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## **FBIH LAW ON CORPORATE INCOME TAX**

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## **I BASIC PROVISIONS**

### **1. General Provisions**

#### **Article 1**

Profit tax throughout the territory of the Federation of Bosnia and Herzegovina (hereinafter: the Federation) shall be determined and paid in accordance with the provisions of this Law and regulations issued on the basis of this Law.

Distribution and allocation of the revenues from the profit tax shall be defined by separate law.

## **II TAXPAYER**

#### **Article 2**

A taxpayer shall be an enterprise and other legal entities performing an independent permanent economic activity through the sales of goods and provision of services on the market in order to make profit (hereinafter: taxpayer).

A taxpayer from the Paragraph 1. of this Article shall be a resident of the Federation, making profit on the territory of the Federation and abroad.

A taxpayer shall be a non-resident making profit on the territory of the Federation.

### **1. Persons not subject to profit tax payment**

#### **Article 3**

The taxpayers who shall not be subject to profit tax payment are the following:

- 1) Central Bank of Bosnia and Herzegovina
- 2) Bodies of Federation, cantonal and local government,
- 3) Federation, cantonal and local institutions, bureaus, religious communities, political parties, union, chambers, associations, artistic associations, firefighters' associations, tourist associations, sports clubs and associations, foundations, trust funds, humanitarian organizations etc, on the basis of: income from the budget or public funds, sponsorships or donations in money or goods, interest, dividends, membership fees, income from sales or transfer of goods except goods being used or that were used for business activity performance.

When the entities from the Paragraph 1, Item 3) of this article perform the activity non-related to their registered activity, they shall be subject to tax payment for the profit generated through performance of that activity.

## **2. Resident and non-resident**

### **Article 4.**

1. A Resident in the sense of Art. 2, Paragraph 2. of this Law shall be a legal entity with principal place of business (HQ) (Registration) entered into the registry of enterprises in the Federation or with actual management and supervision over the business activities in the Federation.
2. A Non-resident from the Art.2. Paragraph 3 shall be a legal entity established and with HQ or actual management and supervision over the business activities outside of the Federation and business activities in the Federation are carried out through the branch office or temporary establishment.

## **3. Business unit of non-resident**

### **Article 5.**

1. Business unit of a non-resident from the article 4. Paragraph.2 shall be permanent place of business where non-resident carries out, completely or partially, permanent activity in the territory of the Federation.
2. The business unit of a non-resident shall be considered to be:
  - Headquarters of the management
  - field office
  - branch office
  - factory
  - workshop
  - place of exploitation of natural resources
  - construction site (buildings or prefabricated buildings) when the work duration exceeds 6 months
  - providing consulting and business services when duration exceeds continuous 3 months over the 12-month period
  - agent acting independently on behalf of non-resident, related to the activities of entering into contracts in the name and on behalf of non-residents, keeping stocks of goods delivered on behalf of non-resident.

### **Article .6**

Business unit of a non-resident shall not be considered:

- premises used by a non-resident solely as a storage or for delivery of goods, location where the stocks of goods are kept solely for storage, exhibition or delivery or processing carried out by a third party
- place of business used solely for purchase of goods, preparation or performing auxiliary activities or gathering information.

## **III TAX BASE**

### **1. General provisions**

## **Article 7**

Tax base shall be taxable profit of the taxpayer determined in tax balance.

Taxable profit shall be determined by adjusting taxpayer profit declared in the profit and loss sheet in the manner prescribed by this Law.

Taxable base shall include profit from liquidation

Taxable base shall include capital gains (accumulated profit) determined in balance sheet.

## **2. Expenditures adjustment**

### **Article 8**

Determining taxable profit shall recognize only expenditures in the amounts defined by the profit and loss sheet in accordance with the accounting regulations and International Accounting Standards (hereinafter: IAS), except the expenditures this Law prescribes different manner of determining for.

### **Article 9**

Material expenses shall be recognized in the amounts shown in profit and loss sheet, in accordance with accounting regulations and IAS, by applying the method of average price.

Calculation of purchasing value of merchandize sold shall be performed in the manner described in the Paragraph 1 of this article.

When the material supplies and merchandize are recorded per calculation prices deviating from the purchase prices, the calculation of the deviation (difference) shall be done in the manner bringing costs of materials, i.e. purchase values of goods sold on the amounts resulting from the application of average price method.

### **Article 10**

Costs of earnings, i.e. personal income of employees (compensations and other material receiving) not holding characteristics of salary, shall be recognized in the amount calculated as business expenditures up the amount prescribed by special regulations (per diem, use of private vehicle for business purposes, meals during working hours and transport to work....).

Income of employees or other persons, arising from distributions on the basis of the right to participate in taxpayers' profit shall not be expenditures in the sense of tax balance.

### **Article 11**

Representation costs, pertaining to business activity, shall be recognized as expenditures in amount of 30% of representation costs.

Donations for humanitarian, cultural, educational, scientific and sports purposes (except professional sports) shall be recognized as expenditure in amount of up to 3 % of total income in tax period.

Expenses of the membership fees to the chambers shall be recognized as expenditure in the amount not exceeding 0.1% of total income in tax period if these membership fees are

prescribed by the Law.

Expenses based on sponsorship shall be recognized in amount of 2% of total income in tax period.

### **Article 12**

Only reservations prescribed in this article shall be recognized as expenditures in tax balance.

In accordance with the Paragraph 1 of this Article, as tax allowable expenditure shall be recognized expenditures of reservation for risks and expenditures in accordance with the laws and other regulations and reservations based on the contract for the following:

- Reservations for severance pay paid up to the prescribed amount,
- Reservations for expenditures of natural resources renewal,
- Reservations for expenditures in guarantee timeframes,
- Reservations for initiated court procedures.

In the case when reservations from the Paragraph 2 of this Article are not used within due dates, the reservations shall be treated as income.

### **Article 13**

All costs pertaining to research and development shall be recognized as expenditures in tax balance.

The expenses pertaining to providing scholarships to full time students shall be recognized as expenditures in tax balance.

### **Article 14**

The expenses occurring based on the write-off of disputable and suspectable bills receivable shall be recognized in tax balance as expenditures.

Receivables are considered as disputable if they are not collected within 12 months from the due date, if taxpayer initiated law suit or filed request to relevant court, enforced collection was initiated, if these receivables are part of bankruptcy procedure of debt and if agreement was reached with debtor in procedure of bankruptcy or liquidation.

### **Article 15**

The contributions paid by the employer, fees and other public duties that do not depend on business results shall be recognized as expenditures in tax balance.

### **Article 16**

Reserves for general credit losses in banks that are formed in accordance with special regulations shall be recognized as expenditures in tax balance.

Reserves that insurance and reinsurance companies must form in accordance with special regulations shall be recognized as expenditures in tax balance.

The reserves from the Paragraph 1 of this Article shall not exceed 20% of profit declared in profit and loss account.

## **Article 17**

Total calculated interest shall be recognized as expenditure in tax balance except:

- 1) Interest calculated at loans marked with transfer price that shall be reduced in the manner prescribed in the Article 48 of this Law,
- 2) Interest calculated due to untimely payment of taxes, contributions and other public duties.

Financial fines and penalties paid by the taxpayer for the violations shall not be recognized in tax balance as expenditures.

Profit tax on profit of companys paid as well as donations to political parties shall not be recognized as expenditure in tax balance.

### **3. Depreciation**

## **Article 18**

Deduction based on depreciation shall be allowed only related to the property subject to depreciation.

Depreciation of fixed assets shall be recognized as expenditure in tax balance up the amount established by proportionate method of application of the highest annual depreciation rates, prescribed by the regulatory act (by-law).

The property being depreciated and of purchase value under 1,000 KM can be fully deducted in the purchase year, conditioned that the property was put in function. Purchase value of computer hardware and software can be deducted fully in the year of purchase.

Depreciated assets once depreciated shall not be re-included in depreciation calculation for the purposes of tax balance.

Expenditures of depreciation shall be considered to be the increases in the value of fixed assets due to the revalorization.

### **4. Accelerated Depreciation**

## **Article 19**

The taxpayer holds the right to accelerated depreciation of fixed assets under the conditions defined by this Law.

Accelerated depreciation shall be conducted in the manner described in the Article 18, Paragraph 2, per rates that may exceed the prescribed rates by up to 50%..

Right to accelerated depreciation the taxpayer shall hold for fixed assets used for the following:

- 1) Prevention of air, water and land pollution and noise reduction
- 2) Education and training of staff

### **5. Income Adjustment**

## **Article 20**

Income for assessment of taxable profit shall be income from the sales of products, services, goods, materials and financial, extraordinary and other income calculated in the profit and loss balance in accordance with accounting regulations and IAS.

## **Article 21**

Dividends realized based on participation in the capital of other taxpayer shall not be included in the tax base.

Dividends shall, in the sense of this Law, be considered shares in the profit of enterprise.

## **Article 22**

Income on the basis of collected written off debts in the case when these were included in the income in previous period and were not subject to tax allowable or recognized expenditure shall not be included in the tax base.

## **Article 23**

In the value of stocks of unfinished production, semi-products and finished products for the calculation of taxable profit the expenses of production shall be recognized in accordance with accounting regulations and IAS.

Value of supplies calculated in accordance with the Paragraph 1 of this Article shall not exceed sales value on the day of balance filing.

## **6. Tax Treatment of Losses**

### **Article 24**

When, upon tax base reduction for the profit tax, the losses show in tax balance, then the loss declared in tax balance can be transferred against the profit in future tax period, but not exceeding five years.

The loss from the Paragraph 1 of this Article that could not be deducted in the current year shall be compensated in the first consecutive year so that the tax base shall always be reduced for the loss of prior date.

Tax loss of legal entity occurring outside of the territory of the Federation, in the Republic of Srpska or Brcko District as well as abroad shall not be recognized.

## **IV TAX TREATMENT OF CHANGE IN FORM OF COMPANY AND LIQUIDATION OF TAXPAYER**

### 1. Change of form of company

#### **Article 25**

- (1) If taxpayer changes legal form (merger, acquisition, division) and keeps recording bookkeeping value of property and liabilities, change of legal form shall not have impact on taxation.
- (2) If bookkeeping values are not used in the case from Paragraph 1, difference of capital that derives from change of legal form shall be considered as taxable profit.
- (3) Rights and duties of taxpayers who went through merger, acquisition or division shall be taken over by legal successor from tax legal relationship.
- (4) Taxpayers who are subject of merger, acquisition or division shall send financial reports and tax declaration with tax balance to the Tax Administration calculating from the day before merger, acquisition or division.

#### **Article 26**

If there is continuity in taxation in case of merger, acquisition or division, taxpayer, it shall be considered that taxpayer continues activity and it shall not have impact on taxation.

Continuity in taxation from Paragraph 1 of this Article exists if there is no change in estimate of property and liabilities in transfer to legal successor.

Provisions of Paragraphs 1 and 2 shall be applied regardless if it is one or more companies that did transfer i.e. newly created companies.

#### **Article 27**

Profit determined in process of taxpayer liquidation shall be subject to taxation.

Profit of taxpayer in the course of liquidation process shall be determined by comparison of net assets in the beginning and in the end of liquidation process.

Taxpayer that is subject of liquidation process shall be obliged to close business books and prepare liquidation opening balance i.e. annual calculation on the day when liquidation process starts.

### 2. Liquidation

#### **Article 28**

Liquidation surplus (remaining net assets) that belongs to owner after taxation and payment of bookkeeping value of net assets shall be considered as dividend in terms of this Law.

#### **Article 29**

When the accounting value of the share exceeds the amount of liquidation surplus, the owner from the Article 26 of this Law shall declare loss that shall not be recognized as tax allowed reduction of the tax base.



## **V TAX RATE**

### **Article 30**

Profit tax shall be paid per rate of 10% onto the assessed tax base from the Tax Balance.

## **VI TAX INCENTIVES**

### **1. Tax Holidays**

#### **Article 31**

A taxpayer who shall realize the exports exceeding 30% of total income (turnover), within the tax year profit is determined for shall be exempt from profit tax for that year.

#### **Article 32**

A taxpayer investing in production not less than 20 million KM over the period of 5 consecutive years in the Federation shall be exempt from profit tax during the period of 5 years, starting with the first year when taxpayer has to invest at least four million KM.

Shall the taxpayer from the Paragraph 1. of this Article, over the period of 5 years fail to reach prescribed investment amount, s/he shall lose the right to tax exemption, and unpaid profit tax shall be determined according to the provisions of this Law, and increased for the penal interest that shall be paid onto the untimely paid public revenues.

#### **Article 33**

A taxpayer employing more than 50% of disabled persons and persons with special needs for more than one year shall be exempt from profit tax for a year in which more than 50% of disabled persons and persons with special needs were employed.

#### **Article 34**

A taxpayer – business unit of a non-resident, established within or with the HQ or management and supervision of business activities outside of the Federation, but within Bosnia and Herzegovina, shall be exempt from profit tax payment for profits realized in the Federation.

## **VII ELIMINATION OF DUBLE TAXATION OF PROFIT REALIZED OUTSIDE THE FEDERATION, BUT WITHIN BOSNIA AND HERZEGOVINA**

### **Article 35**

Taxpayer – resident shall be able to reduce calculated and paid profit tax that his non resident business unit paid on profit included in profit of taxpayer outside the Federation, but within Bosnia and Herzegovina

### **Article 36**

The taxpayer from the Article 35 shall be obliged to provide the evidence on amount of profit and profit tax paid by the non-resident business unit to the authorized unit of the Tax

Administration of the Federation (hereinafter: the Tax Administration).

## **VIII: TAX CREDIT FOR TAX PAID OUTSIDE BOSNIA AND HERZEGOVINA**

### **Article 37**

When a resident shall generate an income or profit through the business activities performed abroad (directly or through its business unit) and when the profit tax is paid onto these, the tax paid to the other jurisdiction shall be credited against the Federation profit tax, up to amount of profit tax that would have been paid in the Federation for such profit.

For recognition of tax paid abroad from Paragraph 1 of this Article, taxpayer is obliged to provide Tax Administration with evidence on payment of tax abroad.

### **Article 38**

Ratified treaties (agreements, conventions) on avoidance of double taxation, signed by Bosnia and Herzegovina shall be implemented and prevail over this Law when taxing non-residents.

### **Article 39**

Profit tax calculated to the mother company – resident of the Federation can be reduced for the amount corresponding to the amount paid by its non-resident branch outside Bosnia and Herzegovina, on the profit included into the overall income of mother company.

Mother company, in the sense of this Law, shall be a legal entity owning shares or stocks in other legal entities, under the conditions stipulated in this Law.

A Branch in the sense of this Law shall be a legal entity participating in the equity of Mother company, under the conditions stipulated in this Law.

### **Article 40**

Mother company, owning 25% or more shares of a non-resident branch for at least one year prior to income statement filing, shall qualify for a tax credit from the Article 39.

## **IX WITHHOLDING TAX**

### **Article 41**

In terms of this Law, withholding tax represents a tax that is calculated on income that non resident generates in the Federation.

Withholding tax shall be calculated and paid by the payer at income payment. The payer shall be obliged to file the report to the Tax Administration within 10 days upon the day of the payment on calculated and paid withholding tax.

The base withholding tax is calculated on is gross amount paid by the resident of the Federation to non-resident based on

- interest, royalties and other intellectual property rights,
- compensations for market research, tax advice, auditors' services, - fun and sports events ,
- insurance premiums for insurance or reinsurance in the Federation, -----
- d-- telecommunications services between the Federation and abroad as well as all other services made in the Federation.

Withholding tax shall be paid per rate of 10%, and on dividends per rate of 5%..

- 5) Withholding tax shall not be paid to the interest paid for:
- 1) sales of equipment on credit that a taxpayer purchases for doing business
  - 2) sales of goods through installments to the taxpayer
  - 3) the owners of the bonds, state and corporate, non-resident legal entities onto the deposits.
  - 4) on deposits

## **X GROUP TAXATION**

### **1. Tax consolidation**

#### **Article 42**

Mother company and its branches shall form the group of companies in the sense of this Law when there is a direct or indirect control between them in not less than 90% share.

Group of companies shall hold the right to request tax consolidation if all companies in the group are residents of the Federation.

Request for tax consolidation shall be filed to the authorized branch office of the Tax Administration by mother company.

#### **Article 43**

Each group member shall be obliged to file its tax balance and mother company shall file consolidated tax balance for the group of companies.

Consolidated tax balance shall offset losses of one or more companies against the profit of other companies in the group.

Individual group members shall be liable for the tax calculated per consolidated balance proportionately to the profit from the individual tax balance and the payer of calculated tax per consolidated balance shall be mother company.

#### **Article 44**

Once approved tax consolidation shall be applied for the consecutive period of not less than five years.

When one or several or all companies in the group later decide for individual taxation, all group members shall be obliged to pay the difference proportionately on behalf of the tax privilege that they used.

## **2. Transfer prices**

#### **Article 45**

Transfer price shall be considered the price occurring related to the transactions of assets or generating liabilities between related persons.

Related person to the taxpayer shall be considered that physical person or legal entity whose relationship with the taxpayer creates possibility of control or significant influencing of business decisions.

Ownership of more than half or individually the largest portion of shares or stocks shall be considered to be enabled control.

Significant influence shall be considered mutual large volume of sales and purchases, technological dependence or in other manner obtained managing control.

Related person to the taxpayer shall be considered that legal entity in which, as well as in the taxpayer, the same physical person or legal entity directly or indirectly participate in management, control or capital in the manner stipulated under the Paragraphs 3 and 4 of this Article.

#### **Article 46**

The taxpayer shall be obliged to show the transactions from the Article 45, Paragraph 1 of this Law separately in its tax balance.

The taxpayer shall be obliged, jointly with the transactions from the Article 45, Paragraph 1 of this Law, to show separately in its tax balance the values of the same transactions per prices that would be generated in the market of such or similar transactions had it not been the case of related persons ('out of reach' principle).

#### **Article 47**

The difference between the price determined by applying the principle 'out of reach' and

transfer price shall be included in tax base and it shall be taxed.

When determining the transaction price per principle 'out of reach' comparative market prices shall be used, and when not possible, method of costing enlarged for the usual profits.

#### **Article 48**

In the case of loan taken by the taxpayer from creditor or with the status of related person from the Article 45, Paragraph 2 of this Law, the interest and belonging expenses recognized as expenditures in tax balance shall not exceed those under which it is possible to take such loan in the market in the calculation period.

The difference between market interest and interest per loan between related persons shall have status of dividend in the sense of this Law.

### **XI ASSESSMENT AND COLLECTION OF PROFIT TAX**

#### **1. Tax Assessment**

##### 1) Tax Assessment Period

#### **Article 49**

Profit tax shall be assessed upon the end of calendar year or other period of tax assessment for profit tax according to tax base determined in that period.

#### **Article 50**

Tax assessment of profit tax of company shall be performed by entering into the Tax Administration records amount of liability the taxpayer assessed and in its tax return (declaration) declared.

Entry into the Tax Administration records of the tax liability obtained through the taxpayer audit i.e. through processing of its tax return (declaration) and adjustment of the data from the tax balance shall be considered to be assessment as well.

The tax assessment shall be considered to be the entry into the records of the Tax Administration of the amount of tax liability determined based on the data from tax return (declaration) the Tax Administration filed on behalf of the taxpayer.

Tax assessment shall be voided or amended when the head of authorized tax office or Commission for Tax Appeals determine that the assessment can be amended or void or when the auditors and other authorized Tax Administration officials order payment of additionally assessed tax liability through the decision and based on the records on performed audit.

#### **2. Tax Return (Declaration)**

#### **Article 51**

A taxpayer shall be obliged to file correctly and accurately filled out tax return

(declaration) with the tax balance, to the authorized branch office of the Tax Administration no later than within the period of 30 days upon the end of the timeframe prescribed for filing of annual calculation of business results.

With the tax return (declaration) and tax balance, the taxpayer shall file an Income Statement and other documents prescribed by this Law.

The tax declaration with tax balance shall include data on taxpayer's income generated by its permanent branch office in the Republic of Srpska i.e. Brcko District, as well as the income generated outside of Bosnia and Herzegovina.

The profit tax, which is the result of total business activities of company shall be calculated and paid in accordance with provisions of this Law.

Upon taxpayers' request or performed supervision or based on other data on business activities of the taxpayer available to the Tax Administration, the Tax Administration may assess new amount of monthly advanced payment of profit tax or other period for advanced payment through the decision.

The taxpayer initiating business activities for the first time shall not be obliged to file the declaration for advanced payment of profit tax for the first year of business activity.

The Minister of Finance of FBiH shall prescribe the form of tax return (declaration).

### **3. Tax Collection**

#### **Article 52**

Control, assessment and tax collection of profit tax shall be done in the manner and per procedure prescribed by the Law on Tax Administration of the Federation of Bosnia and Herzegovina 'Official Gazette of the Federation of BiH' # 33/02, 28/04)

#### **Article 53**

The taxpayer shall pay profit tax for the profit of company throughout the year in monthly installments declared in tax return (declaration).

Until filing annual tax return (declaration) from the Paragraph 1 of this Article, the taxpayer shall be obliged to pay monthly advanced payments of the profit tax in the amount corresponding to monthly advanced payment from the previous period.

Monthly advanced payment may be changed due to significant changes in , changes of tax instruments or other circumstances having significant effects onto tax liabilities in the manner from Article 51, Paragraph 5.

Taxpayer who uses tax holidays from Articles 31, 32 and 33 and in case of carried over losses stated in tax balance shall not be obliged to pay monthly advanced payments of profit tax.

Monthly advanced payment shall be paid until end of current month for previous month.

#### **Article 54**

When the tax assessed and declared in annual tax declaration by the taxpayer exceeds the amount of paid monthly advanced payments of the profit tax, the taxpayer shall be obliged to pay the owing difference of taxes not later than by the end of legally defined due date for tax declaration filing.

When the amount of paid monthly advanced payments exceeds the amount of tax liability, excess taxes paid may be refunded or calculated as advanced payment of profit tax for the following period upon the request of the taxpayer, provided there are no outstanding tax liabilities based on other taxes.

#### **Article 55**

To the amount of profit tax not paid within legally defined period, the interest shall be paid as defined by the Law on Amount of the Rate of Penal Interest onto Public Revenues ('Official Gazette of the Federation of BiH', # 48/01, 52/01 and 42/06).

## **Article 56**

The taxpayer holds the right to refund of overpaid or wrongly paid profit tax, interest and enforced collection costs in accordance with the provisions of the Law on Tax Administration.

## **4. Statute of Limitation**

### **Article 57**

Right to assess and collect the tax, interest and costs of enforced collection and financial fines, sentenced in accordance with this law, shall be subject to five year limitation period upon the end of the year when the assessment i.e. tax collection, interest, enforced collection costs and financial fines were due.

Exception to the Paragraph 1 of this Article, the right to assess and collect the tax, interest and costs of enforced collection and financial fines shall not be subject to limitation when finding that the tax liability is assessed based on false tax return (declaration).

## **XII BUSINESS RECORDS**

### **Article 58**

For the assessment of tax base valid shall be business records kept in accordance with accounting regulations and IAS and ISFI, which are prepared based on those regulations and regulations based on this Law.

The taxpayer determines business results and declares those in the accounting based on the accounting principle of actual occurring of the event, i.e. business events are declared in accounting when occurring and are declared in financial reports for the period they pertain to.

## **XIII AUTHORIZATIONS**

### **Article 59**

Federal Minister of Finance shall be authorized to prescribe Rulebook for the implementation of this Law within 90-day period as follows: Methodology of determination of a profit tax base in Tax Balance; Depreciation Rates; Manner of accelerated depreciation and Manner and due-dates for filing tax returns and Tax Balance; forms for filing and calculation of withholding tax, Procedures for acquiring the rights on tax holidays etc.

## **XIV PENAL PROVISIONS**

### **Article 60**



Violations of the provisions of this Law, characterized as violations, shall have the responsibilities and sanctions for violation prescribed as in the Law on Tax Administration.

## **XV INTERIM AND FINAL PROVISIONS**

### **Article 61**

On the day of this Law becoming effective, the Law on Profit Tax of Companies ('Official Gazette of the Federation of BiH' # 32a/97 and 29/00) shall cease to exist, except the provisions pertaining to deductions to tax liability from the Art. 27, 28 and 29 that shall be applicable until the end of the period they were given for.

### **Article 62**

This Law shall be effected next day from the day of gazetting.

