



**LAW**

**No. 8438, dated 28.12.1998**

**“ ON INCOME TAX”**

Pursuant to articles 81, 83, item 1 and article 155 of the Constitution of the Republic of Albania, upon the proposal of the Council of Ministers,

**PARLIAMENT**

**OF THE REPUBLIC OF ALBANIA**

**DECIDED:**

**CHAPTER I  
GENERAL PROVISIONS**

**Article 1**

**1. Scope of the law**

This law arranges relationships regarding personal income tax, profit tax and tax withholding on income at source.

**Article 2**

**Definitions**

- 1) For the purpose of this Law:
  - a) The term “taxpayer” shall mean any person subject to tax liability, under the provisions of this law;
  - b) The term “person” shall imply:
    - i) an individual(non-commercial physical person under Civil Code);
    - ii) a “physical person”(commercial physical person);
    - iii) a “juridical person”(commercial company established under Law no.7638, dated 19.11.1992 “On Commercial Companies ”, other juridical persons established under Civil Code, exercising profitable activities in the Republic of Albania, as well as other juridical persons established or recognized as such under special laws);
    - iv) a “partnership ” is any group of persons, physical and juridical, joined to carry on a temporary, common activities for profit purposes, which group is not established as a separate legal entity in forms provided by law no. 7638, dated 19.11.1992 “For the commercial companies”, by the Civil Code or other specific laws;
  - c) two persons shall be considered “related persons” if one of such acts or may act in accordance to the orientations, requests, suggestions or willingness of the other person, or both act or may act in accordance to directions, requests, suggestions or

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willingness of a third person, notwithstanding if such orientations, requests, suggestions or willingness are declared or not. Specifically, the following persons will be considered as “related persons”:

- i) Spouses, their parents or their children;
  - ii) any commercial company or any other person who directly or indirectly owns 50% or more, in value or in number, of shares or rights to vote of another company.
  - iii) two or more companies, if a third person directly or indirectly owns 50% or more, in value or number, of shares or rights to vote in each company;
2. a) The term “permanent establishment” shall imply a certain place of business through which the business activity of a person is wholly or partly carried on.
- b) There shall be considered as permanent establishment an administrative office, a branch, a factory, a workshop, a mine or any other place for exploitation of natural resources, as well as a building, reconstruction, installation or assembling site.
- c) A person shall be deemed not to have a permanent establishment if such person:
- i) uses facilities solely for the purpose of storage or display of goods belonging to such person;
  - ii) maintains stocks of goods belonging to him solely for the purpose of storage or display;
  - iii) maintains stocks of goods belonging to such person solely for the purpose of processing such stocks by another person;
  - iv) maintains a certain fixed place of business solely for the purpose of purchasing goods or collecting information for the business of such person;
  - v) maintains a fixed place of business solely for the purpose of exercising any preparatory or auxiliary activity for the business of such person.
- ç) Notwithstanding the provisions of letters “a” and “b”, mentioned above, where an agent –other than an agent of independent status to whom letter “d” applies, as mentioned below, is acting on behalf of a person, has, and habitually exercises an authority to conclude contracts on behalf of that person. That person shall be treated as if he had a permanent establishment at the place where such person exercises such activities, for any activity carried on by such agent for that person, unless the activities of such agent are limited to those mentioned in letter “c” which even exercised through a fixed place of business, would not make this fixed place of business a permanent establishment.
- d) A person shall not be deemed to have a permanent establishment where such person exercises business through a broker, general commission agent or any other agent of independent status, provided that such persons are acting in the ordinary course of their business.
- dh) The fact that a company controls or is controlled by another company shall not of itself constitute either company a permanent establishment of the other.
- 3) For the purpose of Chapter III A of this Law:
- a) “business” means any economic activity with the aim of realizing a profit;
  - b) “business location” shall mean any shop, separate unit or other fixed place of business, where business is conducted :
  - c) “turnover” implies total income realized by sales of goods and supply of services;
  - ç) “ ambulatory seller ” shall mean any physical person, engaged in sales of goods and rendering of services, that has not a fixed place for his business;

d) "individual transport" shall imply:

- i. "a physical person" whose business is transportation of goods or passengers, by using not more than one means of transportation;
- ii. "a physical person" whose business is transportation of goods or passengers on sea waters of the country and on the rivers and lakes waters within the country, by using not more than one sailing means".

### Article 3

#### Residence

The following persons are considered to be residents in the Republic of Albania:

1) **An individual** in case that:

- he has a permanent house available in the territory of Republic of Albania, pursuant to article 12 of the Civil Code;
- he is an Albanian citizen and a consular, diplomat, or similar officer, of the Republic of Albania, outside Albania.

2) **An individual** who resides in Albania more than 183 days of a taxable period, whether consecutively or not.

3) **A juridical person** that:

- a) has a permanent establishment(head office) in the Republic of Albania;
- b) has a place of effective management of business in the Republic of Albania.

4) **A physical person**, who, pursuant to commercial legislation, is registered as such in the commercial register of the competent court.

### Article 4

#### Sources of income

Income from a source in the Republic of Albania will include, but will not be limited in, the following:

- a) income from labor relationships carried out in the Republic of Albania;
- b) income from cultural or sports activities, as well as other personal activities in the Republic of Albania;
- c) income from a business conducted by a non-resident in Albania through a person that has a permanent establishment in the Republic of Albania;
- d) income from the sale of immovable property attributable to a person with a permanent establishment in the Republic of Albania;
- dh) income from immovable property, its accessories and fruits, and income from rights deriving from immovable property if such property is located in the Republic of Albania;
- e) income from the alienation of property mentioned in letter "dh" of this article;
- ë) income from dividends distributed from a resident company;
- f) income from gains paid from a resident partnership;

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- g) income from interest paid from the Government in national or local level, or that are paid from a non-resident through a person that has a permanent establishment in the Republic of Albania;
- gj) income from copyright, royalty, leasing and emphytheosis;
- h) other income, benefited from a non resident through a person with a permanent establishment in the Republic of Albania.
- i) other incomes that do not fall within the forms listed in this article.

### **Article 5**

#### **Taxable period**

Taxable period will commence 1 January and end 31 December of each calendar year.

## **CHAPTER II PERSONAL INCOME TAX**

### **Article 6**

#### **Scope of personal income tax**

Personal income tax, hereinafter called “income”, shall be assessed upon income of individuals.

### **Article 7**

#### **Tax imposed**

1. Individual residents shall pay tax on taxable income generated during a taxable period from all sources of income, according to provisions of this chapter.
2. Individuals, nonresidents shall pay tax on taxable period, according to provisions of this chapter, for sources of income generated within the territory of the Republic of Albania.

### **Article 8**

#### **Taxable income**

1. For purposes of the personal income tax the following shall be considered as taxable income:
  - a) wages, salaries and other compensations derived from labor relations.  
Income generated from wages and compensations for labor relationships of consular, diplomatic or similar officials of third countries and international organizations who, during performance of their official functions in the Republic of Albania, according to international conventions or agreements signed or accepted by the Republic of Albania or the Albanian Government, enjoy the diplomatic status, is tax exempt income.

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Individuals, Albanian or foreign, who do not enjoy the diplomatic status, recognized by international conventions or agreements for this purpose, are not subject to this exemption;

- b) income generated from profits of a partner or a shareholder in a commercial company;
- c) interest generated from bank deposits or interests generated from securities, excluding interest generated from Government treasury bills or other securities issued before the effective date of this law;
- ç) income derived from copyright and royalty;
- d) income from emphytheusis, loans and leasing, excluding cases when income is generated from commercial activity, pursuant to commercial legislation;
- dh) income generated from selling real estate;
- e) income of individuals generated from games of chance and casinos.
- f) incomes realized from the difference between the sales price and purchase price of the quotas and shares that a partner or shareholder possesses and sells to another person;
- g) other incomes, that are not identifiable in the forms listed in this article, realized by resident or non-resident individuals, but have the source in the Republic of Albania.

### Article 8/1

#### Exempted Incomes

The following are exempted from personal income tax:

1. Incomes generated as a result of the insurance under the obligatory social and health insurance scheme as well as economic benefits for individuals without incomes or with low incomes, as set out in the relevant legislation in force.
2. Fellowships of pupils and students.
3. Benefits received in the cases of diseases, hardships in agreement with the relevant legal provisions in force.
4. Benefits, both monetary and in kind, given by the owners as a bonus for expropriation made by the state for public interests.
5. **abrogated.**
6. Incomes exempted on the basis of international agreements ratified by the People's Assembly of Albania.

### Article 9

#### Tax rates

1. Wages, salaries and compensations relating to actual employment shall be taxed according to table no. 1 attached to this law and which is an integral part of it.
2. Dividends, incomes generated as the partner's profit, the latter(partner) being even a single partner, interests from loans, deposits or similar contracts, incomes from the copyright or intellectual property as well as all other services or incomes that are not otherwise set out in other provisions of this law, shall be taxed by 10 per cent.
3. **abrogated**

## **Article 10**

### **Tax collection**

1. Any employer who pays a wage or compensation, as provided in letter “a” of Article 8 of this law, is required to withhold personal income tax from such an amount according to the first paragraph of article 9 of this law, and they are required to deposit withholding to tax administration not later than **date 20** of the next month.
2. All employers are required to keep records of payments described in letter “a” of article 8 of this law, according to instructions issued by the Ministry of Finance.
3. All employers and self-employed persons are liable to declare the personal income tax, withheld for their employees. The form, content, terms and procedures for the submission of the declaration forms shall be set out in the Instruction of the Minister of Finance issued for the implementation of this law.

## **Article 11**

### **Sales of immovable property**

1. Sale of immovable property shall be taxed according to table no. 2 that is attached to this law, whereas immovable property of agricultural land is taxed at 0,5% of selling price.
2. Payable tax is required to be deposited from the seller of immovable property before being registered. Without certifying the payment of such tax, offices of registration shall not register such immovable property.
3. Offices on Registration of immovable property are required to deposit, within 10 days, the collected tax according to provisions of this article.

## **Article 12**

### **Gains from games of chance and casinos**

1. Any person who gains an amount from games of chance and casinos is required to pay a tax from that amount at the rate of 20%. The organizer of games of chance or casinos is required to withhold such a tax, and, within 24 hours, to deposit the withheld tax in the account of tax administration.
2. The organizer of games of chance or casinos shall issue to the winner a document which shows the amount earned by reducing the withheld tax.

## **Article 13**

### **Declaration**

1. Any individual that realizes income from any sources defined in Article 8, on which no withholding tax is applied, under provisions of this Law, is required to declare such income to tax body not later than January 30 of the following year.
2. Taxpayer, under provisions of item 1 of this article, shall make the liability payment to the bank according to document issued by tax body.
3. In conformity with the stages provided in item 4 of this Article, any person that realizes income, despite the fact such income are taxable or not, is required to submit to tax body in concern his integral tax return on personal income, realized from any sources, not later than February 28 of the following year. The form of the integral return is defined by a specific Instruction of the Minister of Finance.
4. Requirement to declare according to provisions of item 2, of this article is applicable in the stages as follow:
  - a) In the first stage, for the income realized during the year 2005 and afterwards, owners and administrators of commercial companies, physical persons registered that are subject to Simplified Profit Tax, managers of state- owned enterprises and owners or managers of non-for-profit organizations, are required to submit to tax bodies the integral return;
  - b) In the second stage, for the income realized during the year 2006 and afterwards, all employees of civil service are required to submit their integral return;
  - c) In the third stage, for the income realized during the year 2007 and afterwards, all employees of public institutions, state or private enterprises, foundations, self-employed, or employed in small business entities, shall be liable to submit integral returns.”

## Article 14

### Administrative violations

Actions or non-actions that follow, under the provisions of chapter II of this law, not classified as criminal offence, are administrative violations:

- a) Failure to document the payments made, failure to assess and to withhold tax, as well as hiding or falsification of information on income paid for any taxpayer.
- b) Failure to submit a declaration or failure to properly pay liability on personal income tax by persons subject to such tax, in applying provisions of article 13 of this law.
- c) Failure to pay over to the state budget the assessed tax liability by tax agents.
- ç) Failure to registration keeping of taxpayers' income payments and taxes withheld, that are transferred to state budget, including keeping of registrations for any such taxpayer.
- d) Failure to submit on time personal income tax returns, described under applicable provisions of article 13 of this law.
- dh) Failure to pay tax liabilities within deadlines defined under this law.
- e) Failure to submit the declaration on the withholding personal income tax by the due date according to article 10 and failure to pay by the due date of the required tax;

- ë) Under-declaration of the personal income tax due;
- f) Withholding of the personal income tax of the employees but failure to pay such to tax authority.

## **Article 15**

### **Punishments**

Administrative violations, as outlined in article 14 of this law, are punished as follow:

a) For cases established in letters “a, b’ and ‘c’ of article 14 of this law, responsible persons shall pay the amount of tax liability and a fine equal to that amount of tax liability.

b) For cases established in letter “ç” of article 14 of this law, responsible individuals are punished with a fine equal to 10 thousand leks.

c) For cases established in letter “d” of article 14 of this law, responsible individuals are fined 20 thousand leks.

ç) In cases of violations of provisions of letter “dh”, responsible persons shall pay late interest payments in accordance with law no.8560, dated 22.12.1999 “On the Law of Tax Procedures in the Republic of Albania”

Procedures of appealing and execution of the administrative measures shall be performed according to law no.8560, dated 22.12.1999 “On the Law of Tax Procedures in the Republic of Albania;

d) in the cases of violation of the provisions set out in letter “e” of article 14, the employer is penalized with 10 per cent of the amount of withholding tax declared later but not less than 10 000 lek for each month or part of the month after the due date for the declaration;

dh. in the cases of violations of the provisions set out in letter “ë” of article 14, the employer is penalized with 100 per cent of the unpaid amount of liabilities;

e. in the cases of violations of the provisions set out in letter “f” of article 14, the employer is penalized with 100 per cent of the unpaid amount of contributions. When such contributions are not paid to the tax authority even after a period of 3 months from the due date set out in the relevant law, then the employer is prosecuted.

## **CHAPTER III PROFIT TAX**

### **Article 16**

#### **Scope of profit tax**

1. A profit tax shall be imposed on:

a) Juridical persons and partnerships, prescribed in letters “c” and “d” of article 2, and which are registered for VAT purposes.

b. Legal entities, partnerships prescribed in subparagraphs “III” and “IV” of letter “b” of item 1 of Article 2 and that are registered for VAT purposes and persons established or organized under a foreign law and that conduct business in the territory of the Republic of Albania.

c. Any other person, regardless of the legal form of registration or its recognition, when such a person is subject to the value added tax.

2. All physical persons, who are registered for VAT, but who are not subject to the small business tax, are subject to profit tax.

## **Article 17**

### **Payment requirement**

1. Resident taxpayers are subject to profit tax for taxable profit derived from all sources, within or outside the territory of the Republic of Albania.

2. Nonresident taxpayers are subject to profit tax for all income derived from sources within the Republic of Albania.

## **Article 18**

### **Exemptions**

Exempted from profit tax are:

- a. Central and Local Government Bodies.
- b. Bank of Albania.
- c. Legal entities which conduct only religious, humanitarian, charity, scientific, or educational activity, the property or profit of which is not used in the interest of their organizers or members.
- ç. Trade unions or chambers of commerce, industry or agriculture, property or profit of which is not used in the interest of an individual or their member.
- d. International organizations, agencies of technical cooperation and their representatives, the exemption from taxes of which is established by specific agreements.
- dh) Persons provided in international agreements, which have been ratified by Parliament.
- e. **Foundations or non-bank financial institutions established or transferred by Decision of the Council of Ministers that aim at supporting developing policies of the Government through credit granting.**
- ë. **Houses for producing cinematograph films, licensed and subsidized by National Cinematograph Centre.**

## **Article 19**

### **Taxable profit**

Taxable profit will be determined for the taxable period on the basis of balance sheet and its annexes which are required to be prepared according to law no. 7661 "For accounting", as well as rules and regulations issued by the Ministry of Finance for this purpose.

## **Article 20**

## Deductible expenses

For determining taxable profit in the Republic of Albania, the following will be recognized as expenses incurred for profit, insurance, and guarding purposes to the extent that such expenses may be documented by the taxpayer, and when these expenses are subject to restrictions specified by this law.

The document used as a basis for the justification of the expense, for tax purposes, is the VAT invoice, simple tax invoice and any other document prepared or issued in conformity with the instructions of the Minister of Finance for the implementation of the tax legislation.

## Article 21

### Non- deductible expenses

- I) For the purpose of defining taxable profit, the following expenses are not deductible:
- (a) The cost of land and building site acquisition and reclaiming.
  - (b) The cost of acquisition, improvement, renovation, and reconstruction of assets of businesses which are depreciated according to article 22 of this law.
  - (c) An increase of basic capital of the company or contribution of each person in a partnership.
  - (ç) Costs of profit in kind.
  - (d) Voluntary pension contributions.
  - (e) Dividends declared and profit shared among partners or shareholders of commercial companies, as well as profit in case of partnership.
  - (ë) Interest paid which extend the 12-months average rate of the bank market, as officially publicized by the Bank of Albania.**
  - (f) Fines, late interests payments, and other penal sanctions.
  - (g) Creation or increase of reserves and other special funds except when it is defined otherwise by this law or specific rules;
  - (gj) Deductible personal income tax, excise duties, profit tax, and value added tax.
  - (h) representation expenses and expenses for reception that exceed of 0.3 per cent of the annual turnover;
  - (i) Personal living and family expenses as defined by the Minister of Finance.
  - (j) Expenses which exceed limits established by law or specific rules.
  - (k) expenses for gifts;
  - (l) Any expense which the taxpayer does not certify through a document.
- II) expenses for technical services, consultancy and management invoiced by third persons but not paid by the taxpayer within the tax period.
- m) Losses, damages, scraps during production, transiting or warehousing, exceeding norms defined by legal and sub-legal act.**
- 2) Interest paid on loans and prepayments shall not be deductible to the extent that the loan or prepayment for which **the interest is paid exceeds, on average, four times the amount of equity**(own capital stock) during the taxable period. This paragraph shall not be applicable for banks and insurance companies.
- 3) For legal entities which are not established pursuant to law no. 7638, date 19.11.1992 “ On commercial companies”, the second paragraph shall not apply at the same manner as it is applied for other entities provided in this article.

## Article 22

### Depreciation

- 1) For determining taxable profit, depreciation for assets of businesses shall be calculated by;
  - a) The owner of assets of business, except cases mentioned in letter “b” of this article.
  - b) The person who bears the risk for losses or damage of assets, in cases of assets given in rent, usufruct, or any other form as provided by legal provisions.
- 2) Land, building site, belles arts, antiquaries, jewelers, precious metals and stones are not depreciable.
- 3) Costs of purchase or construction, and costs of improvement, restoration, and reconstruction of buildings, machinery and equipment which serve for long terms, for purposes of depreciation, will be calculated separately, in a linear way at the rate of 5%.
- 4) Costs of purchase or construction and cost of improvement, restoration, and reconstruction of intangible assets, for purposes of depreciation, will be calculated separately, in a linear way at the rate of 10%.
- 5) Depreciation for the two following categories of assets will be calculated on the basis of a pooling system, with the following percentage;
  - (a) Computers, information system, software products, and equipment of database back up at 25%
  - (b) All other assets of business activity at 20%.
  - (c) For active assets of the state-owned enterprises or of companies of wholly state-owned capital, which are depreciated under the provisions of letter “b”, paragraph 5 of this article, depreciation rate for the year 1999-2000 is at 10 %.
- 6) In each category, as described under the fifth paragraph, the depreciation percentage specified in this item will be applied on the basis of depreciation of the appropriate category.
- 7) The depreciation basis will be equal to the book value of the relevant category as it is recorded in the balance sheet of opening taxable period:
  - (a) by adding the purchase cost or assets creation and reconstruction cost of assets of the relevant category during the taxable period;
  - (b) by subtracting the selling price of assets and compensations received for conversion of assets because of natural calamity or other involuntary changes during the taxable period.

If the depreciation basis is a negative amount, that amount will be added to the taxable profit and the depreciation basis will be considered equal to zero.

If the depreciation basis does not exceed 5.000 lek, all depreciation basis will be considered a deductible business expense.

In cases of reappraisal of assets of a business, depreciation will not be allowed for the re-evaluated amount.

## Article 23

### Inventory

At the end of the taxable period, the taxpayer assesses the inventory with the selected method, which is required to be systematically applied.

## Article 24

### **Bad debts**

In determining taxable profit, a deduction for bad debts shall be allowed if the following conditions are simultaneously met:

- a) An amount corresponding with that bad debt is included earlier in income;
- b) The bad debt is canceled in accounting books of the taxpayer, and
- c) All possible legal actions to receive the debt have been undertaken.

### **Article 25**

#### **Special reserves for banks and insurance companies**

In determining taxable profit of banks and insurance companies a deduction shall be allowed for technical reserves created pursuant to law no. 8081, date 7.3.1996 “For insurance and reinsurance activities”, and provisions of banks created according to rules issued by the Bank of Albania for this purpose. However, amounts withdrawn from these reserves or provisions shall be added to the taxable profit.

### **Article 26**

#### **Participation not subject to profit tax**

- 1) Dividends and distribution of earnings shall be excluded from income purposes of determining taxable profit of a person resident.
- 2) When dividends and earning are distributed from resident companies or partnership which:
  - (a) are subject to profit tax;
  - (b) the beneficiary subject has a package of shares at least 25%, in value or number, of stock capital or voting right and for partnership at least 25% of the initial capital.

### **Article 27**

#### **Carryover losses**

- (1) If taxable profit results in loss in a taxable period, such a loss might be compensated with profits in three next taxable periods, according to principle “the first loss before the last one”.
- (2) If during a taxable period direct and/or indirect ownership of stock capital or voting rights of a person changes with more than 25% in value or number, the above paragraph shall not be applied for losses of the legal entity in that taxable period and in preceding taxable periods.

### **Article 28**

### **Tax levels**

**Profit Income tax rate for the fiscal year 2005, January 1 to December 31, is 23% and for other fiscal years 20%**

### **Article 29**

#### **Tax declaration and the final accounting of the liability**

1. Any taxpayer is required to prepare the annual taxable income return in the form set out in the Instruction of the Minister of Finance for the implementation of this law. Taxpayers shall submit this annual taxable income return to the tax authorities by the 31<sup>st</sup> of March of the forthcoming year, along with the balance sheet including its annexes as well as any other data set out in the instruction of the Minister of Finance for the implementation of this law. For fiscal purposes, the data contained in the above-mentioned documents are considered as accepted when they are approved by the tax administration or after two months after the date of official submission and the tax administration has not answered officially.
2. The tax calculated on the basis of the annual taxable income return, minus the amounts defined according to article 37 of this law and payments in advance made during the tax period, shall be paid by the taxpayer to the tax administration bank account upon submitting the annual taxable income declaration
3. **Abrogated.**

### **Article 30**

#### **Payment in advance**

- (1) During the current taxable period, the taxpayer shall pay in advance, no later than date 15 of each month, in the tax administration account, amounts as follow:
  - (a) In each of months January, February, March and April of the current taxable period; the amount of profit tax for taxable period of two preceding years divided by 12;
  - (b) In each of 8 other months of the current taxable period: the amount of profit tax for preceding taxable period reduced by payments made from January to April of the current taxable period, divided by 8.
- (2) If a taxpayer starts up a new business during the taxable period of the second preceding year, payment in advance for months January to April of the current taxable period shall be as follow:

The amount of profit tax for taxable period of two preceding years divided by number of months during which the taxpayer has conducted business. For determining payment in advance for other months of the current taxable period item “b” of the first paragraph shall be applied.
- (3) If a taxpayer starts up a new business during the full preceding taxable period, payment in advance for months January, February, March and April of the current taxable period shall be the profit tax amount for the preceding taxable period during which business is conducted. Letter “b” of the first paragraph shall apply to determine payment in advance for months remained from the current taxable period.

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- (4) If a taxpayer starts up a new business in the current taxable period, payment in advance for the current taxable period shall be calculated on the basis of the profit tax for the current period divided by the number of months remained from the current taxable period. Exclusively taxpayers commencing business activity during the tax year, engaged in production, are not subject to prepayment obligations on profit tax for a six month period, or for the remaining period of the tax year, provided such period is less than 6 months.
- (5) If a taxpayer can demonstrate to the tax administration, at any time during a taxable period, that profit tax imposed on taxable income for that taxable period shall be significantly less than profit tax for the preceding taxable period, or the second preceding period, the tax administration should accept to decrease payment in advance according to instructions of the Ministry of Finance.
- (6) If the tax administration assesses that the profit tax for the current taxable period shall exceed the profit tax for the preceding taxable period more than 10%, the tax administration may increase the payment in advance according to the assessed profit tax.
- (7) For taxpayers monthly payment in advance of whom, according to the first paragraph of this law, for the current taxable period has not been more than 10.000 leks, these payments in advance may be accumulated for each three months, and paid by the date 15 of the next month following the three months in question.

### **Article 31**

#### **Administrative Violations**

Actions or non-actions as follow, under the provisions of Chapter III of this law, in case of not constituting criminal offence, are considered administrative violations:

- a) Failure to accurately reflect the income and expenses on the activity effecting the financial outcome.
- b) Falsification of the data and documentation on the income and expenses.
- c) Failure to submit within the deadlines of tax returns and balance sheet as well as its annexes.
- ç) Failure to make payments within the deadlines defined under this law on tax liability payment.
- d) Failure to properly keep the accounts, not effecting the financial outcome.
- dh) Failure to properly submit and failure of reconciling the (accounting) balance sheet, its annexes and other data described under law no. 8438, dated 28.11.1998 on “Income Tax” and its other sub-legal acts on its implementation.

### **Article 32**

#### **Punishments**

Administrative violations described in article 31 of this law, provided that they do not constitute criminal offence, are treated as administrative violations, and are punished as follows:

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a) For violation of cases under letter “a” and “b” of article 31 of this law, the responsible persons, in addition to tax amount liability, shall pay a fine equal to such tax amount liability.

b) For violation of cases under letter “c” of article 31 of this law, responsible persons are fined at the amount of 40 thousand leks **on each month delay**.

c) For violation of cases under letter “c” of article 31 of this law, responsible persons shall be liable to late payment interests, in compliance to law no.8560, dated 22.12.1999 “On Tax Procedures in the Republic of Albania”.

ç) For violation of cases under letter “d” of article 31 of this law, responsible persons are fined at an amount of 10 thousand leks.

d) In cases of violations under letter “dh” of Article 31, shall be fined:

-at the amount of 25000 Leks the person responsible who is in charge of filling in the tables;

-the authorized accountant, at the amount of 50000 leks, in cases the business meets the criteria for accounting expertise.

The Institute of Approved Accountants shall be notified on penalties on Approved Accountants.

Procedures for appealing and executing of administrative measures are carried out in compliance to law no.8560, dated 22/12/1999 “On Tax Procedures in the Republic of Albania”.

## CHAPTER III/A SIMPLIFIED PROFIT TAX

### Article 32/1

#### Scope of Simplified Profit Tax

1. Simplified profit tax is applicable to any person that:

a) carries on a business in the territory of the Republic of Albania at any time, during the calendar year;

b) is not registered or not obligated by law to be registered for VAT.

2. Tax exempts from Simplified Profit Tax are:

a) ambulatory sellers in the field of trade;

b) taxpayers carrying on businesses related to individual transport.

c) **abrogated**

### Article 32 /2

#### Registration and re-registration

1. “All taxpayers are requested to be registered to tax organs only once, before commencing a business activity. Exclusively for the year 2005, taxpayers of local tax on small business and/ or those of simplified profit tax are obliged to be reregistered within March 30. In cases where taxpayers fail to register or are not reregistered in proper time, local tax offices register such taxpayers and such registration shall have the same effects as the registration or re-registration carried out by such taxpayers”.

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2. Taxpayers shall be registered or re-registered by local tax offices where the main place of activity is located. The manner of registration and re-registration is defined by the Instruction issued by the Minister of Finance.

3. For registration and re-registration purposes taxpayer shall submit the following data:

**A) For registration:**

- i) personal certificate with photo;
- ii) registration document issued by court;
- iii) type (s) of activities to carry on;
- iv) business location(s) address;
- v) forecast turnover declaration for the year of registration.

**B) For re-registration:**

- i) turnover declaration, under the provisions of item 1 of article 32/4;
- ii) document certifying accurate tax liabilities payments for the previous year.

4. Minister of Finance defines in the Instruction the manner, method and any other data or document for registration and re-registration. When the taxpayer meets the registration requirements, the local tax office supplies the taxpayer with the registration certificate within 3 days upon fulfilling of such requirements. Format of such registration certificate is defined in the Instruction of the Minister of Finance.

5. Any registered person shall be issued a registration certificate by local tax office. When the taxpayer carries on business in two or more locations, such taxpayer is supplied with a copy of registration certificate with different serial number for each such location.

6. The taxpayer is obligated to display registration certificate in each business location.

7. Taxpayer shall notify in writing the local tax office for any changes on the submitted data during registration or re-registration. The Minister of Finance defines in the Instruction the time limits within which such changes shall be submitted.

### **Article 32/3**

#### **Tax rate**

**1. Tax rate on simplified profit tax is 3% of the total turnover.**

**2. Tax due is assessed on total turnover realized by taxpayer during the whole calendar year or part of it.**

### **Article 32 /4**

#### **Declaration**

1. Taxpayer shall hand a written declaration on the turnover during the calendar year not later than 31 March of the following year. Declaration form is defined in the Instruction of the Minister of Finance.

2. If the taxpayer ceases economic activity during the year, or such taxpayer does not fall any more under the scope of simplified tax profit, as defined in article 32/1, such taxpayer is obligated to submit a declaration on turnover amount during the concerned year up to the interruption date, within 15 days following the date of business interruption.

### **Article 32/5**

#### **Bookkeeping**

1. Taxpayer shall keep sales (turnover) book and purchase book, where daily sales and purchases are maintained. The above books shall have the format defined in the Instruction of the Minister of Finance.
2. Taxpayers, retailers of goods or services, supplied with cash register, shall issue a tax coupon on each sale. Other taxpayers, retailers of goods or services, not having cash registers, shall issue a simple manual tax coupon on each sale. For wholesales, taxpayer issues a simple tax receipt. The manner of issuing such document is defined in the Instruction of the Minister of Finance.
3. Upon request of tax bodies, taxpayer is obliged to submit his records for tax audit or for verification.
4. Taxpayer is obliged to allow tax inspectors enter into the business premises for audit or inspection.
5. The sales (turnover) book and the simple tax invoice are produced and distributed by the tax authorities, in conformity with the Instruction of the Minister of Finance.

### **Article 32/6**

#### **Payment**

1. Taxpayer pays the installments on yearly tax liabilities, on the basis of the assessed turnover for the calendar year. Except the cases defined in item 2 of this law, calculation of the assessed (forecast) turnover on a calendar year is based on the previous year turnover, on the forecast declaration of such taxpayer and the assessment carried out by local tax office. Taxpayer shall pay simplified profit tax in installments as follows:
  - a) Not later than 20 April, 20 July and 20 October, respectively for the first, second and third quarter of the exercising year.
  - b) Not later than 20 December for the forth quarter of the exercising year.
  - c) Any differences, with regard to changes in turnover realized in current exercising year with the payments incurred for such year, are declared and paid upon submission of annual tax return, as defined in Article 32/4 of the law no.8438, dated 28/12/1998 “On Income Tax”, amended and are reconciled upon payment of the following year, first installment.
2. In the case when a business activity commences during a taxable period, the installments calculation is based on the assessed turnover forecast by such taxpayer and the assessment made by local tax office. Payment is made in conformity with deadlines defined in item 1 of this law, for the period of activity exercising.
3. When a taxpayer submits a declaration on the business interruption, in the manner defined in item 2 of article 32/4, tax due shall be payable within 10 days from date of declaration submission on business interruption. Procedures on business activity interruption and business activity re-commencement are defined in the Instruction of the Minister of Finance issued for the application of this law.

**4. Tax collected is remitted to State Budget and is transferred, on monthly basis, to municipality or commune budget where the taxpayer is registered or has his/her business location. Procedure for remitting funds and exchange of information are defined in the common Instruction between the Minister of Finance and Minister of Local Government and Decentralization.**

#### **Article 32/7**

##### **Exchange of Data**

1. Ministry of Finance and Ministry of Local Government and Decentralization send the income collection target on simplified tax on profit within 15 December of the year prior to such year.

2. Tax body notifies municipality or commune, not less than once in six months, on the process of small business taxpayers registration, on the collection level of simplified profit tax and measures undertaken to avoid administrative violations and collection of fines.

3. Municipalities and communes, in cases when they deem it necessary, request tax body carrying out of small business taxpayers registration, resulting unregistered, completion of duties on administration of taxes and remitting the income on simplified tax on profit to their budget, according to the time limits defined in such law.

#### **Article 32/8**

##### **Violations and sanctions**

1. In the meaning of this law, when violations do not constitute penal act, such violations constitute administrative violations and are fined as follow:

a) if the taxpayer fails to register or does not register, in accordance to article 32/2, he is fined at **35.000 Leks**;

b) if taxpayer hands an inaccurate declaration, he is fined at an amount equal to 25% of the difference between tax declared and tax due;

c) if the taxpayer fails to pay the tax due within the deadline, he is fined at 25 % of tax due;

ç) if the taxpayer fails to display certificate registration, according to item 5 of article 32/2, the fine is 10.000 Leks.

d) when taxpayer fails to meet any requirements under provisions of article 32/5, he shall be fined 10.000 Leks.

**dh) In cases when taxpayer fails to submit annual turnover declaration, he is fined at 10.000 Leks.**

2. In all cases fines are payable together with the complete tax due within 15 days from the date when the violation notification is issued.

3. Fines are payable in the manner defined for the payment of this tax.

4. If the taxpayer fails to pay his tax due and respective penalty within 15 days, according to item 2, local tax office decides closing of the activity up to paying out full amount of tax due and fines.

5. Appeals and execution procedures of administrative sanctions are in accordance with law no. 8560, dated 22.12.1999 “On Tax Procedures in the Republic of Albania”, amended.

CHAPTER IV  
WITHHOLDING TAX AT SOURCE OF INCOME

Article 33  
Withholding of income tax

1. All persons that are residents in the Republic of Albania, central and local government authorities, non-profit organizations and any other entity, under legislation in force, are obligated to withhold tax at the rate of 10% from the following gross payments sourced from the Republic of Albania:

- a) dividends;
- b) profit shares;
- c) interests;
- ç) payments on copyright and royalties;
- d) payments on technical, management, financial and insurance services;
- dh) payments for management and participation in directing councils;
- e) payments for constructions, installment, assembling or supervising work that relate to such;
- ë) rental payments;
- f) payments for performance of actors, musicians, or sportsmen, including such payments made to persons that employ artists or sportsmen or act intermediate in arranging shows or performances.

2. Item 1 of this article shall not be applicable to:

- a) Albanian resident persons registered as Profits tax and VAT taxpayers or taxpayers registered for local tax on small business;
- b) dividends or to other profits shares that fall under the scope defined in article 26 of this law;
- c) payments made to persons who are not Albanian residents with regard to services on international transport of passengers and goods.

3. Except for cases provided for in the provisions of item 2 of this article, withholding tax on payments defined in item 1 of this article represents final tax liability.

4. Taxpayers, subject to profits tax, after profits tax liability payment, in conformity with provisions of Law no. 19/11/1992 “On commercial companies” as well, within the first six month period of the year, is requested to approve the financial results of the previous year.

- a) Commercial companies are requested to submit to tax bodies, no later than 31 July, the decision of the competent decision-making body of the company, on the use of profits after previous year tax. The use of profits or part of it for the increase of the capital stock, for required (legal) and statute reserves and profits carryover, is not considered distribution of dividends.
- b) In case the commercial companies fail to submit to tax bodies in concern, up to July 31, the decision of the competent decision making body on the use of previous year’ profits, profits after tax, excluding required legal reserves, for tax purposes, are considered dividends for distribution and are taxed at 10% rate. In such case, tax due is paid to tax body’ account within 30 August of the current year tax period.
- c) Any capital decrease, the purpose of which is not covering of losses incurred and does not constitute owners contribution in money, shall be considered as taxable dividends. In such case, tax is withheld at source and

is paid to tax body's account in concern within 30 days upon decision taking for the decrease of capital.

5. Without violating the above provisions of this article, the International Agency of Air Transport (IAAT) pays a 10% rate withholding for the income from air navigation services. Such tax is assessed by IAAT on gross payments made by EUROCONTROL and is remitted to tax body no later than 15 days upon respective payments made by EUROCONTROL .

**Article 34 is repealed.**

### **Article 35**

#### **Withholding of Tax and Registration**

1. For purposes of withholding of the tax according to the provisions of articles 33 and 34 of this law, the payer of the amounts pays to tax bodies accounts the tax withheld no later than **date 20 of the month following the month of payment.**
2. The payer of such amounts takes out the payments of benefits and the withholding taxes at source and hands the respective register entries to tax authorities.

### **PART V SPECIFIC PROVISIONS**

#### **Article 36**

##### **Transfer Pricing**

1. When commercial or financial conditions, different from those that may exist among two non-related persons, are established or created between individuals who together are carrying on a business, the tax administrations may decide that income of one or more of these related persons to include the profit that he or they may have achieved, if such conditions should not exist.
2. For achieving the proper and effective application of this article, the tax administration may previously agree with persons who carry out business, who are subject to conditions in question, that specific conditions among related persons do not change from those that may exist among non- related persons.

#### **Article 37**

##### **Credit for foreign tax**

1. If during a taxable period a resident generates profits or income from sources outside the Republic of Albania, the personal income tax, or profit tax payable by that resident for these profits or income should be reduced by the amount of the tax payable for those profits or income. The amount of foreign tax payable is required to be substantially certified from an authentic document as defined by the Ministry of Finance.
2. Reduction of personal income tax or profit tax described in the first paragraph of this article cannot exceed the tax payable on profit or income generated from a foreign source, if such incomes are generated in the Republic of Albania.

3. In the case of a taxpayer, who is subject to profit tax, any tax reduction described in the first paragraph of this article is required to be limited in the tax that should had been payable in the Republic of Albania presuming that article 27 of this law were applied specifically for each foreign country relating to gains or losses generated from sources in that foreign country.

4. Tax reduction, described in this article, is required to be calculated specifically for each foreign country which is the source of income or profits.

## **PART VI TRANSITIONAL AND LAST PROVISIONS**

### **Article 38**

#### **Transitional Provisions**

1. Taxes withheld under provisions of the first and second paragraph of article 10 and article 33 of this law shall be applied to payments made after the effective date of this law.
2. Buildings, construction and plants that are purchased before 1 January 1999 shall be depreciated on the basis of their historical cost.
3. Intangibles, fixed assets, purchased before 1 January 1999 shall be depreciated on the basis of their historical cost. If the book value of such assets on 1 January 1999 is less than 50% of their historical cost, the taxpayer is allowed to continue the depreciation according to Instruction no. 8, dated 12.2.1992 “On Depreciation Rates of Fixed Assets of Individuals and Legal Entities”.
4. Depreciation basis of computers, information systems, software products, and back-up systems, as well as other assets of business, purchased before 1 January 1999, for the taxable period of 1999, shall be the value of these assets in the general ledger in 1 January 1999, adjusted as it is described in article 22, item (6) of this law.
5. Taxable profit for taxable period 1999 and 2000 may be reduced by losses of the taxpayer before 1 January 1999 and calculated according to article 8 of law no. 7677, date 3.3.1993 “On Profit Tax”, if these losses are registered in profit statements for 1998. Losses of 1996 and 1997 cannot be carried over.
6. Taxpayers, that have benefited tax reliefs, in accordance with article 6 of law no.7677,dated 03.03.1993 “On Profit Tax”, benefit such reliefs under the conditions defined in the above law  
(7) Taxpayers enjoying tax incentives and tax exemptions under laws no.7665, dated 21.1.1993 “On development Zones of Tourism Industry”, No.8098,dated 28.3.1996 “On the Status of the Blind People”, the Decree No.782,dated 22.2.1994”On the Fiscal System on Fuels”, benefit from such incentive under the requirements of such laws.

### **Article 39**

#### **Abrogation of existing legislation**

1. Law no. 7786, dated 27.1.1994 “On Personal Income Tax”, including relevant changes, as well as all other acts which contradict this law, shall be abrogated.

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2. Law no. 7677, dated 3.3.1993 “On Profit Tax” including relevant changes, as well as other provisions which contradict this law shall be abrogated.

**Article 40**  
**Sub-legal acts**

The Ministry of Finance is charged to issue sub-legal acts on the basis of, and the implementation of this law.

**Article 41**  
**Entry into force**

This law becomes effective 15 days after publication in Fletorja Zyrtare.

**Table No.1**

**Table for PIT from employment**

Taxable income (per month) Over (leks)	PIT		
	Up to (leks)	Leks	%
0	14 000		Limit
14 000+	40 000	0	+ 5% of the amount over 14 000
40 000+	90 000	1300	+ 10% of the amount over 40 000
90 000+	200 000	6300	+ 15% of the amount over 90 000
200 000+	500 000	22 800	+ 25% of the amount over 200000
500 000+	Or more	97 800	+ 30% of the amount over 500000

**Table No.2**

SALES PRICE		PAYABLE TAX
Over	In leks	In %
0	2.000.000	0.5% of sales price
2.000.000 +	4.000.000	1% of sales price
4.000.000 +	6.000.000	2% of sales price
6.000.000+	More	3% of sales price

**This law is updated, including the latest amendment by law No., dated 06.12.2004 ON SOME ADDITIONS AND AMENDMENTS TO LAW NO.8438, DATED 28.12.1998 “ON INCOME**