting records and use of electronic cash register**

### **Article 37**

(1) A micro-enterprise is to maintain accounting records pursuant to the cash method of accounting, meaning revenue is recognized when it is actually received by, or made available to, or applied to the benefit of the micro-enterprise and expenses are incurred when they are paid.

(2) A micro-enterprise that provides goods or services via retail is required to keep record of sales and total revenues through the use of cash register.

### **Electing Micro-Enterprise Status**

#### **Article 38**

(1) A taxpayer electing to be taxed as a micro-enterprise must submit its application to the Tax Administration with documentary proof of its qualification pursuant to Article 34 of this Law prior to January 31 of the year to which the micro-enterprise status is to apply.

(2) In the case a legal person is established for the first time during a calendar year and elects to be taxed as a micro-enterprise for such year, the legal person is required within a period of 30 days from establishing its entity to submit an application to the Tax Administration. In such application the legal person must submit all details on its qualification for the conditions from the Article 34 of this Law.

### **Annual Tax Declaration**

#### **Article 39**

(1) A micro-enterprise shall file the annual tax declaration prior to January 31 of the current year for the preceding year, using the prescribed form.

### **Revocation of Micro-Enterprise Status**

#### **Article 40**

(1) If a micro-enterprise fails to satisfy the requirements of Article 34 during any part of a calendar year, or renounces its election to be taxed as a micro-enterprise, it shall inform the Tax Administration thereof and then the status of the micro-enterprise is revoked.

(2) In the year of revocation, the micro-enterprise shall file an annual tax declaration and pay the profit income tax pursuant to Article 3 of this Law, crediting from any profit tax due the amount of micro-enterprise tax paid during the year of revocation.

(3) If the micro-enterprise status is revoked pursuant to paragraph (1) of this Article, then neither the legal person nor stockholders owning more than 10% of the stock in the revoked micro-enterprise may reapply for micro-enterprise status or establish a new micro-enterprise for the period of three years from the year of revocation.

## ***IX MISCELLANEOUS PROVISIONS***

### **Consolidated Annual Tax Declaration**

#### **Article 41**

(1) An affiliated group of legal persons all located within the Republic of Srpska may elect to file a Consolidated Annual Tax Declaration in accordance with the Rule Book.

(2) For purposes of this Article an affiliated group of legal persons is a group of one or more Republic of Srpska legal persons that are connected through the ownership of stock with a common parent provided that:

(i) the common parent owns at least 80% of the stock in a legal person that is included in the affiliated group; and

(ii) if the common parent does not own at least 80% of the stock in a legal person that is included in the affiliated group, then the parent may file a consolidated tax declaration if one or more other legal persons that are included in the affiliated group own at least 80% of the stock in such legal person.

(3) If a foreign legal person has two or more permanent establishments performing economic activity within Republic of Srpska, the foreign legal person may aggregate the economic activity of each permanent establishment for the purpose of determining tax base and filing a consolidated Annual Tax Declaration.

### **Currency for payment and for calculation of tax** **Article 42**

(1) The profit tax governed by this law is to be paid using the national currency.

(2) Amounts shown on any tax declaration are to be expressed in the national currency.

(3) Amounts expressed in a foreign currency are to be converted into the national currency as follows:

- a) in the case of a legal person that carries out an economic activity in a foreign state that maintains its accounting records for such activity in the currency of such foreign state, the profit and the tax paid to the foreign state are to be converted to the national currency using the mean exchange rate in effect for the final day of the tax period to which the profit relates;
- b) in any other case, amounts are to be converted to the national currency on a transaction by transaction basis using the mean exchange rate in effect on the date when amounts are received or paid.

### **Prevention of tax avoidance** **Article 43**

The Tax Administration should be cooperating with tax authorities in Bosnia and Herzegovina with the aim of prevention of tax avoidance.

### **Books and Records** **Article 44**

(1) Taxpayers shall keep the books and records to be used in determination of profit tax base. The Rule Book shall prescribe the types and methods of keeping the books and records.

(2) The business books and records shall be maintained by the accrual method of accounting, except in the case of micro-enterprises from Article 34 of this Law, which are keeping the books and records according to the cash method of accounting.

(3) Exceptions to the Accrual Method of Accounting:

a) In the case of a payment of a withholding tax pursuant to Chapter VI the cash method of accounting shall be applied;

b) The Rule Book shall specify the accounting treatment in the case of a loan between persons using different accounting methods, treatment of equivalent forms of interest under



financial instruments and arrangements, instalment sales, long-term contracts, accruing liabilities and such other transactions.

**Adequate Application of Law**  
**Article 45**

Audit, determination and collection of profit tax shall be performed in the manner and according to the procedure prescribed by the Law on Tax Administration.

***X PENALTY PROVISIONS***

**Article 46**

The breach of provisions of this Law that are characterized as offences, as well as the responsibilities and sanctions for offences, shall be regulated by the Law on Tax Administration.

***XI TRANSITIONAL AND FINAL PROVISIONS***

**Article 47**

Minister of Finance is obliged to issue the Rule Book for implementation of the Law on Profit Tax within 90 days from the day of this Law coming into effect.

**Article 48**

(1) The Minister of Finance with the Republic of Srpska Government is hereby authorized, exclusive from the provisions of Articles 22 and 23 of this Law, to enter into agreement with the Minister of Finance of Federation of Bosnia and Herzegovina and Director of the tax authority of Brcko District of Bosnia and Herzegovina approving the filing of a single tax declaration, for tax obligations implied under this Law, to the competent tax authority in accordance with the principal place of business of a taxpayer, in the case the taxpayer is performing an economic activity through subsidiaries located in another Entity and/or in Brcko District.

(2) In case the single tax declaration filing from the preceding Paragraph is approved, the taxpayer shall pay the profit tax to each of the competent tax administrations in the Entities or Brcko District, in accordance with the share in gross revenues the taxpayer obtains through subsidiaries located in another Entity or Brcko District.

**Article 49**

(1) For a taxpayer making an investment into machinery and equipment, at the territory of Republic of Srpska, and which is attributable to performance of own registered production activity, the tax base shall be reduced for the amount of the respective investment.

(2) Tax base reduction for the amount of investment as specified in Paragraph 1 of this Article shall be valid until March 31, 2008.

**Article 50**

(1) The Law on Profit Tax ("Official gazette of Republic of Srpska" no. 51/01), shall cease to be effective as of this day of this Law coming into effect.

(2) The procedure of determination and collection of profit tax for the year 2006 shall be finalized in accordance with the provisions of the Law from Paragraph (1) of this Article.

#### **Article 51**

This Law shall come into effect as of the eighth day of its publishing in the "Official Gazette of Republic of Srpska", and shall be applied as of January 01, 2007.

No: 01- /06  
Banja Luka, August 31, 2006

Chairman of the  
National Assembly  
Igor Radojicic *mba*