

## THE TAX CODE OF THE REPUBLIC OF TAJIKISTAN

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# THE TAX CODE OF THE REPUBLIC OF TAJIKISTAN

## PART 1. GENERAL PART

### Section 1. General provisions

#### Chapter 1. Main provisions

##### Article 1. Relations regulated by the Code

1. This Code shall regulate legal relations on establishment, modification, repeal, calculation and payment of taxes, as well as the relations between the state and the taxpayer (tax agent) associated with the fulfillment of tax obligations (hereinafter to be referred to as “tax relations”).

2. Relations on the collection of customs duties and taxes on goods and vehicles crossing the customs border of the Republic of Tajikistan shall be regulated by this Code and the customs legislation of the Republic of Tajikistan.

3. Relations on the collection of state duties and other compulsory payments to the budget shall be regulated by the relevant laws and this Code.

##### Article 2. The tax legislation of the Republic of Tajikistan and its effect

4. The tax legislation of the Republic of Tajikistan shall be based on the Constitution of the Republic of Tajikistan and it shall consist of this Code, legislative acts adopted on the basis of and in accordance with this Code, and international legal acts recognized by Tajikistan regulating tax relations.

5. Concepts and terms of civil, family and other branches of legislation of the Republic of Tajikistan used in this Code shall be applied in the sense in which they are used in those branches of legislation, except as provided by this Code

6. In case of a conflict between the provisions of this Code and other legislative acts for the purposes of taxation the provisions of this Code shall be applied. Legislative acts related to taxation matters shall meet the provisions of this Code.

7. It shall be prohibited to include provisions on tax relations in nontax legislation, except for:

- provisions concerning administrative offenses provided by legislation on administrative offenses;
- provisions concerning crimes in the field of taxes provided by criminal legislation;
- provisions concerning the priority of tax obligations provided by bankruptcy legislation;
- provisions concerning the taxes provided by customs legislation;
- provisions provided by legislation on state duties;
- provisions provided by legislation on the state budget for the relevant calendar year;
- provisions provided by legislation on other compulsory payments to the budget;
- provisions concerning taxes provided by investment, concession and credit (grant) agreements, as well as

other international legal acts, approved by the Majlisi namoyandagon Majlisi Oli of the Republic of Tajikistan.

8. For foreign states and governments, international organizations, diplomatic and consular representations of foreign states and governments, and diplomatic and consular personnel, as well as representations of international organizations and their employees, and family members of the aforementioned persons, exemption from taxes and other tax concessions, granted in accordance with this Code or specified by international legal acts recognized by Tajikistan, shall be provided in accordance with the procedures established by the Government of the Republic of Tajikistan.

9. Privileges specified by international legal acts on the prevention of double taxation shall not apply to a resident of a foreign state if this resident is used by another person who is not a resident of that state for the purposes of obtaining privileges.

##### Article 3. Procedure of establishment, modification and repeal of taxes

1. Establishment of new taxes, modification or repeal of existing taxes shall be made only through including amendments and additions to this Code and (or) to the legislation set in part 4 of article 2 of this Code, in order of the legislative initiative of the Government of the Republic of Tajikistan.

2. By establishment of taxes shall be identified all elements of taxation.

3. Drafts of legislative acts on amendments and additions to this Code and (or) other legislative acts concerning taxation matters shall be submitted to the Government of the Republic of Tajikistan in the prescribed order by the Ministry of Finance of the Republic of Tajikistan by agreement with the authorized state body and other relevant authorities.

##### Article 4. The tax system of the Republic of Tajikistan

The tax system of the Republic of Tajikistan includes a summation of tax relations provided by this Code, with the application of measures ensuring payment of taxes, as well as the organizational structure of the tax authorities and the form of their organization, their rights and obligations, forms and methods of tax control and responsibility for the violation of tax legislation.

##### Article 5. Principles of the tax system

1. Individuals and legal entities shall pay all types of taxes provided by this Code, which they shall pay as taxpayers in accordance with this Code.

2. It is prohibited to impose a duty on a person to pay taxes not established by this Code.

3. A tax calculated in accordance with this Code shall constitute monetary obligation to the state and shall be paid to the state budget.

4. Local authorities have a right to introduce only the local taxes provided by this Code.

#### **Article 6. Taxes of the Republic of Tajikistan**

1. The Republic of Tajikistan shall have established national and local taxes. In nature and the order provided by this Code, taxpayers shall use special and (or) preferential tax regimes.

2. National taxes include:

- the personal income tax;
- the corporate profit tax;
- the value-added tax;
- the excise taxes;
- the social tax;
- the taxes on natural resources;
- the road users tax;
- the cotton fiber and primary aluminum sales tax.

3. Local taxes established by this Code and brought in force by legislative acts of local authorities in cities and districts shall include:

- the tax on vehicles;
- the immovable taxes.

4. Section XVI of this Code shall establish special tax regimes according to which certain categories of taxpayers have to pay under the simplified procedure some national and local taxes referred to in part 2 and 3 of this article.

5. Special tax regimes include:

- tax regime for individuals carrying out an entrepreneurial activity on the basis of a patent or certificate;
- simplified tax regime for subjects of small entrepreneurship;
- simplified tax regime for producers of agricultural products (unified tax);
- special tax regime for subjects of gambling business.

6. Section XVII of this Code shall foresee preferential tax regimes which provide additional tax concessions by investing in priority sectors of the economy.

7. State duties, customs duties and other customs charges, other compulsory payments to the budget set by relevant legislation of the Republic of Tajikistan shall be paid in the amount and in the manner specified by relevant legislation and this Code. Administrative procedures on tax control over tax calculation and payment shall be implemented by authorized state bodies and tax authorities in the order provided by this Code and relevant legislation.

8. Proceeds from national taxes shall be distributed between the republican budget and local budgets in accordance with budget legislation of the Republic of Tajikistan. Local tax payments shall be applied to respective local budgets.

9. Tax authorities shall provide collection of taxes specified in the special part of this Code, unless otherwise provided by this Code.

#### **Chapter 2. Main concepts**

##### **Article 7. Tax**

1. A tax shall be a mandatory payment to the budget provided by this Code, made in a certain amount, having compulsory non-refundable and irreversible character.

2. Taxes shall be calculated in monetary terms and shall be paid in the national currency of the Republic of Tajikistan, unless otherwise established by this Code.

##### **Article 8. Entrepreneurial and non-entrepreneurial activity**

1. For the purposes of taxation an entrepreneurial activity shall be an independent, carried out at own risk activity aimed at systematically receipt of profit (income, compensation) from the use of property, sale of goods, performance of works or provision of services by individuals subject to state registration in that capacity in accordance with the legislation.

2. The following types of activity shall not be considered an entrepreneurial activity:

- activity of state authorities at all levels of state power and self-government bodies of settlements and villages, directly related to the performance of state functions assigned to them;
- charitable activity;
- religious activity;
- activity of social organizations;
- activity financed by the founders of institutions;
- performance of a work for hire by an individual.

3. For the purposes of taxation, the following activities of an individual, institution financed by the founder and (or) noncommercial organization shall not be considered an entrepreneurial activity, if such activity is not the main activity of a person carrying out that activity:

- allocation of cash assets in credit institutions;
- lease of movable and (or) immovable property;
- placement of property in trust;
- acquisition (sale) or transfer of a share in the statutory capital of a legal entity or its securities;

- acquisition (sale) or transfer of bonds or other bills of exchange to another person;
- acquisition (sale) or transfer of a stake in a mutual investment fund or author's rights and other similar rights owned by a seller to another person;
- work for hire on the basis of agreements (contracts) of a civil legal character or without agreements (contracts).

4. To the extent the persons performing the activities specified in part 2 of this article are engaged in entrepreneurial activity, such activity of these persons shall be subject to taxation, their assets and activity directly connected with entrepreneurial activity, shall be subject to the separate accounting (apart from a main activity).

5. Activity of state institutions, a part of special funds of which will be charged to the budget in the amount and in the manner specified by legislation, shall not be considered entrepreneurial activity, unless otherwise provided by legislation.

#### **Article 9. Work for hire**

1. For the purposes of this Code a concept "work for hire" shall mean:

- the performance of duties by an individual within the context of relations regulated by civil legislation of the Republic of Tajikistan, legislation of the Republic of Tajikistan on labor or on state service;
- the performance of duties by an individual that are directly related to service in the ranks of the armed forces or law enforcement authorities and (or) equivalent authorities (institutions);
- the work of an individual in a management position at an enterprise or organization.

2. An individual, who has worked, is working or will work for hire, shall be referred to as an "employee" in this Code. A person, who pays for services performed by such an individual, shall be referred to as an "employer", and the payment shall be referred to as "wages".

3. For the purposes of this Code the main place of work of an employee is a place of work where an employer shall keep a labor record book in accordance with labor legislation of the Republic of Tajikistan.

#### **Article 10. Charitable activity**

1. Charitable activity shall be performed in accordance with the Law of the Republic of Tajikistan "On charitable activity".

2. For the purposes of taxation the provision of assistance (support) to persons shall not be considered a charitable activity if any of the following conditions is present:

- the person accepting such assistance (support) assumes an obligation of a tangible or intangible character (other than the obligation to use the funds or property received for the designated purpose) to the person providing such assistance (support);
- the person receiving such assistance (support) and the person providing such assistance (support) are considered related persons;
- such assistance (support) is provided to any individual or legal entity for participation in an election campaign at any level.

#### **Article 11. Resident and non-resident individuals**

1. An individual, who is actually in the territory of the Republic of Tajikistan during more than 182 days sequential in any following 12-month period ending in the current calendar year, from the 183-rd day shall be considered a resident of the Republic of Tajikistan (hereinafter to be referred to as "resident") for the current calendar year. If this individual is considered a resident in the previous calendar year, such a person is also considered a resident from January 1st, of this year.

2. An individual, who is on the state service of the Republic of Tajikistan outside the territory of the Republic of Tajikistan during the current calendar year, is considered a resident in the current calendar year, regardless of the duration of the service.

3. Resident individuals, regardless of the duration of stay on the territory of the Republic of Tajikistan and other criteria provided in this article, shall be recognized individuals who are citizens of the Republic of Tajikistan, individuals who apply for citizenship of the Republic of Tajikistan or for permanent residence in the Republic of Tajikistan without asking for citizenship of the Republic of Tajikistan, including:

- persons assigned for service abroad by public authorities of the Republic of Tajikistan, including diplomatic, consular officers and employees of equivalent representations, trade missions of the Republic of Tajikistan, international and intergovernmental organizations, as well as family members of these persons;
- members of crews of vehicles carrying out cross border transportation, belonging to legal entities or citizens of the Republic of Tajikistan;
- military and civilian servants of military bases, military commands, groups, commitments or units stationed outside the territory of the Republic of Tajikistan;
- persons, working on the objects located outside the territory of Republic of Tajikistan being the property of Republic of Tajikistan or residents or legal entities of the Republic of Tajikistan (including on the basis of concession contracts);
- pupils, students, trainees and interns being outside the territory of the Republic of Tajikistan for the purpose of studying or training during the period of study or traineeship;
- teachers and researchers being outside the territory of the Republic of Tajikistan for the purpose of lecturing, consulting or drafting of scientific papers during the whole period of lecturing or drafting the mentioned papers;

- gives a resident or a non-resident the right to represent its interests in the Republic of Tajikistan on the basis of the contractual relationship, to act and (or) enter into contracts (agreements) on its behalf.

5. Temporary or seasonal breaks in activities referred to this article do not lead to the liquidation of a permanent establishment.

6. A non-resident carrying out an entrepreneurial activity in the Republic of Tajikistan through an independent mediator (broker and (or) any other independent agent acting under agency agreement, commission, consignment or other similar agreement) not authorized to sign contracts (agreements) on behalf of the non-resident, shall not be considered a permanent establishment. Independent mediator is a person conducting mediation duties as its regular (main) activity for the purpose of parties' cooperation, who is both legally and economically independent of the non-resident.

7. Subsidiary of a foreign entity incorporated under the laws of the Republic of Tajikistan shall not be considered a permanent establishment of its main non-resident enterprise, unless between the subsidiary and the main enterprises have not arisen relations satisfying the provisions of the fifth paragraph of part 4 of this article.

8. Shall not be considered a permanent establishment of a foreign enterprise in the Republic of Tajikistan a place used (regardless of who uses it) for the following purposes:

- storage of goods or wares belonging to a foreign enterprise (prior to their sale in the Republic of Tajikistan);
- purchase of goods or products, gathering of information for a foreign enterprise;
- any other activity of a preparatory or auxiliary character for the benefit of a foreign enterprise;
- performance of any activities stipulated in first, second and third paragraphs of this part.

9. A registered representative office and (or) a branch of a foreign enterprise shall be considered a permanent establishment of the foreign enterprise.

10. Activity of a non-resident forms a permanent establishment under the provisions of this article, irrespective of whether it is registered with the tax authorities or not.

#### **Article 13. Tax agent**

1. Tax agent shall be an organization or individual entrepreneur to whom in accordance with this Code has been assigned duties related to calculation and withholding of taxes from a taxpayer or at the source of payment and transfer of taxes to the relevant budget.

2. Tax agent shall have the same rights and obligations as a taxpayer, unless otherwise provided by this Code.

3. Tax agent shall be required:

- properly and in a timely manner to calculate and to transfer to the budget the taxes withheld from a taxpayer or at the source of payment in accordance with this Code;
- to keep a record of income paid to taxpayers, taxes withheld from them (or at the source of payment) and transferred to the relevant budget, including keeping of a separate records for each taxpayer;
- to submit to the tax authority at the place of its registration a tax report in the manner set by this Code;
- to perform other duties provided by tax legislation.

#### **Article 14. Related persons**

1. Related persons shall be persons, relations between which could have an influence on the conditions or economic outcome of their activity or activity of persons represented by them, including the cases, if:

- persons are founders (participants) of the same enterprise, if each person's share is more than 20 percent;
- one person directly and (or) indirectly participates in the other person's share and cumulative share of such participation is more than 20 percent;
- one person is subordinated to the other person in terms of official status or one person is under the (direct or indirect) control of the other person;
- persons are under the direct or indirect control of a third party;
- persons directly or indirectly control a third party, if the voting rights of each person count for at least at 20 percent;
- persons are in marital relationship or have a kinship.

2. Court may declare persons related on other grounds not provided by part 1 of this article, if relations between such persons may affect the results of transactions on supply (sale) of goods (performance of works, provision of services).

#### **Article 15. Financial lease (leasing)**

1. Transfer of depreciable tangible movable property to another person, including aircrafts (other than immovable property, furniture, light motor vehicles) under a financial lease (leasing) agreement signed in accordance with the Law of the Republic of Tajikistan "On financial lease (leasing)", shall be a financial leasing if it meets one of the following conditions:

- transfer of property to a lessee and (or) granting of the right to a lessee to purchase a property at a fixed price is specified by financial leasing agreement;
- lease period according to the agreement exceeds 75 percent of the useful service life of a leased property;
- current discounted value of the minimum payment for the entire lease period exceeds 90 percent of the market price of a leased property;
- estimated residual value of the property upon expiration of the lease period represents less than 20 percent of its market price at the beginning of lease;

4. For the purposes of part 1 of this article, the time spent by a foreign individual in the Republic of Tajikistan shall not be considered the time the person was actually located in the territory of the Republic of Tajikistan if the person is in the country:

- in the capacity of a person with diplomatic or consular status (or as a family member of such a person);
- in the capacity of an employee of an international organization or in the capacity of a person employed on the state service of a foreign state (or as a family member of such a person);
- exclusively for the purpose of traveling from one foreign state to another foreign state across the territory of the Republic of Tajikistan.

5. Each day an individual is actually on the territory of the Republic of Tajikistan, regardless of the duration of stay, shall be considered a day spent in the Republic of Tajikistan.

6. An individual who is not a resident of the Republic of Tajikistan in accordance with this article shall be considered a non-resident.

7. An individual shall be considered a non-resident of the Republic of Tajikistan for the period from the last day the person is in the Republic of Tajikistan in the calendar year until the end of the given calendar year, if this person is a non-resident of the Republic of Tajikistan (to be referred as “non-resident”) in the immediately following calendar year.

8. Status of resident and non-resident for the individuals is defined for each calendar year.

9. An individual who is considered a non-resident shall be responsible for submission to tax agent or tax authority at the place of stay (residence) not later than the date of receipt of income or at the time of filing a tax report the following documents:

- a document that confirms a residency of this person or a person without citizenship in a foreign state;
- notarized translation of the identification document (passport) into the state language.

**Article 12. Permanent establishment of a non-resident (a foreign enterprise or a non-resident individual)**

1. If this article does not specify otherwise, a permanent establishment of a non-resident (a foreign enterprise or a non-resident individual) in the Republic of Tajikistan (hereafter to be referred as - permanent establishment) means a fixed place through which the non-resident carries out an entrepreneurial activity in whole or in part, including activity performed by an authorized person..

2. Permanent establishments, in particular, shall be considered:

- any place where activity related to the manufacturing, processing, furnishing, packing and delivery of goods, regardless of the terms of such activity;
- any place of management (in particular branch, department, representative, bureau, directorate, office, cabinet, agency, factory, workroom, workshop, laboratory, shop, storage) of a non-resident, regardless of the terms of such activity;
- any place of carrying out an activity, including installations or sites, drilling and other equipment used for the exploration of natural resources, shaft (mines), oil and (or) gas wells, quarries, above ground or surface rigs and (or) wells, regardless of the terms of such activity;
- any place of carrying out an activity (including the implementation of control, supervision or monitoring activities) associated with the pipelines, gas oil pipes, exploration and (or) development of natural resources, installation, mounting, furnishing, commissioning, start-up and (or) maintenance of equipment, regardless of the terms of such activity;
- any other place of activity related to the exploitation of gambling machines (including game consoles), computer networks and communication channels, amusement rides, transport and other infrastructure, regardless of the terms of exploitation;
- permanent base which a non-resident individual uses for carrying out an entrepreneurial activity.

3. Construction site (object), mounting or installation object, implementation of supervisory activities connected with such objects, performance of design work constitutes a permanent establishment, regardless of the terms of such works. For the purposes of this article, a construction site (object), in particular, means a place of carrying out an activity for the construction and (or) the reconstruction of immovable property items, including the construction of buildings, structures and (or) carrying out the installation, construction and (or) reconstruction of bridges, roads and canals, placement of pipelines, installation of electrical, technological or other equipment and (or) performance of other similar works. Construction site (object) is recognized ceased to exist since the second day following the day of signing an act on the commissioning an object (volume of performed work) and full payment of the construction.

4. A non-resident is also considered to have a permanent establishment in the Republic of Tajikistan, if such a person:

- collects premiums and (or) provides insurance and reinsurance of risks in the Republic of Tajikistan through an authorized agent;
- provides services in the Republic of Tajikistan continuously for more than 90 calendar days in any consecutive 12-month period ending in the tax period through employees or personnel hired for this purpose;
- is a party of cooperation agreement (simple partnership) founded under the laws of the Republic of Tajikistan and acting in territory of the Republic of Tajikistan;
- holds exhibitions in Tajikistan on a paid basis and (or) on which the supply (sale) of goods is made;



- leased property has been manufactured to the order for a lessee and upon expiration of the lease period the property cannot be used by anyone other than the lessee.

2. Third paragraph of part 1 of this article shall not apply to financial lease, the beginning of which falls on the last 25 percent of the property's service life.

3. For the purposes of this article, the account rate used for determination of the current discounted value of lease payments shall be equal to the interest rate for late payment of taxes.

4. For the purposes of this article, the lease period shall include an additional period for which a lessee has the right to renew a lease in accordance with a lease agreement.

#### **Article 16. Investment projects of the Government of the Republic Tajikistan**

1. Investment projects of the Government of the Republic of Tajikistan are projects implemented on the basis of credit (grant) agreements on their financing (implementation) between the Republic of Tajikistan (the Government of the Republic of Tajikistan) and foreign states (foreign governments), local, foreign and international financial organizations within the State investment program, grants and major constructions of the Republic of Tajikistan, approved by the Government of the Republic of Tajikistan.

2. Investment projects of the Government of the Republic of Tajikistan are implemented with using tax concessions provided by this Code.

3. Credit (grant) agreements on financing (implementation) of investment projects of the Government of the Republic of Tajikistan providing additional tax concessions are subject to approval by the Majlisi Oli of the Republic of Tajikistan. Such agreements may not contain provisions on exemption from personal income tax and social tax of citizens of the Republic of Tajikistan.

4. In the case of modification of the terms of taxation adversely affecting the implementation of investment projects of the Government of the Republic of Tajikistan prior to completion of such projects, in respect of them taxation conditions existed at the time of signing the relevant agreements shall be used.

#### **Article 17. Other main concepts used in this Code**

Other main terms used in this Code:

1) Elements of taxation - information, which shall be reflected in the legislative act establishing taxes, including taxpayer, object of taxation, tax base, tax rate, tax period, tax calculation procedure, procedure and deadline for tax payment, tax concessions, if they are established.

2) Taxpayer (payer of a tax) - a person who has an obligation to pay taxes in accordance with this Code. In particular, an individual shall be considered a taxpayer, if such person is a resident. An individual (organization) shall be also considered a taxpayer, if such a person:

a) performs activities bringing income within the Republic of Tajikistan, or have income from sources in the Republic of Tajikistan;

b) is an owner (user) of property which is subject to taxation;

c) performs actions or operations on the territory of the Republic of Tajikistan which are subject to taxation.

3) Object of taxation (object related to taxation) - circumstances, rights and (or) actions defined for each type of taxes, under which a tax obligation arises.

4) Tax base - value, physical or other assessment of an object of taxation (object related to taxation), on the basis of which the amount of tax is calculated.

5) Tax rate - a rate of tax collection, the amount of tax calculated for the unit of measurement of the tax base, set in a percentage or absolute amount per unit of the tax base.

6) Tax period - a period of time over which (after (end of) which) a tax base is determined and the amount of payable tax is calculated. The tax period may be divided into several reporting periods, by results of which occurs an obligation on submission of the calculations and on payment of owed taxes.

7) Procedure of tax calculation - rules of calculating the amount of tax for a tax period on the basis of the tax base, tax rates, as well as tax concessions.

8) Procedure and deadline for tax payment - rules determining the time and procedure of tax payment to the budget (budgets). Deadline for tax payment shall be a calendar date determined in accordance with this Code, before or on which the calculated amount of tax must be paid to the budget, that is, a tax obligation must be fulfilled.

9) Tax concessions – advantages provided by this Code or international legal acts recognized by Tajikistan, including the possibility not to pay a tax, to pay a tax in a less amount or to pay a tax at a later date.

10) Participant of tax relations - taxpayers, tax agents, the authorized state body and other tax authorities, customs authorities and other state bodies authorized to perform calculation and (or) collection of taxes.

11) Organizations - legal entities established in accordance with the legislation of the Republic of Tajikistan (hereinafter to be referred to as "resident organizations"), foreign legal entities established under the legislation of foreign states, international organizations, including those operating through branches and representative offices established in the territory of the Republic of Tajikistan (hereafter to be referred to as - foreign organizations).

12) Tax administration - a summation of tax control measures implemented by tax authorities, enforced collection of taxes in respect of tax obligation unperformed in due time, as well as provision of services to taxpayers (tax agent) and authorized bodies.

13) Enterprise (entrepreneurial organization) - an organization carrying out an entrepreneurial activity or established for performance such activity.

- 14) Special tax regime - special procedure of taxation established for certain categories of taxpayers which provides for a simplified method of calculation and payment of certain taxes, submission of tax reporting.
- 15) Preferential tax regime - special taxation procedure established by this Code that provides additional advantages for ensuring the implementation of state policy.
- 16) General system of taxation - calculation and payment of state and local taxes, stipulated by the present Code, apart from special and preferential tax regimes.
- 17) Individual entrepreneur – an individual performing entrepreneurial activity without establishment of a legal entity, on the basis of a patent or a certificate.
- 18) Documented expenses – expenses confirmed by documents which allow to determine date, amount, and nature of the operation and to identify its members.
- 19) Assets – property, other tangible material assets, cash funds or property rights comprising the total amount of fixed and working assets (funds) of an enterprise (person); any value belonging to a person; an accounting category that includes the value of own property of a subject, as well as funds and reserves intended for the payment (repayment) of debt (obligations).
- 20) Arrears – taxes, interest, and penalties payable to the budget that are calculated (assessed) and are not paid by deadline, including extended deadline.
- 21) Winnings – any type of income, reward, benefit in cash or in kind received by taxpayers from contests, competitions (olympiads), festivals, lotteries, and drawings, including drawings on deposits and debt securities.
- 22) Fixed assets - assets, which simultaneously meet the following conditions:
- a) their service life is more than one year;
  - b) they are used for the production of goods (performance of works, provision of services) or for administrative needs as a means of labor;
  - c) the cost of each unit of such assets is generally higher than the limits established by legislative acts of the Republic of Tajikistan in field of accounting for the reference of fixed assets to circulating assets;
  - d) they are subject to depreciation.
- 23) Grant – cash funds and (or) other property provided (transferred) on non-refundable and irreversible basis for the achievement of certain goals (tasks) by the following persons:
- a) by foreign states (governments of foreign state), international organizations, individuals and legal entities – to the Republic of Tajikistan, to the Government of the Republic of Tajikistan;
  - b) by individuals and legal entities, who create necessary constructions transferred on the gratuitous basis to relevant state authorities for relief of the consequences of the natural disasters or for solution of other social tasks;
  - c) by following organizations activity of which has a charitable and international character and is not in conflict with the Constitution of the Republic of Tajikistan – to the Republic of Tajikistan, to the Government of Republic of Tajikistan, to individuals and legal entities of the Republic of Tajikistan:
    - by international and foreign organizations;
    - by foreign non-governmental social organizations and funds.
- 24) Income from the sources in the Republic of Tajikistan – any type of income or benefit in cash, material or non-material form (without making any deductions) from any kind of activities, property (property rights) and other basis in the Republic of Tajikistan, regardless of the place of income payment, including:
- a) income from work for hire in the Republic of Tajikistan;
  - b) income from the delivery by a producer of goods, manufactured in the Republic of Tajikistan, as well as from the performance of work and provision of services in the Republic of Tajikistan;
  - c) income from entrepreneurial activity that may be referred to a permanent establishment of a non-resident located in the territory of the Republic of Tajikistan, including:
    - income that may be referred to the sale of goods of the same or similar type as goods supplied (sold) through such a permanent establishment in the Republic of Tajikistan;
    - income earned from entrepreneurial activity in the Republic of Tajikistan, which is of the same or a similar nature as activity performed through such a permanent establishment;
  - d) income related to the performance of entrepreneurial activity in the Republic of Tajikistan through a permanent establishment, including from the writing-off a taxpayer's bad debts by creditors, from sale of fixed assets included into the income in accordance with article 119 of this Code, from reimbursement of expenses in accordance with article 152 of this Code;
  - e) income in the form of dividends received from a resident legal entity, as well as income received as a result of the sale or transfer of a stake in such a legal entity;
  - f) income in the form of interest received from residents;
  - g) income in the form of interest received from a non-resident person having a permanent establishment or property located on the territory of the Republic of Tajikistan, if the person's debt is related to such a permanent establishment or property;
  - h) pension, if it is paid by a resident;
  - i) income in the form of royalties received from the property located or being used in the Republic of Tajikistan, or income from sale or transfer of the property to other person, which is located or being used in the Republic of Tajikistan, the property specified in item 41 of this article;
  - j) income received from lease of movable property being used in the Republic of Tajikistan;

- k) income received from immovable property located in the Republic of Tajikistan, including income from sale or transfer of a stake in such property;
  - l) income from sale or transfer of share or stake in an enterprise, where the assets value is mostly formed from direct or indirect the value of property located in the Republic of Tajikistan;
  - m) other income from sale or transfer of the property by a resident to other person, not related to the performance of entrepreneurial activity;
  - n) income received from the performance of management, financial or insurance services, including reinsurance services, if it is paid by a resident enterprise or a permanent establishment of a non-resident located on the territory of the Republic of Tajikistan, or if it is received on the basis of an contract with such an enterprise or a permanent establishment;
  - o) income paid in the form of insurance premiums under the risk insurance or reinsurance agreement in the Republic of Tajikistan;
  - p) income from telecommunication or transportation services involving international communications or carriage between the Republic of Tajikistan and other states;
  - q) income from activity in the Republic of Tajikistan under labor agreements (contracts) or under other agreements of a civil legal nature;
  - r) honoraria for managers and (or) other payments received by members of a supreme management body (board of directors, board or other similar body) of a resident legal entity, regardless of the place where the duties assigned to such persons are actually performed;
  - s) bonuses provided in connection with residence in the Republic of Tajikistan;
  - t) income received by non-resident individuals working in the Republic of Tajikistan, in the form of compensation paid to them (to the said persons) from the part of (at the expense of) employers or persons hiring them for covering costs incurred by these non-resident individuals for material and social goods and other material benefits, including expenditures on meals, housing, enrollment of children at educational institutions, and expenditures for leisure activities, including vacation travel for their family members;
  - u) pension payments provided by resident's pension savings funds;
  - v) income paid to theater and film actors, radio and television employees, musicians, artists and athletes in connection with activity in the Republic of Tajikistan, regardless of that to whom the payment of such income is made;
  - w) winnings paid by residents;
  - x) incomes received from provision of independent personal (professional) services in the Republic of Tajikistan;
  - y) foreign exchange gain, including purchase and sale of a foreign currency;
  - z) income in the form of property located in the Republic of Tajikistan that is received free of charge, including incomes from such property;
  - aa) other income not specified in this item.
- 25) Electronic signature of a taxpayer – a special cryptographic means ensuring the authenticity, integrity and authorship of electronic documents.
- 26) Electronic taxpayer - a taxpayer interacting with the tax authorities electronically on the basis of concluded agreements on the use and recognition of electronic signature in the exchange of electronic documents.
- 27) Work – an activity the results of which have a tangible form, including construction, installation and repair works, scientific research, engineering and project design.
- 28) Interest on shares (dividends) – any distribution of funds or property by a legal entity among its participants (shareholders), excluding income received by a shareholder (participant) in the form of distribution by a legal entity emitting the shares of its own shares among shareholders, which (distribution) does not alter the percentage (stake) of shareholders' shares in the equity share (statutory) capital of this legal entity, including:
- a) income received by a shareholder (partner) from distribution of annual profits remained after taxation by a legal entity emitting the shares, in proportion to amount (percentage) of the shares of a shareholder (participant) in the statutory (share, pooled) capital of the legal entity;
  - b) receipt of interests on shares (dividends) by a shareholder (participant) masked by other payments;
  - c) income received by a shareholder (participant) from the distribution of funds or property through the buying out by the legal entity emitting the shares of its shares and the income received by a shareholder (participant) from the distribution of property in the event of the liquidation of a legal entity, less (in both cases) the value of property (shares) invested by an incorporator as a contribution to statutory (equity share) capital.
- 29) Humanitarian assistance – goods (works, services) provided gratuitously to the Republic of Tajikistan in the person of its subjects by foreign states and international organizations for improvement of living conditions and daily life of the population, and also for the prevention and clean-up of emergencies of a military, environmental, natural, industrial or other nature, distributed in order and procedures set by the Government the Republic of Tajikistan.
- 30) Household plots – lands intended for agriculture, allotted to individuals in accordance with norms established by the Land code of the Republic of Tajikistan, including the land area for construction of by-structures and courtyards. Household plots shall not include parcels of land allotted following the established procedure for the

establishment of peasant (farm) households, and they shall not include parcels of land provided to individuals under lease agreements.

31) Source of payment of taxpayer's income – an organization or individual from whom (at whose expense) a taxpayer receives income.

32) Bad (problem) debt - an amount owed to a taxpayer which the taxpayer is not able to recover in full due to insolvency or liquidation of a debtor, or when the possibility of its receipt from the debtor or a third party is negligible. In any case, a debt due to which no payment has been made for three years from the date a payment is supposed to be made shall be considered as bad (problem) debt.

33) Authorized state body – a central executive body of state power, determined by the Government of the Republic of Tajikistan that ensures tax control over the fulfillment of tax obligations to the state.

34) Authorized bodies – state bodies of the Republic of Tajikistan, except for tax authorities, which are authorized by the Government of the Republic of Tajikistan to perform the calculation and/or collection of separate taxes and (or) perform other functions related to taxation.

35) Separate subdivision of a legal entity – subdivision (branch, representative office or other) of a legal entity regardless of its indication in the constituent and (or) other documents of a legal entity, which cumulatively meet the following conditions:

- a) it performs entrepreneurial or non-entrepreneurial activity;
- b) it has territorial and (or) property apartness from the legal entity;
- c) it has places of work created for more than one calendar month, and (or) the staff involved in relations with the organization or the subdivision regulated by the Labor code of the Republic of Tajikistan.

36) Place of location of a separate subdivision of a legal entity - a place of activity performed by a legal entity through its separate subdivision (the actual location of a separate subdivision).

37) Agricultural production – the initial result (product) of the cultivation of agricultural crops, animals and other biological assets that has not undergone further processing.

38) Goods – any tangible property, including electric power, thermal power, gas and water. For the purposes of value-added tax, goods shall not include cash funds and land.

39) Credit organizations - legal entities (banks, non-bank finance institutions, including microfinance institutions), that perform whole or some banking operations stipulated by the legislation of the Republic of Tajikistan on the ground of licenses issued by the National Bank of Tajikistan.

40) Foreign economic activity commodity nomenclature – a system of commodity classification codes adopted in accordance with the Harmonized commodity description and coding system.

41) Royalties – a payment for:

- a) the right to use natural resources in the course of the extraction of mineral resources and (or) the processing of technogenic formations;
- b) the right to use copyrights, software, patents, sketches and models, trademarks and other intellectual property rights or transfer of the right to use them to third parties;
- c) the use of industrial, commercial or scientific research equipment or transfer of the right to third parties;
- d) the use of “know – how”
- e) the use of motion pictures, video films, audio recordings or other media recorder or transfer the right to third parties;
- f) the technical assistance provided in connection with the rights prescribed in this item or refusal of the use of these rights;

42) Hospitality expenses – expenses related to hosting and providing services to any persons, including expenses incurred for the purpose of establishing or maintaining mutual cooperation, as well as participants arriving to take part on meetings of a board of directors or a revision commission or shareholders' meetings. Hospitality expenses shall include expenses related to holding official receptions for the said persons and providing catering (fourchette) services for them during negotiations.

43) Services - any activity for consideration, including trading activity, financial services, provision of tangible property for lease, provision of intangible property that is not the supply of goods or works.

44) Financial services (for the purpose of value-added tax) – the following services of credit (loan) and other organizations:

- a) granting, sale or transfer of credits, credit guarantees and any other security for money lending transactions, including credit management and credit guarantees by a person who has granted a credit or guarantee;
- b) granting, sale or transfer of loans (including micro-loans), guarantees on loans (micro-loans) and any other security for such money lending transactions, including the management of loans (micro-loans) and guarantees on loans (micro-loans) by a person who has granted the loans (micro-loans) or guarantees;
- c) operations related to the management of deposits and accounts, payments, money transfers, debt obligations, means of payment and instruments of customers;
- d) operations related to the circulation of currency, cash and banknotes that are legal tender (other than numismatic items);
- e) operations related to the circulation of stocks, bonds, certificates, bills of exchange, checks and other securities (other than services related to their safekeeping);

f) operations involving transactions with derivative instruments, forward contracts, options and similar agreements;

g) services related to the management of investment funds;

h) insurance and reinsurance operations;

i) financial lease (leasing);

45) Document of an electronic taxpayer - a document in the prescribed electronic format, compiled, transmitted, encoded and certified by electronic signature which serves as an official reporting document upon its accept and verification of its authenticity .

46) Insurance payment (insurance compensation, insured amount) – an amount paid by an insurance organization to an insured person under property and liability insurance to cover losses occurred as a result of insured events.

47) Depreciable tangible property for the purposes of financial lease (leasing) - all types of depreciable fixed assets (including aircrafts), with the exception of immovable property, furniture and light motor vehicles used in entrepreneurial activity, to the financial leased (given on leasing) for a period not less than 12 consecutive calendar months.

48) Activity on goods manufacturing – entrepreneurial activity, the income from which is obtained primarily from the manufacturing and sale of goods (tangible assets) produced by the entrepreneur.

49) Tax debt recognized by the taxpayer - an unpaid amount of the tax obligation determined (calculated) in the following form:

a) by a taxpayer in its tax reporting;

b) by decision on granting a tax deferral;

c) by decision of the tax authority in connection with tax audit report or in-house control, received and not appealed by the taxpayer;

d) by court decision entered into force.

50) Commercial discovery - reserves of certain types of mineral resources discovered within the contract area, which are confirmed in the prescribed order by the State commission of the Republic of Tajikistan on reserves of mineral resources, which are economically effective for the extraction.

51) Irresponsible taxpayer – for the purpose of tax control, the taxpayers who increase the possibility (risk) of a late and (or) not in full payment of established taxes by its actions (or inactions), including those taxpayers who:

a) fail to provide the entire tax reporting in due time and (or) to pay the amount of tax (taxes) and (or) to pay the recognized tax debt for more than 3 consecutive months from the date of creation of obligation;

b) have submitted an invoice for the value-added tax in the case, when taxable transaction has not been actually carried out, or have submitted a false invoices;

c) have carried out other actions (inaction), the list of which is set by the authorized state body by agreement with the authorized body in the field of entrepreneurship support.

52) Indirect tax – a tax (the value-added tax and the excise taxes), set as a bonus to the price of imported and (or) delivered goods, performed works or (and) rendered services and paid by consumers when purchasing goods, works and (or) services at the price increased by the amount of tax. Obligation to pay the indirect tax to the budget shall be assigned to the supplier of goods, the executor of works and (or) a person providing services, for purposes of this Code, referred as the taxpayer.

53) Supply of goods - transfer of ownership rights on goods, including sale, exchange or gift, granting or transfer with a partial payment, payment of wages in natural form and other payments in kind, transfer of property rights on pledged goods to the pledge holder.

### **Chapter 3. Rights and obligations of a taxpayer (tax agent)**

#### **Article 18. Rights of a taxpayer (tax agent)**

1. Taxpayer (tax agent) has a right:

- to receive from tax authorities information on taxes currently in force and on amendments to the tax legislation of the Republic of Tajikistan, as well as interpretations of the order of tax calculation and payment , filing of tax reporting forms;

- to represent its interests in tax relations personally or through a representative;

- to obtain the results of tax control in cases provided by this Code;

- to obtain a notification on forthcoming documentary tax audit, to attend by performance of tax control;

- to obtain free of charge from tax authorities blanks of tax applications and forms of reporting, unless otherwise provided by this Code, in the prescribed manner to present a tax reporting in electronic form;

- to provide explanations to tax authorities regarding calculation and payment of taxes in accordance with results of tax control;

- to obtain statements from personal account on the status of settlements with the budget relating to the fulfillment of tax obligations, not later than 5 business days upon receipt of a written application by tax authority;

- to receive, within 5 business days upon a written application, following types of information, including presence or absence of tax debts, on amounts of received income by non-resident from sources in the Republic of Tajikistan and about withheld (paid) taxes;

- within 1 business day upon application to tax authority to obtain information on details required for filling payment documents for the purpose of fulfillment of tax obligation concerning payment of taxes, as well as information on method of tax payment;
  - to appeal tax audit reports, notifications based on tax audit reports and actions (inaction) of tax authority officials following the procedure established by this Code and other legislative acts of the Republic of Tajikistan;
  - to request the observance of tax secrecy;
  - not to provide information and documents that do not pertain to taxation;
  - to obtain a prolongation of deadlines for the payment of taxes (get a respite) following the procedure and under the conditions established by this Code;
  - on a timely credit or refund of taxes paid or collected in excess of the required amount (taxes applied to the budget in excess of the required amount);
  - to demand from tax authority officials the observance of tax legislation while performing actions in respect of taxpayers;
  - to demand from the tax authority recovery of the damage caused by illegal decisions and actions (inactions) of its officials in accordance with the procedure provided by current legislation.
2. Taxpayer (tax agent) shall have other rights provided by this Code.
3. Taxpayers shall be guaranteed judicial protection of their rights and lawful interests. The procedure for protection of rights and lawful interests of taxpayers shall be determined by the legislation of the Republic of Tajikistan.
4. The rights of taxpayers shall be ensured by the corresponding obligations of tax authority officials.
5. Failure to fulfill or improper fulfillment of duties related to ensuring the rights of taxpayers shall entail liability provided by the legislation of the Republic of Tajikistan.

#### **Article 19. Obligation of a taxpayer (tax agent)**

1. Taxpayer (tax agent) is obliged:
- to perform tax obligations in due time and in full in accordance with this Code;
  - to fulfill lawful requests of tax authorities on elimination of revealed violations of tax legislation, as well as not to interfere their lawful activity when carrying out their official duties;
  - to allow tax authority officials to inspect property that is an object of taxation and/or an object related to taxation on the basis of an official order;
  - to submit tax returns, other tax reporting forms and documents to relevant tax authorities following the procedure provided by this Code;
  - to apply cash registers in the manner prescribed by this Code;
  - to maintain accounting of its own income (expenditures), objects of taxation and/or objects related to taxation following the established procedure in accordance with tax legislation;
  - to register in a timely manner itself as a taxpayer and as payer of the value-added tax;
  - to keep accounting data, other records and documents required for tax calculation and payment<sup>1</sup>, as well as documents confirming received income, incurred expenditures and paid (withheld) taxes for the period set by this Code;
  - to carry out annually inventory of property and obligations according to the legislation of Republic of Tajikistan on accounting;
  - within the period of no later than 5 business days to inform in writing the tax authority at the place of registration about decisions on reorganization, liquidation (cease of activity) or bankruptcy, on change of the applied tax regime, accounting procedure, place of activity (residence), contact data, including on establishment or cease of the activity of its separate subdivisions.

2. Taxpayer (tax agent) shall fulfill other obligations established by this Code.

3. Individuals shall fulfill obligations set by part 1 of this article in part which concerns their tax obligation.

#### **Article 20. Right to representation in relations governed by tax legislation**

1. Taxpayer can participate in tax relations through an authorized representative.
2. Authorities of a representative shall be documented in accordance with the legislation of the Republic of Tajikistan.

### **Section II. General administrative provisions**

#### **Chapter 4. Control over tax payment**

##### **Article 21. Procedure for the application of administrative provisions**

1. Administrative provisions established in this section and in other sections of general part of this Code shall apply to all types of taxes, as well as custom and state duties and other compulsory payments to the budget apart from otherwise provided by the legislation of the Republic of Tajikistan.
2. Administrative provisions established in the general part of this Code shall extend to taxpayers and tax agents.

##### **Article 22. Tax control over tax proceeds to the budget**

1. Tax control is a form of state control carried out by tax authorities over execution of norms of the tax legislation of the Republic of Tajikistan, and other laws of the Republic of Tajikistan, the control of execution of which is entrusted to tax authorities.

2. Tax authorities shall bear full and exclusive responsibility for performance of tax control in respect of individuals and legal entities, for verification of correctness and timeliness of calculation and payment and all other aspects of taxation, with the exception of cases in which this Code assigns such responsibility to other bodies.

3. Tax control shall be performed by tax authorities by means of:

- registration of taxpayers, objects of taxation and objects related to taxation, tax obligations and status of their execution;
- registration of payers of value-added tax;
- tax audits;
- in-house control;
- time study;
- monitoring of the regulations on the use of cash registers with fiscal memory;
- monitoring of excisable goods production and turnover, the correctness of stamping of certain types of excisable goods and the establishment of excise posts;
- application of market prices for the purposes of taxation;
- monitoring of authority responsible for correctness of calculation and (or) payment of taxes to the budget.

4. The authorized state body in the field of customs shall perform tax control within the scope of its competence in connection with the movement of goods and vehicles across the customs border of the Republic of Tajikistan, in accordance with this Code and customs legislation of the Republic of Tajikistan.

#### **Article 23. Measures for combat against tax evasion and alternative methods of taxation**

1. Any amount of money used in the interests of any person shall be considered as paid to the given person for purposes of taxation.

2. Received income (profit) shall be subject to taxation in accordance with this Code regardless of the basis on which it has been received. If it is determined, following the procedure established by legislation, that any income or an element (part) thereof has been earned illegally and is subject to forfeiture to the state, the taxes previously withheld (paid) in favor of the state from said unlawful income or an element (part) thereof shall be taken into account.

3. For the purposes of correct determination of tax obligations, tax authorities shall have the right:

- not to take into account transactions that are of negligible economic significance (with the exception of significance for tax obligations);
- to reclassify (to redefine) a transaction in accordance with the actual situation if the form of the transaction is not consistent with its content;
- to calculate the amount of tax on the basis of the revealed facts and merits of the operations (transactions) that are significant for the purposes of taxation, if the legal form of the operation (transaction) or a series of transactions result in evasion (avoidance) of tax payments.

4. Tax authorities shall have the right to establish (calculate) the amount of owed tax using direct or indirect assessment methods (on the basis of assets, turnover, production costs, comparison with similar taxpayers, time study etc.) in the following cases:

- when a taxpayer does not maintain accounting (tax) records and (or) violates its requirements;
- when accounting documents required for the determination of tax obligations have been lost or destroyed;
- tax reporting has not been submitted;
- a taxpayer refuses to allow tax authority officials to examine (inspect) manufacture, warehouse, commercial and other premises and territories used by the taxpayer for earning income or related to the maintenance of objects of taxation;
- information and documents required for the calculation of taxes are not submitted within established deadline;
- when a taxpayer is recognized as irresponsible taxpayer.

5. If in the course of a tax audit absence of registration of objects of taxation is revealed or taxpayer fails to submit information about them, then the tax authority has the right to calculate the estimated tax on the basis of information available, using in the appropriate situation evaluation of cost of goods (works, services) distribution, property value, average salaries and the calculation of profitability of 25 percent.

6. The amount of tax can also be established on the basis of time study, comparable economic indicators of activity of other taxpayers engaged in similar activities.

7. At further submission by the taxpayer of tax reporting and calculations, and if necessary - appropriate registration data of objects of taxation, the tax authority shall adjust the amount of the estimated tax.

8. In respect of any taxes the barter and (or) other operations, including receiving income and carrying out expenditures in kind shall be considered by the tax authorities as the sale of goods (the result of works, services) at the market prices.

9. For the purposes of application of additional measures for combat against tax evasion the order of application of alternative taxation methods shall be approved by the Government of the Republic of Tajikistan.

#### **Article 24. Market prices**

1. For the purposes of taxation for the price of goods (works, services) the actual price indicated (fixed in valid documents) by parties of the transaction shall be accepted, unless otherwise provided in this article. If the indicated

price of goods (works, services) differs from the market price and the taxpayer has not provided valid reasons for the discrepancy in prices, then the market price shall be used for taxation.

2. A market price of good (works, services) shall be the price formed as a result of supply and demand in the market of identical goods (works, services) (in case of absence of such market – similar goods) and on the basis of transactions concluded in corresponding market between persons, who are not related persons. Transaction between related persons is considered only under the condition that their interdependence does not affect the results of such transaction.

3. The market price of goods (works, services) is determined on the basis of information on transactions concluded in corresponding market at the time of delivery of the goods (works, services), and in the absence thereof - on the nearest day to the time of sale, preceding or following the moment of selling such goods (works, services) for identical (similar) goods (works, services), including on prices, identified by the appraisers, fixed in international and other exchanges.

4. For purposes of taxation when goods (works, services) are sold at state-regulated prices (tariffs), established by the legislation of the Republic of Tajikistan, then these prices (tariffs) shall be used.

5. The market of goods (works, services) is considered a sphere of circulation of these goods (works, services), determined by the seller's (purchaser's) ability to sell (purchase) goods (work, services) in an area in close proximity to the seller (purchaser) within the territory of the Republic of Tajikistan or outside its borders, without significant additional costs.

6. In the absence of transactions on identical (similar) goods (works, services) in the market of goods (works, services) or absence of supply of goods (works, services) to this market the market price of goods (works, services) is determined by the prices formed on the basis of transactions concluded in respect of identical (similar) goods (works, services) in the nearest moment to the time of sale of goods (works, services), not more than 30 days prior to or following the moment of sale of goods (works, services) or by the price of the last transaction.

7. In case of impossibility of applying the provisions of parts 1-5 of this article the market price of goods (works, services) is determined according to the method of subsequent sale price, the cost method, the method of determining expected benefits or other methods.

8. Official information sources on market prices for goods (work, services), data bases of relevant executive government authorities, information provided to tax authorities by taxpayers, appraisers, experts, as well as other verifiable information, shall be used when determining the market price of goods (work, services).

9. Tax authorities may use the market prices, if:

- transaction is made between related persons;
- there is an exchange of goods, works or services;
- while making foreign trade agreement (contract) one of the parties of transaction is a resident of a state with concessional taxation in accordance with article 131 of this Code;
- one of the parties of the transaction uses tax concession or preferential tax regime;
- price applied by the parties of the transaction deviates for more than 30 percent from the market price for identical (similar) goods (work, services).

10. For the purposes of this article the following terms are used:

- identical goods - different products with the same characteristics, in particular physical characteristics, quality and reputation in the market, country of origin and manufacturer;
- similar goods - different goods that are not identical but have similar characteristics and that are composed of similar components, which allows them to fulfill the same functions and to be commercially interchangeable.

11. The order of definition and use of market prices for the purposes of taxation is established by the Government of the Republic of Tajikistan.

#### **Article 25. Registration of taxpayers**

1. For tax control purposes all taxpayers shall be subject to registration (tax registration) within tax authorities.

2. Taxpayers, tax agents, including separate subdivisions established by them (branches, representative offices, permanent establishments, etc.) as well as citizens of the Republic of Tajikistan attained 16 years of age are obliged to register within tax authorities.

3. Registration is carried out on the basis of:

- written application of a taxpayer or his/her authorized (legal) representative;
- information of authorized body and (or) other authority;
- information of credit organization;
- information of other territorial tax authorities.

4. Registration within tax authorities provides for:

- registration of individuals;
- registration of legal entities, its separate subdivisions;
- registration of branches and representative offices of legal entities, as well as a permanent establishment of foreign legal entity;
- registration of diplomatic representations and representations with equivalent status, accredited in the Republic of Tajikistan;
- registration of taxpayers as payers of the value-added tax in accordance with the order determined by this Code;



- registration of taxpayers as electronic taxpayers;
  - registration of taxpayers at the place of location of object of taxation and (or) object related to taxation.
5. On the basis of registration data the authorized state body shall keep Unified state register of taxpayers (hereinafter to be referred to as "Register").
6. Keeping Register includes:
- entry of information about taxpayer;
  - amendment and (or) addition of registration data about taxpayers;
  - exclusion of information about taxpayer.
7. Document confirming registration of a taxpayer with tax authorities is a Certificate on assignment of a taxpayer identification number.
8. Registration within tax authorities and deregistration are free of charge.
9. Registration within tax authorities is carried out:
- 1) at the place of residence (registration) of an individual - based on individual applications submitted to tax authorities within the period established by the legislation of the Republic of Tajikistan and (or) the information provided by the relevant state bodies.
  - 2) at the place of location of a legal entity, at the place of location of its separate subdivision, as well as at the place of location of its immovable property and vehicles which are subject to taxation.
  - 3) at the place that has been declared at registration by a non-resident legal entity carrying out activity through a permanent establishment, without opening a branch or representative office:
    - a) at the place of state registration of a taxpayer acting as a permanent establishment of the given non-resident;
    - b) at the place of state registration of the taxpayer acting as a tax agent for the payment of taxes at income source of a non-resident in the Republic of Tajikistan;
  - 4) - at place of temporary residence (stay) in the Republic of Tajikistan, indicated in the migration card of non-resident individuals (persons without citizenship). If in accordance with the provisions of an international legal act it is not provided for the migration card, at the place of stay of the non-resident individual which is a place of location in the Republic of Tajikistan, indicated in an application submitted to the tax authority.
  - 5) Individual or legal entity, including non-resident, whose activity is treated as a permanent establishment of the non-resident legal entity in accordance with the fifth paragraph of part 4 of article 12 of this Code, are obliged to file an application within tax authority for registration of its partner being a non-resident legal entity within 10 calendar days from the date a relevant agreement (contract) is concluded with the partner or within 10 calendar days from the date such activities actually begin, for the purpose of the assignment of a taxpayer identification number to the non-resident legal entity.
  - 6) The date, when a non-resident's activities in the Republic of Tajikistan starts, shall be one of the following dates:
    - a) date on which a contract (agreement) is concluded:
      - for performance of work (provision of services) in the Republic of Tajikistan;
      - for granting authorities to perform actions in the Republic of Tajikistan on its (the non-resident's) behalf;
      - for purchasing of goods in the Republic of Tajikistan for the purpose of their subsequent delivery;
      - for performing joint activity (participation in a simple partnership) in the Republic of Tajikistan;
      - for purchasing of work (services) for the purpose of doing business in the Republic of Tajikistan;
    - b) the date on which an individual has concluded labor contract or other contract of a civil legal nature with an individual in the Republic of Tajikistan;
    - c) the date on which an agreement (purchase and sale agreement, property lease agreement) has been concluded indicating the opening of an office.
    - d) In the event that several of the conditions referred to this part are present, the date on which activities start in the Republic of Tajikistan shall be the date on which the first (the earliest) of the said contracts (agreements) are concluded.
  - 7) Diplomatic representations and equivalent representations of foreign states accredited in the Republic of Tajikistan – at the location of the diplomatic representations and equivalent representations on the basis of application and (or) information received from the Ministry of foreign affairs of the Republic of Tajikistan.
10. The registration of non-resident individuals and non-resident legal entities operating in the Republic of Tajikistan without establishment of a branch, representative office cannot provide grounds for self-payment of taxes, unless otherwise provided by this Code.
11. The tax authorities shall provide for further entry information into Register about:
- individual, including a foreign citizen or a person without citizenship - at the place of residence and (or) temporary stay;
  - resident legal entity, its branches and representative offices, branches and representative offices of a non-resident legal entity - at the place of location;
  - non-resident legal entity, operating in the Republic of Tajikistan through a permanent establishment, without opening a branch or representative office – at the place of location of the dependent agent being a person performing the functions of a permanent establishment of the non-resident;
  - a non-resident individual and non-resident legal entity that acquires (sells) the securities, shares (interest), real estate in the Republic of Tajikistan – at the location of this property and (or) of a resident acting as a registrar of the

owners of this securities and (or) shares (interest) of resident, that sells (acquires) property in the Republic of Tajikistan;

- diplomatic representations and equivalent representations of foreign state, international organizations accredited in the Republic of Tajikistan – at the place of location of the diplomatic representations and equivalent representations, at the place of location of international organizations;

- non-resident carrying out an activity without opening a branch or representative office through a permanent establishment, - at the place of registration of a person performing the functions of a permanent establishment of the non-resident;

- non-resident opening accounts in resident credit organizations - at the place of location of resident credit organization (tax agent);

- aircraft and other transportation vehicles – at the place of location of their owner;

- immovable property, land plots – at the place of their actual location.

12. The information about individual is entered to the Register as individual reaches the age of 16 on the basis of application of this individual. In case of creation of tax obligation by an individual under 16 years old, to the Register shall also be entered information about tax agent of this individual (legal or authorized representative).

13. Information about persons who have passed the state registration in accordance with the Law of the Republic of Tajikistan "On state registration of legal entities and individual entrepreneurs" shall be entered in the Register in the following order:

- initial information - in the process of state registration;

- registration information (information about the charter of the legal entity, about regulation of branches and representative offices of a resident or non-resident legal entity) - within 30 business days after the date of state registration based on the information by a taxpayer;

- other information necessary for tax control - within 5 business days after the occurrence of relevant circumstances (opening accounts in credit organization, obtaining licenses or concessions, activity in free economic zone and other information in accordance with this Code) on the basis of information by a taxpayer.

14. Application of other legal entities, branches and representative offices of foreign legal entities that are not prescribed in part 9 of this article, on their registration as taxpayers and (or) registration of objects of taxation and (or) objects related to taxation shall be filed with the tax authorities at the place of their location within 30 business days after the state registration (after start of activity by a non-resident).

15. Request to change the registration data of the persons that are not established in part 9 of this article shall be filed with the tax authority at the place of their registration within 10 calendar days.

16. In the case of liquidation of persons (cease of activity, reorganization) that are not prescribed in part 13 of this article, death or incapacity of an individual, the exclusion from Register is carried out by relevant tax authority on the basis of received information.

17. Application on registration at the place of location of immovable property, transport vehicles and other objects of taxation and objects related to taxation, shall be filed by the taxpayer within 10 days after the occurrence of the relevant circumstances.

18. In the event a taxpayer has difficulties with defining the place of registration, the relevant decision shall be made by the tax authority serving the area in which an individual maintains its place of residence or a legal entity is located, on the basis of data presented by the taxpayer.

19. Tax authorities shall have the right, on the basis of data and information presented to them by relevant state authorities, as well as any information available to them that is necessary and sufficient for registration purposes, to carry out independently the registration of taxpayers within tax authorities (prior to the filing of an application by a taxpayer).

20. Registration of a taxpayer shall be made within 3 business days.

21. Carrying out an activity without being registered as a taxpayer within tax authorities may be grounds for bringing to responsibility in order established by legislation of the Republic of Tajikistan.

#### **Article 26. Taxpayer identification number**

1. When registering within tax authority as a taxpayer, taxpayer identification number shall be assigned free of charge to each taxpayer – individual and (or) legal entity, branch and (or) representative office of a foreign legal entity.

2. Assigned taxpayer identification number shall not be changed under any circumstances, with the exception of those cases referred to in this Code, and cannot be assigned to another taxpayer (any other individual or legal entity), even in the case of the liquidation of the given taxpayer that is a legal entity (or a separate subdivision thereof), cease of activity of branch (representative office) of a foreign legal entity or the death of an individual.

3. Taxpayer identification number may be changed only on the basis of decision of the Government of the Republic of Tajikistan, in the case of complete re-registration of all taxpayers or certain taxpayer groups, or by the authorized state body, if any errors have been made during assigning taxpayer identification number (incorrect assignment of a taxpayer identification number, assignment of the same taxpayer identification number to different taxpayers, or the assignment of more than one taxpayer identification number to the same taxpayer).

4. Certificate on assignment of taxpayer identification number shall be issued by the relevant tax authority to individuals, legal entities, branches and representative offices of foreign legal entities. If legal entities have separate subdivisions or there are present other objects of taxation and (or) objects related to taxation, to the given persons

shall also be set the codes of reason for registration in order and form approved by the authorized state body. These codes of reasons for registration shall be also set to a permanent establishment of a non-resident carrying out activity in the Republic of Tajikistan without branch (representative office), or to its authorized agent.

5. To the persons, who have passed state registration in accordance with the Law of the Republic of Tajikistan "On state registration of legal entities and individual entrepreneurs", shall be issued a Certificate on assignment of taxpayer identification number, simultaneously with a document confirming the state registration. Individuals reached 16 years, as well as other legal entities that are not specified in this part, a certificate on assignment of taxpayer identification number shall be issued based on applications to the relevant tax authorities within the terms specified in this Code.

6. State authorities and other persons authorized to perform the following actions (operations, transactions) in regard to individuals and legal entities (in respect of, on behalf of such persons and entities), including by means of electronic turnover of documents, shall request from such persons and entities confirmation of assignment of taxpayer identification number:

- carrying out notary acts, including those which concerns the operations with immovable property and vehicles for which the collection of state duty is provided for;
- issuing licenses, permissions and certificates on right of land use;
- hiring in state authorities, enterprises, institutions and organizations;
- registration of foreign economic operations;
- transfer of cash outside the borders and within the borders of the Republic of Tajikistan;
- shipment of goods on credit (with installment payments), granting loans by credit organizations, except for income and outgoing transactions on savings deposit accounts of individuals.

7. Taxpayers shall indicate their taxpayer identification numbers in tax reporting, correspondence with tax authorities, customs authorities or financial authorities, in relations with other authorized bodies, in customs declaration, in payment documents, bills of load, receipts of cash registers, as well as in business documents (contracts, agreements).

8. Taxpayer identification number assigned to an individual being a citizen of the Republic of Tajikistan shall be indicated in the passport of this individual through stamping and making note of taxpayer identification number. Taxpayer identification number must be placed on the blanks and seals of legal entities and individual entrepreneurs.

9. Regulations on registration, assigning of taxpayer identification number, setting of codes of reason for registration, as well as rules of stamps preparation, stamping and making note of taxpayer identification number in the passport shall be approved by the Government of the Republic of Tajikistan.

#### **Article 27. Obligations of state bodies when dealing with tax authorities**

1. State bodies performing a state registration of legal entities, branches and representative offices of foreign legal entities, except for the persons which have been registered in accordance with the Law of the Republic of Tajikistan "On state registration of legal entities and individual entrepreneurs", shall inform the tax authority serving the area in which they are located about registered, re-registered, reorganized or liquidated legal entities by the 15th of the month following the reporting quarter.

2. State bodies issuing licenses, permissions, certificates and other similar documents to individuals and legal entities, shall inform relevant tax authority serving the area in which they are located about persons to whom they have issued such documents by the 15th of the month following the reporting quarter, as well as about whose who have had such documents revoked, seized or whose documents have been expired.

3. Internal affairs bodies are required to inform the tax authorities serving the area in which they are located about issuance of regular and foreign passports to the citizens of the Republic of Tajikistan, including those issued instead of lost or expired passports, as well as revoked passports, by the 15th day of the month following the reporting quarter.

4. State bodies that perform the state registration (re-registration) of rights on immovable property and (or) vehicles that are objects of taxation, shall provide information about registered and located in the territory under their jurisdiction, immovable property or vehicles registered with these authorities and about their owners to the tax authorities serving the area in which they are located by the 15th of the month following the reporting quarter.

5. Authorities that carry out record keeping and (or) registration of users of natural resources, including state registration of rights of land use, as well as licensing of activities related to the use of these resources, shall notify the tax authority serving the area in which they are located of the granting of such rights by the 15th of the month following the reporting quarter.

6. Customs authorities are obliged to provide to tax authorities in the prescribed manner and on regular basis information disposed by them, necessary for execution of tax legislation.

7. Submission of information prescribed in parts 1-6 of this article to tax authorities may be carried out in electronic format by agreement of the parties.

8. Failure to submit or late submission of information provided for in parts 1-6 of this article, about the objects of taxation and (or) about the objects related to taxation, shall result in responsibility of officials of relevant state bodies in accordance with this Code and other legislative acts of the Republic of Tajikistan.

#### **Chapter 5. Tax audits and other forms of tax control**

##### **Article 28. General provisions**

1. A tax audit is an inspection carried out by tax authorities concerning compliance with the tax legislation of the Republic of Tajikistan, as well as other legislation of the Republic of Tajikistan, monitoring of execution of which is assigned to tax authorities.

2. Tax audits shall be performed exclusively by tax authorities. If sufficient grounds exist and in accordance with a written request of state financial control and anticorruption authorities, tax authorities shall conduct tax audits in cooperation with these authorities in accordance with this Code.

3. Tax audits are divided into the following types:

- documentary audit;
- field audit;

4. Documentary audit are divided into the following types:

1) comprehensive audit – an audit of observance of tax legislation for all types of taxes, including at liquidation (cease of activity) and (or) reorganization of taxpayer (hereinafter to be referred to as “liquidation tax audit”);

2) targeted audit – an audit carried out in respect of a taxpayer (tax agent) in connection with one or several following issues:

a) execution of tax obligation on separate types of taxes, as well as taxes interrelated with them. A tax is considered to be interrelated with another tax if change of the commutated amount of another tax results in respective change of the amount of this tax;

b) execution of decisions on enforced collection of taxes from a taxpayer and (or) credit organizations;

c) approval of amount of the value-added tax applied for refund.

3) counter audit – an audit performed in respect of third parties in the event that in the course of performing tax audits a tax authority needs to obtain additional information regarding the proper tax accounting of transactions made by a taxpayer.

5. Field audit shall be performed by the tax authorities in respect of observance of the following requirements of tax legislation:

- registration of taxpayers with tax authorities, correctness of information about the place of location of a taxpayer;

- hiring employees to perform any work (service) by employer;

- usage of cash registers with fiscal memory;

- observance of regulations that concern bottling (packaging), marking by excise stamp, storage, sale of excisable goods and execution of separate types of excisable activity.

6. Comprehensive tax audits shall be performed by tax authorities on the basis of requests of law enforcement bodies exclusively in respect of the taxpayers about whom written information has been received confirming that criminal cases have been filed in connection with evidence of tax-related crimes. Counter audits in respect of other persons related with abovementioned taxpayers, identified in a written request of law enforcement authorities, shall be conducted in case of presentation of relevant decision.

7. Performance of a tax audit shall not suspend activity of a taxpayer's, except for the case, when an individual entrepreneur operates without hiring workers and his participation in tax audit is obligatory.

8. Instruction on performance of tax audit shall be approved by the authorized state body in agreement with the Ministry of Finance of the Republic of Tajikistan.

#### **Article 29. Periodicity of tax audits**

1. Documentary tax audits are divided into the following types:

- scheduled – comprehensive documentary tax audits performed in accordance with the schedule of tax audits, approved by the authorized state body. Schedule of tax audits shall be drawn up on the basis of assessment of tax legislation violation risks, analysis of tax reporting submitted by taxpayer, information of authorized bodies, as well as other document and information about activity of a taxpayer;

- unscheduled – comprehensive documentary tax audits which are not prescribed in first paragraph of this part.

2. Scheduled documentary audits of taxpayers, whose gross income (except for value-added tax, excise, cotton and primary aluminum sales tax) for preceding calendar year exceeds 15 million somoni, shall be performed not often than once a year.

3. Scheduled documentary audits of taxpayers, whose gross income for the preceding calendar year is less than 15 million somoni, shall be performed no more than once every two years.

4. First scheduled documentary audit of activity of subjects of small entrepreneurship that pay taxes under the simplified system, shall be carried out only after 24 full calendar months from the date of its registration.

5. If subjects of small entrepreneurship, specified in part 4 of this article, prior to the expiration of abovementioned term are included into the list of irresponsible taxpayers, reorganized or liquidated, their activities shall be subject to unscheduled comprehensive documentary audit.

6. Field audits are carried out by the decision of the head of the tax authority, as necessary.

7. Documentary tax audits conducted for completed tax periods, except for liquidation tax audits related to the liquidation of a legal entity, the cease of activity of a permanent establishment of a non-resident or the cease of activity of an individual entrepreneur. If in relation to the period scheduled for audit has been conducted comprehensive tax audit of a taxpayer, then, the targeted audit of this period shall not be conducted.

8. Unscheduled comprehensive or targeted audit shall be performed in the following cases:

- at the cease of activity of an individual entrepreneur being payer of value-added tax;

- at the reorganization or liquidation of a legal entity, cease of activity of a foreign legal entity carrying out an activity in the Republic of Tajikistan through a branch or representative office;
- at the extinction of concessions for legal entities, provided by section XVII of this Code;
- in connection with the expiration of a contract on subsoil use;
- for the purposes of verification the amount of value-added tax that is charged for a refund;
- on the grounds specified in part 6 of article 28 of this Code;
- at the completion of the investment project.

9. Unscheduled comprehensive or targeted audits may be conducted, if necessary:

- in the case of the need to conduct a counter audit;
- on the basis of a decision of the head of the authorized state body;
- on the basis of a requests of tax authorities of other states;
- in respect of persons found as irresponsible taxpayers;
- in case of the cease of activity by an individual entrepreneur, acting on the basis of a certificate;
- on the basis of an application of a taxpayer.

10. Tax authorities are prohibited to carry out repeated comprehensive audits for the audited tax period, with the exceptions of such audits that are carried out within the statute of limitations established by this Code:

- upon a written request of a taxpayer;
- on the grounds specified in part 6 of article 28 of this Code;
- on the basis of decision of the head of the authorized state body, in accordance with reasonable proposals of the head of the relevant tax authority;
- upon a decision of the head of authorized state body for monitoring of the work of the tax authority that is carrying out the documentary tax audit. Such audit must apply only to the latest period that covered by documentary tax audit.

#### **Article 30. Duration and deadlines for the performance of tax audit**

1. Deadline for the performance of tax audits specified in issued orders must not exceed 30 business days from the date when an order has been presented, unless otherwise provided by this article.

2. The duration of documentary tax audit for legal entities which have separate subdivisions and non-residents operating through a permanent establishment in the presence of more than one place of location in the Republic of Tajikistan, as well as taxpayers who are registered with the tax inspectorate of large taxpayers, may not exceed 60 business days. The authorized state body may extend the duration of documentary tax audit up to 30 business days.

3. The duration of documentary tax audit of the taxpayers, who are subjects of small entrepreneurship, shall not exceed 10 business days.

4. The duration of field audit shall not exceed 15 business days. Field audit in relation to an individual taxpayer shall not last more than four working hours.

5. The time counted toward the deadline for performance of a tax audit shall be suspended for the period of time between the moment that a taxpayer has received a request from a tax authority to provide documents and the presentation by a taxpayer of the documents requested in process of the tax audit, and also for the period of time required for obtaining information and documents from third parties at a request of tax authority. Suspension and resumption of the deadline for tax audit shall be noted in the Book of audit registration of economic entities and in order of audit. Suspended period shall not be included in the deadline of a tax audit.

6. A tax audit can be carried out only during the established working hours and on the established business days. If entrepreneur activity (production and (or) sale of goods, works and services) is carried out in another time, tax audit also can be performed at that time. If the working hours of a tax authority and a taxpayer do not match, the tax audit can be carried out during the working hours of the taxpayer.

7. The tax authority does not have the right to carry out scheduled documentary tax audits of the economic entities with seasonal activity in the following cases:

- if an economic entity produces agricultural goods and it is the sowing time – from April 1st to June 1st, and if it is the harvesting time – from August 1st to November 1st of a calendar year;
- if an economic entity processes agricultural goods (perishable horticultural products) – from June 20th to October 20th of a calendar year.

#### **Article 31. Notification on forthcoming tax audit**

1. Tax authorities must send or give a notification on performance of tax audit to a taxpayer not later than 10 business days before the beginning of documentary tax audit, unless otherwise provided by this article.

2. Taxpayer shall be notified on the forthcoming unscheduled tax audit in written form not later than 24 hours before the start of tax audit.

3. Tax authorities have the right to start unscheduled documentary tax audit without notification of a taxpayer on the beginning of the tax audit in cases of reasonable risk that the taxpayer can hide or destroy necessary, for tax audit, documents related to taxation, or there are other circumstances that make it impossible to perform a tax audit or to make it in full. Tax authorities shall perform such tax audit without notification of the taxpayer according to a written permission of the higher tax authority.

4. Taxpayers, who received a notification on forthcoming tax audit, are obliged to ensure their participation (participation of their representatives) and documents required for tax audit on the date and at the time stipulated by the notification.

5. In case if a taxpayer due to legitimate excuse cannot provide the documentary to tax audit to start on the day and at the time envisaged by the notification, the taxpayer must notify the inspecting tax authority in written form before the start of the tax audit but not later than 5 business days after the day of receipt of the notification of the inspecting tax authority and suggest a new date and time for the tax audit that would suit both parties.

6. Legitimate excuses preventing a taxpayer from providing the tax audit to start on the day and at the time envisaged by the notification can be considered a non-delivery of the notification, an illness, proved by documents, or a business trip of the designated person who has to provide the start of the tax audit, the death of its close relatives, natural disasters.

7. In any case, tax authorities have the right to start a tax audit, provided by notification at least 10 days after the period specified in the notification, and a taxpayer shall provide conditions and submit the documents necessary for carrying out of the tax audit.

8. Counter audits and field audits are conducted without prior presentation (sending) of notification.

#### **Article 32. Grounds for the performance of tax audits**

1. As a ground for the performance of a tax audit shall serve an order in a form defined by authorized state body by agreement with the Ministry of finance of the Republic of Tajikistan.

2. Only one audit may be performed on the ground of one order, except for field audits.

#### **Article 33. Start of tax audit**

1. The moment that a taxpayer (tax agent) is presented with an order shall be considered the start of tax audit.

2. Tax authority officials performing a tax audit shall be required to present a taxpayer with their official ID and to make a consequent note in the registration book of audits of economic entities according to established order.

3. A tax authority official performing a documentary tax audit shall present the taxpayer with the original copy of the order. A signature shall be provided by the taxpayer (tax agent) in a copy of the order indicating that he/she has read the order and received one copy.

4. When field audits are performed, a taxpayer or its employee selling goods or rendering services shall be presented with the original copy of the order for review and shall be given a copy thereof. A signature shall be provided in the original copy of the order by the taxpayer or its employee selling goods or rendering services, indicating that he/she has read the order and received a copy thereof, stating date and time of the receipt of the order.

5. A refusal by a taxpayer to accept the order shall not serve as a ground for the cancellation of tax audit.

#### **Article 34. Access by tax authority officials to territory or premises for the performance of tax audit**

1. For inspection purposes a taxpayer shall grant access to tax authority officials performing a tax audit to territory or premises (other than residential premises) used for receiving income or to objects of taxation and objects related to taxation,.

2. A protocol shall be drawn up in the event that tax authority officials performing a tax audit are hindered from gaining access to the said territory or objects of taxation or objects related to taxation, or to other premises (other than residential premises).

3. A protocol shall be signed by tax authority officials performing a tax audit and by a taxpayer (tax agent). In case of a refusal of the taxpayer (tax agent) to sign said protocol, the auditor shall be required to provide a fact of the refusal of the taxpayer (tax agent) to sign the protocol.

4. Tax authority officials must carry with them special passes if such passes are required for access to the territory and (or) premises of a taxpayer in accordance with legislative acts of the Republic of Tajikistan.

5. A taxpayer shall have the right not to provide access to territory or premises by tax authority officials for the performance of a tax audit if:

- they do not follow the requirements of article 31 or article 33 of this Code;
- the time period for performing the audit as indicated in the order has not yet approached or has expired;
- these persons are not mentioned in the order;
- tax authority officials have no special passes, necessary for access to territory or premises of the taxpayer according to legislative acts of the Republic of Tajikistan.

#### **Article 35. Completion of tax audit**

1. Upon completion of tax audit the tax authority officials shall draft a tax audit report, a form of which shall be defined by authorized state body with approval of the Ministry of Finance of the Republic of Tajikistan.

2. A taxpayer who has not presented during a tax audit at the request of auditors the documents necessary for determination of objects of taxation and (or) objects related to taxation, shall explain in written form the reasons of the failure of submission of mentioned documents.

3. A tax audit shall be considered completed on a date on which the taxpayer is presented with a tax audit report or a date on which a tax audit report is sent to him/her by registered mail with delivery notification in case if the taxpayer (tax agent) refuses to accept a tax audit report.

4. In the event that no violations of the tax legislation are identified upon completion of a tax audit, a notation to this effect shall be made in the tax audit report.

5. The required copies of documents, calculations performed by tax authority officials and other materials obtained in the course of a tax audit shall be attached to a tax audit report.

6. At least two copies of a tax audit report shall be prepared and signed by tax authority officials who have performed the tax audit and by the taxpayer. One copy of the tax audit report must be handed to the taxpayer (tax agent).

7. Receiving the tax audit report, the taxpayer (tax agent) shall mark its receipt on the other copy of the tax audit report and provide his/her signature. At that, the taxpayer's signature shall not mean its consent with the tax audit report and it shall not restrict the taxpayer's right to appeal the decisions and actions (inaction) of the said official. If a taxpayer (tax agent) has refused to accept and (or) sign a tax audit report, a note to this act shall be made in the tax audit report. In this case the tax audit report shall be sent to the taxpayer (tax agent) by registered letter with delivery notification.

#### **Article 36. Decision on the results of tax audit**

1. Upon completion of a documentary tax audit, in case of violation detection, a tax authority shall make a decision (issue a notification) on tax audit results (hereafter - notification), a form of which shall be defined by authorized state body in consultation with approval of Ministry of Finance of the Republic of Tajikistan, and shall be sent to the taxpayer (tax agent) within 15 business days after the date on which the documentary tax audit has been completed.

2. In case of absence of information about a place of location of a taxpayer, a period for performance of a notification on the results of documentary tax audit shall be suspended until presentation of the notification to the said taxpayer.

3. Upon completion of a field tax audit, in case of detection of law violations, the tax authority shall start proceeding on the case of tax violations, carried out in accordance with the procedure established by chapter 13 of this Code.

4. A tax authority shall register a notification (in case of detection of violations) and a tax audit report under the same number.

5. A taxpayer who has received a notification on the amount of calculated taxes, penalties and interest, shall execute the notification within the deadlines specified therein, unless the taxpayer has filed an appeal of tax audit results. At that, the deadline of execution of the notification shall be determined not later than 10 business days after receiving the notification.

6. In the event that no violations of the tax legislation are identified upon completion of a tax audit, the notification shall not be adopted.

7. A the notification on the results of the tax audit satisfying the requirements of paragraph twenty second of part 1 of article 90 of this Code shall have a mark, that the materials of tax audit will be submitted for consideration to the relevant law enforcement authorities according to legislation of the Republic of Tajikistan within 10 business days from the date of notification.

#### **Article 37. In-house control**

1. In-house control shall be a form of tax control performed by a tax authority at the place of its location, based on a study and analysis of a tax report submitted by a taxpayer, information of authorities and other documents. In-house control shall be considered constituent part of a risk management system.

2. In-house control shall be performed by authorized tax authority officials in accordance with their official service duties, without any special decision (order) of the head of tax authority.

3. In the event that during in-house control possible violations of tax legislation will be identified, a notification shall be sent to the taxpayer to provide within 5 business days necessary notes, documents and (or) to perform other obligations established by this Code.

4. If the violations identified in course of in-house control will entail change in the lump sums of tax obligations of a taxpayer, a tax authority official carrying out in-house control is obliged to draw an in-house control report. Drawing up an in-house control report and making a decision by tax authority on its results is carried out on the form specified in this Code for the documentary tax audits.

5. In-house control shall be performed, in particular, on the following issues:

- compliance between the information and documents provided by a taxpayer, and the information and documents in possession of tax authority;
- registration as payer of the value-added tax;
- legality of used (applied) tax regimes;
- legality of used (applied) tax concessions.

#### **Article 38. Application (use) of cash registers with fiscal memory**

1. In the territory of the Republic of Tajikistan monetary settlements while selling of goods, performance of work or rendering services by means of cash, bank payment cards, checks shall be performed with the mandatory application of cash registers with fiscal memory and issuance of a receipt.

2. The provision of this article shall not apply to monetary settlements of the following persons:

- 1) individual entrepreneurs (except for those selling excisable goods):
  - a) running business on the basis of a patent;
  - b) if three months have not passed since the date of the taxpayer's state registration as an individual entrepreneur (except for those carrying out an activity on the basis of a patent).
- 2) Taxpayers that are related to performing services for the public in which receipts, tickets, coupons, postal payment stamps, or other strict accounting documents equivalent to checks are issued by following forms established by the Ministry of finance of the Republic of Tajikistan;
- 3) Individuals engaged in the sale of agricultural goods of their own production at markets and at other specially designated sites outside of permanent premises;

4) Payers of unified tax engaged in the sale of goods of their own production at the place of manufacture outside of permanent premises.

3. The procedure of the application of cash registers with fiscal memory (including operation with payment cards and scratch-cards), technical requirements to cash registers with fiscal (control) memory, as well as requirements to computer system for control of mobile and electronic services shall be established by the Government of the Republic of Tajikistan.

4. Cash registers with fiscal memory shall refer to electronic devices with a fiscal memory unit and (or) computer systems used for the recording of monetary settlements while selling of goods, performance of works and rendering services, which provide unalterable shift-time recording and nonvolatile long-term storage of information. The Ministry of the Economic Development and Trade of the Republic of Tajikistan, authorized state body and other state authorities shall establish a State Registry of Cash Registers with fiscal memory that are approved for use on the territory of the Republic of Tajikistan.

5. In the event of a technical malfunction of cash registers with fiscal memory, an electric power failure or functioning of conditions sub-item b) of item 1) of part 2 of this article it shall be permitted for temporary use and issue to buyers the purchase receipts following the procedure provided by item 2 of part 2 of this article. For such taxpayers it is mandatory to keep cash registration record book, the form of which is set by the Government of the Republic of Tajikistan.

6. The following requirements shall be established while the application (use) of cash registers with fiscal memory:

- prior to being installed into operation, cash registers with fiscal memory shall be registered with the tax authority serving the area in which an activity is to be conducted;
- a receipt is issued by a cash register with fiscal memory;
- tax authorities must have an access to a cash register with fiscal memory.

#### **Article 39. Tax control over compliance with the procedure for the application and use of cash registers with fiscal memory**

1. Tax authorities:

- shall monitor compliance with the procedure for the application and use of cash registers with fiscal memory, as well as use of cash registration record book and receipt book and other strict accounting document forms of which are established by the Government of the Republic of Tajikistan;
- shall use data stored in the fiscal memory units of cash registers with fiscal memory when conducting tax audits;
- shall require the submission of data of cash registers with fiscal memory simultaneously with the provision of tax declarations and other tax reporting forms;
- shall keep a register of the location and use of cash registers with fiscal memory for each city (district).

2. Taxpayers are obliged to post at the place available to the buyer (customer) mode (time) of work and price tags of the selling goods (price lists for provided works and services) in national currency.

3. Test purchase shall be made by tax authorities without limitation of periodicity only for control over the frequency of use of cash registers with fiscal memory and issuing checks to the customers. The procedure of performing a test purchase shall be set by the authorized state body.

#### **Article 40. Time study**

1. Time study is a form of tax control carried out by tax authorities in order to determine the actual income of a taxpayer and the actual costs associated with the activities aimed at receiving income for the period during which the study is conducted.

2. In course of carrying out a time study tax authorities shall determine independently issues of the studied object of taxation and (or) objects related to taxation. At that, the following shall be studied:

- objects of taxation and (or) objects related to taxation;
- availability of funds, payment documents, accounting books, reports, estimates, securities, accounts, returns and other documents associated to the time studied object of taxation and (or) objects related to taxation;
- fiscal report of cash registers;
- number of actually involved employees.

3. Time-study shall be conducted not more than once a year for up to 3 business days in the manner determined by the authorized state body.

4. Time-study can be carried out on weekends and holidays, if time studied taxpayer conducts activity on these days. Time study can be carried out in accordance with the mode of work of the taxpayer, regardless of the time of day.

5. A ground for carrying out a time study is an order written out in accordance with the requirements concerning the performance of tax audits in the manner provided by this Code.

6. The results of a time-study of taxpayers shall come into account by calculation of the amount of taxes following the results of documentary audit, as well as by analyzing the correctness of tax reporting, taking into account the seasonality of the economic activity.

#### **Article 41. Additional control over excisable goods and other activities**

1. Certain types of excisable goods are subject to sealing with excise stamps.



2. Producers and importers of excisable goods shall be responsible for applying excise stamps to excisable goods.

3. Following the procedure established by authorized state body, a tax authority shall monitor observance of the regulations concerning the stamping of certain types of excisable goods by producers.

4. Customs authorities of the Republic of Tajikistan shall supervise the execution of stamping of excisable goods imported into the Republic of Tajikistan in the customs regime for release for free circulation, as well as realized in the Republic of Tajikistan according to other customs regimes.

5. For the purposes of completeness of the recording of goods and cash turnover, tax authorities have the right to establish tax stations in the territory (at the place of location) of taxpayers, following the procedure established by the Government of the Republic of Tajikistan.

6. Tax stations can be placed in the territory (at the place of location) of the following taxpayers:

- excisable goods manufacturers (producers);
- having tax debts;
- taxpayers, who systematically submit zero indicators within the tax reporting period ;
- extracting mineral resources.

#### **Article 42. Monitoring of authorized bodies**

Authorized state body shall monitor the authorized bodies regarding the proper calculation, full collection and timely transfer of taxes and other compulsory payments to the budget, except for authorized body on customs affairs.

### **Chapter 6. Risk management system**

#### **Article 43. General provisions**

1. Risk management system is based on a risk assessment and includes measures developed and (or) used by tax authorities in order to identify and prevent the risk of violation of tax legislation. Based on the results of risk assessment tax authorities could apply differential forms of tax control.

2. Risk is a probability of default and (or) incomplete performance of tax obligations by taxpayer (tax agent) that could and (or) can cause damage to the state.

3. Purposes of application of risk management system by tax authorities are:

- focusing on high-risk areas and ensuring more efficient use of available resources;
- increasing the abilities to identify violations in the field of taxation.

4. Risk management system shall be used for monitoring of the implementation of the tax control, including for the purpose of selection of taxpayers (tax agents) for carrying out tax audits.

5. Risk management system can be implemented with the use of the risk management information system.

#### **Article 44. Actions of tax authorities for risk assessment and management**

1. Tax authorities shall analyze tax reporting data submitted by a taxpayer (tax agent), information received from authorized body, as well as other documents and (or) information on activity of a taxpayer (tax agent).

2. Results of the analysis shall be used by tax authorities for determination of the risk level, identification of the list of irresponsible taxpayers, increase of control over irresponsible taxpayers and stimulation of responsible taxpayers.

3. List of irresponsible taxpayers shall be drafted by authorized state body and placed on its web site. Name of a irresponsible taxpayer(s) shall be excluded from the list after the taxpayer has fixed the committed violations and (or) submission of proved information.

4. Persons, who are not included in the list of irresponsible taxpayers, shall be considered as responsible taxpayers.

### **Chapter 7. Notification and interpretations on fulfillment of tax obligations**

#### **Article 45. Notification of tax authorities**

1. Notification shall be recognized as a message forwarded to a taxpayer (tax agent) by tax authorities in hard copy or with taxpayer's consent electronically in manner and cases provided by this Code.

2. Notifications shall be sent to taxpayers (tax agents) by tax authorities on the grounds provided by this Code, in particular:

- on sums of taxes assessed by tax authority;
- on results of tax audits;
- on non presentation of tax reporting;
- on payment of tax debts;
- on remedy of other law violation revealed by tax authorities;
- on inclusion of a taxpayer into the list of irresponsible taxpayers with indication of the grounds and the request of remedy of detected law violation.

3. Notification shall indicate:

- taxpayer identification number;
- surname, first name, middle name (if any) or full name of a taxpayer;
- name of tax authorities;
- date of notification;
- ground for sending a notification;
- content of a notification;

- request of the performance of tax legislation;
- procedure of appeal.

4. Notification shall be handed to a taxpayer (tax agent) personally against signature or in other manner which testifies a fact of dispatch and receipt.

5. In case if tax authority sends a notification with the requirements of legislation reflected therein, then notification shall be fulfilled by a taxpayer in a period of time prescribed therein.

#### **Article 46. Interpretations concerning fulfillment of tax obligations**

1. Written interpretations on fulfillment of tax obligations shall be provided to a certain taxpayer by a head of authorized state body according to instructions and others legislative acts of the Republic of Tajikistan adopted in pursuance of this Code.

2. Written interpretation of authorized state body shall be based on written request of a taxpayer fully and correctly specifying the character of all aspects of economical operation (transaction) related to taxation, tax elements, which need to be interpreted to the taxpayer.

### **Section III. Accounting and reporting**

#### **Chapter 8. Tax accounting and tax reporting**

#### **Article 47. Compilation and storage of accounting documentation**

1. Tax accounting is a process of the maintenance of accounting documentation by a person in accordance with the requirements of this Code for the purpose of compilation and systematization of information about objects of taxation and (or) objects related to taxation as well as tax calculation and drafting of tax reporting.

2. Any person shall maintain accounting documentation on operations that:

- could result in tax obligations of the given person;
- could result in obligations of the given person to withhold taxes at the source of income;
- could result in obligations of the given person to provide information in connection with taxation.

3. Accounting documentation shall consist of primary documents, accounting records and other documents that are the basis for the identification of objects of taxation and objects related to taxation, and also for the calculation of tax obligations.

4. Taxpayers shall maintain accounting documentation in accordance with regulatory acts of the Ministry of Finance of the Republic of Tajikistan and authorized state body, and when necessary those of the National Bank of Tajikistan and other authorized state bodies according to legislation of the Republic of Tajikistan.

5. Any primary accounting document, except for documents in electronic form, shall be prepared, at a minimum, in two identical copies, one of which shall remain in the possession of a person who has prepared and issued the given document, and the other of which shall be transferred to and retained by the person for whom the given document is intended.

6. If certain accounting and other documents of a taxpayer have been drafted in a foreign language, these documents shall be translated by taxpayer into the official language at the request of tax authority official carrying out a tax audit. While preparing accounting documentation in electronic form, a taxpayer shall furnish paper copies of the given documents in course of a tax audit at the request of tax authorities.

7. Accounting documentation shall contain the following:

- accounting records - for the persons who shall be required to maintain them according to legislation;
- tax reporting;
- other documents which shall be grounds for defining of objects of taxation and (or) objects related to taxation, as well as for calculation of tax obligations.

8. Taxpayers shall be required to retain accounting documentation for the period of limitation provided in article 66 of this Code.

9. A non-resident, carrying out an activity in the Republic of Tajikistan through a permanent establishment without creation of a branch or representative office, shall keep accounting documentation at the place of its location (in the office) in the Republic of Tajikistan or, in the absence of the office, shall keep it in the office of the agent of the given non-resident in the Republic of Tajikistan.

10. In case of reorganization of a legal entity, obligations on retaining of accounting documentation of the reorganized legal entity shall be imposed on its successor.

11. In case of liquidation of a legal entity accounting documentation shall be transferred to the state archive in the manner determined by legislation.

#### **Article 48. General rules of tax accounting**

1. A taxpayer shall maintain accurate and timely accounting of income and expenditures on the basis of documented data and apply income and expenditures to the appropriate reporting period in which the income was earned or the expenditures were made, depending on the accounting method used in accordance with articles 140-154 of this Code for the proper recording of taxable income (profit) or performed operations. The accounting method used by a taxpayer shall mean all aspects of the timing and procedure for the recording of receipt of funds and expenses, such as cash basis or accrual accounting, method used for recording of production expenses and other capital expenses.

2. A taxpayer shall maintain accounting for all transactions related to its operations, which allows one to determine their beginning, progression and end.

3. A taxpayer shall maintain accounting on a cash basis or an accrual basis following the procedure, provided by this Code and other legislative acts, not inconsistent with it.

4. A taxpayer shall maintain accounting on an accrual basis in the tax year if a taxpayer:

- is subject to taxation in accordance with general tax regime;
- is required to maintain double-entry accounting records in accordance with legislative acts in force.

5. Barter operations, payment by transfer of goods, performance of works or rendering services, transfer of pledged object to the pledge, when sold for the purposes of taxation, by non-performance of the collateralized obligation by the debtor shall be treated as sale of goods, performance of works and rendering services.

6. For the purposes of taxation any operation in a foreign currency shall be converted into the national currency of the Republic of Tajikistan, according to the official exchange rate of the National Bank of Tajikistan on the day of the operation.

7. A foreign currency for which there is no official exchange rate of the National Bank of Tajikistan, shall be defined and converted into the exchange rate of the other foreign currency based on the exchange rate of the relevant currencies against the dollar of the United States of America (hereinafter to be referred to as "USA").

#### **Article 49. Separate accounting and rules of its maintenance**

1. Taxpayers, who are engaged in activities for which this Code has established different taxation conditions (regimes), shall maintain separate accounting of objects of taxation and objects related to taxation in connection with the given activities.

2. Taxpayers shall maintain separate accounting by performing calculations on the basis of accounting records data, taking into consideration the provisions of this Code. These calculations shall be performed separately for each type of activity.

3. All income and expenditures related to a certain type of activity must be supported by the relevant accounting documentation.

#### **Article 50. Tax reporting**

1. Tax reporting is a document that consists of documentation containing applications, calculations and declarations about taxable regimes, each type of tax or paid income, as well as attachments to calculations and tax returns drawn up following the established procedure.

2. Tax reporting shall consist of:

- tax returns, calculations, information that are to be prepared by a taxpayer for each type of tax;
- application for registration or for conversion to other tax regimes;
- applications for registration as payer of value-added tax;
- applications for refund of overpaid or of wrongly paid tax or for refund of value-added tax;
- applications for permission to apply the provisions of agreements on avoidance of double taxation and other international legal acts concerning taxation issues recognized by the Republic of Tajikistan;
- annual accounting records, materials of conducted audits in respect of a taxpayer foreseen by audit standards;
- article of association of a legal entity, regulation of a branch or representative office of a legal entity, including decisions on their amendments;
- data on separate subdivisions;
- copies of decision on liquidation or re-organization of a legal entity or bankruptcy;
- data on opening of accounts in credit organizations;
- data on external economic activity (import and export);
- information about obtaining licenses for certain types of activities;
- information about obtaining a certificate of land use and (or) any other document, which gives the right of land use;
- other documentation that shall be prepared in accordance with the provisions of this Code and submitted to tax authorities.

#### **Article 51. Procedure of the preparation and submission of tax reporting**

1. Tax reporting shall be prepared by a taxpayer (tax agent) or its representative in paper or in electronic format in the state language following the procedure and forms established in accordance with this Code.

2. This Code prescribes the cases when preparing tax reporting shall be assigned to tax agent, tax authority and (or) other authorized bodies participating in tax relations.

3. Procedure of filing tax reporting in electronic form (with filing or without filing of the reporting in paper form) is established by authorized state body.

4. Tax reporting in paper form must be signed by a taxpayer (tax agent) or by its representative, also it must be certified by official stamp of a taxpayer (tax agent) or of its representative that has a stamp with its name in cases established by legislation of the Republic of Tajikistan.

5. Tax reporting prepared in electronic form shall be certified by the electronic signature of a taxpayer (tax agent).

6. A representative of a taxpayer or tax agent, who provides services related to the preparation of tax reporting in paper form, shall sign it, stamp it and indicate its own taxpayer identification number. If tax reporting is prepared by more than one taxpayer representative, it shall be signed only by the main representative.

7. When preparing tax reporting by a taxpayer (tax agent) or by his/her representative, the taxpayer (tax agent) or its representative is responsible for the accuracy of data provided in the tax reporting.

8. Tax reporting shall be submitted to relevant tax authority following the procedure and deadlines established by this Code.

9. Tax reporting is divided into the following types:

- initial reporting - tax reporting submitted by a person for the period, when registration of a taxpayer has been made and (or) a tax obligation for certain types of taxes has arisen for the first time for which the person is a taxpayer (tax agent);

- regular reporting - reporting submitted by a person for the tax periods following the tax period in which the registration of taxpayer has been made and (or) a tax obligation for certain types of taxes has arisen for the first time, as well as by results of the tax period - in the event of writing off the objects of taxation;

- additional reporting - reporting submitted by a person when making amendments and (or) additions to previously submitted tax reporting for the tax period to which such amendments and (or) additions to types of taxes, for which the person is a taxpayer (tax agent), are related;

- liquidation reporting - reporting submitted by a person at the cease of activities or the reorganization of a taxpayer, for the type of taxes for which the person is a taxpayer (tax agent), as well as cancellation of registration for value-added tax.

10. In cases stipulated by this Code, taxpayers performing the activities, for which the different types of terms of taxation are set, shall prepare separate tax reporting for each type of activity.

11. When applying different tax regimes, tax reporting shall be submitted in form and deadlines set for relevant tax regime.

12. Taxpayers, tax agents shall have the right to submit tax reporting on their own choice:

- in person or through its representative;

- by mail - by registered letter with delivery notification;

- in electronic format, which allows for computer processing of the information, in the cases established by the authorized state body.

13. Provisions of the second paragraph of part 12 of this article shall not apply to:

- taxpayers being controlled (maybe supervised) by tax inspectorate of large taxpayers;

- individual entrepreneurs operating on the basis of patent.

14. In case of its submission in person and in paper format tax reporting shall be submitted in two copies. One copy thereof shall be given back to a taxpayer (tax agent) with a notation of tax authority.

15. If, legal entity has not been liquidated or individual entrepreneur (separate subdivision of legal entity) has not ceased entrepreneurial activity in the manner stipulated by legislation of the Republic of Tajikistan, then the abovementioned persons shall fill tax returns with the tax authorities according to requirements of this Code, regardless of performing activity by them.

16. Tax reporting shall be accepted without preliminary in-house control.

#### **Article 52. Period of keeping of tax reporting**

1. Tax reporting shall be kept by taxpayers (tax agents) for the period of not less than limitation period set by this Code.

2. While reorganization of a taxpayer (tax agent) - a legal entity, the obligation of keeping tax reporting is assigned to its successors.

#### **Article 53. Submission of tax reporting**

1. Tax reporting shall be submitted by a taxpayer to tax authorities within the deadlines specified in this Code.

2. Tax reporting shall be submitted to a tax authority at the place of registration of the taxpayer. In cases provided by this Code tax reporting for separate types of taxes also shall be submitted by a taxpayer at the place of registration of the objects of taxation.

3. Individuals who are not individual entrepreneurs shall submit a tax return to tax authority at the place of residence.

4. Tax reporting is not considered to be submitted to a tax authority, if there is not defined or incorrectly defined taxpayer identification number, the tax period, the type and amount of a tax, and (or) the date of submission of tax reporting.

5. Making amendments and additions to tax reporting within the period of limitation is permitted by providing additional tax reporting for the tax period to which amendments and additions are related.

6. When submitting tax reporting with amendments and additions to tax authorities prior to the moment when a taxpayer has known or should have been notified of the appointment of documentary tax audit, the taxpayer shall be exempt from liability established for the committed violation. At the same time, interest for late payment of tax shall be calculated and paid in the prescribed manner.

7. If necessary, for separate taxpayers being controlled (maybe supervised) by tax inspectorate of large taxpayers, deadlines of submission of tax returns and payment of taxes may be established by the Government of the Republic of Tajikistan.

#### **Article 54. Submission of the information on payments or other operations**

A legal entity, a branch and a representative office of a foreign legal entity, a permanent establishment of a non-resident and an individual entrepreneur, who have made payments in favor of other persons in calendar year, shall present tax authorities relevant information on the payments in the manner and in the cases established by authorized state body by agreement with the Ministry of finance of the Republic of Tajikistan.

#### **Article 55. Extension of the deadline for the submission of tax returns**

1. For responsible taxpayers, who have applied prior to expiration of the deadline for submission tax returns with a request on extension of the deadline for the submission of tax return on personal income tax or corporate income tax and have paid the estimated amount of calculated tax, the deadline for the submission of tax return shall be extended for two months.

2. Extension of the deadline for the submission of tax return in accordance with this article shall not alter a deadline for payment of taxes and shall not result a suspension of the calculation of interest for late tax payment.

#### **Article 56. Bank accounts**

Credit organizations are obliged:

- to open bank accounts for individuals and legal entities (except for deposit savings accounts for individuals) only upon presentation of documents confirming the assignment of taxpayer identification number by tax authorities, to notify tax authorities through electronic communication channel or in paper form within five days from the opening of mentioned accounts for taxpayers, and not to perform transactions on accounts without indicating a taxpayer identification number in bank documents;

- to debit funds from bank accounts of a taxpayer, including foreign currency accounts, for the payment of taxes in accordance with the order of priority established by civil legislation of the Republic of Tajikistan concerning making payments;

- by instruction of a taxpayer to post (transfer) to an account held by the Central Treasury of the Ministry of finance of the Republic of Tajikistan taxes payable to the respective budget, no later than the day following the performance of an operation through debiting the funds from the taxpayer's bank account;

- in a 5-day period to submit to tax authorities by the written request information on bank accounts, balances and flow of money on these accounts of inspected taxpayer;

- at receiving documents connected with payment of taxes to require indication of taxpayer identification number, type of taxes (codes of taxes) which is paid, as well as to control correctness of indication of bank details of payment recipient.

- at the written request of tax authority within a 5-day period to provide it with information about bank accounts, balances and flow of money on these accounts of taxpayers, in respect of which there has been made a decision on non-judicial collection of tax debts, and (or) about irresponsible taxpayers, information about which has been placed on electronic site of authorized state body.

#### **Article 57. Submission of information to tax authorities**

1. When carrying out tax control tax authority shall have the right to demand any person by way of sending a written notification to it, within a 10-day period:

- to provide information , including the information on incomes and expenses of a taxpayer for a certain tax period, on incomes received from taxpayer indicated in the notification, on expenses borne in connection with the relations with taxpayer indicated in the notification;

- to attend the place and at the time indicated in the notification, to clarify the information disposed by tax authority or to provide documents or other available information related to the taxation of the given or other taxpayer;

2. In course of tax audit for the purpose of gathering the information an authorized official of tax authority has the right according to the procedure established by legislation of the Republic of Tajikistan:

- to make a copy of any accounting and other documentation related to taxation;

- to withdraw accounting and other documentation related to the tax audit in the prescribed manner on the basis of a withdrawal certificate;

- to install (in a prescribed manner to require from a taxpayer to install) meters and (or) take readings from meters;

- to seal accounting and other documentation and to prohibit its use.

3. If an authorized official of the tax authority uses equipment and materials of a taxpayer for taking extracts from the accounting or other documentation, or makes copies of it in accordance with part 2 of this article, tax authority is obliged to reimburse the expenses to the taxpayer;

4. If an authorized official of the tax authority withdraws accounting and other documentation on the basis of authorities provided in part 2 of this article, tax authority have to make a copy from this accounting and other documentation and must return originals to the taxpayer not later than 10 business days from the date of withdrawal;

5. Access of the officials of the tax authority to the documents or other objects that contain any secret, shall be carried out in accordance with legislation of the Republic of Tajikistan.

#### **Section IV. Tax obligation and its fulfillment**

##### **Chapter 9. Tax obligation**

#### **Article 58. Tax obligation**

1. A tax obligation is an obligation of a taxpayer to the state, arising in accordance with tax legislation of the Republic of Tajikistan, due to which a taxpayer is required to pay taxes, penalties and interests to the budget.

2. The state represented by tax authority has the right to require a taxpayer to fulfill tax obligations in full and, in case of non-performance or improper performance of tax obligations, to apply measures of tax control and (or) forced collection of taxes in a manner provided in this Code.

3. Reasons for establishment, modification or repeal of tax obligation, as well as a procedure and conditions for the fulfillment of tax obligation, shall be determined by this Code or other legislative acts of the Republic of Tajikistan.

4. Tax obligation shall be assigned to a taxpayer from the moments the circumstances arise which require payment of taxes, assessed penalties and interest in accordance with the requirements of tax legislation of the Republic of Tajikistan.

#### **Article 59. Fulfillment of tax obligations**

1. Fulfillment of tax obligations on payment of the amount of due taxes, assessed penalties and interests within the established deadlines is obligatory, regardless of the availability of funds in bank accounts and other property held by a taxpayer.

2. Fulfillment of tax obligations shall be performed directly by a taxpayer, unless otherwise established by this Code. In the cases specified by tax legislation, fulfillment of tax obligation can be assigned to a tax agent or another responsible person. By decision of the relevant state bodies its structural subdivisions can independently fulfill obligation on payment of taxes. In case if there are two or more separate subdivisions of a legal entity in a city (district), upon notification by the legal entity of tax authorities execution of its tax obligations can be assigned to one of them.

3. Taxpayer shall fulfill a tax obligation following the procedure and deadlines established by tax legislation of the Republic of Tajikistan

4. A taxpayer has the right to perform a tax obligation in advance.

5. When paying taxes in payment documents a taxpayer shall indicate a surname, first name and patronymic (if any), or a name of a taxpayer, a taxpayer identification number, a type of tax which is paid and a tax period.

6. Tax obligation on payment of tax executed by a tax agent shall be considered fulfilled upon the day of the deduction and transfer of tax to the budget.

7. Tax obligations on payment of taxes, penalties and (or) interests can be fulfilled through a tax credit in the manner prescribed in the article 69 of this Code. In case of non-payment or incomplete payment of taxes within the deadlines, collection of taxes shall be performed in the manner provided by this Code.

8. In the cases provided by this Code obligations on calculation of the sum for some types of taxes can be designated to tax authorities and authorized state bodies.

9. Deadlines for payment of taxes shall be established by this Code. At that, running of the deadline provided by this Code begins from the next day after occurrence of the factual event or legal action, which is defined the beginning of the deadline for fulfillment of tax obligations. The deadline shall expire at the end of the last day of the period set forth by this Code. If the last day of the deadline is not a business day, the deadline shall expire at the end of the next business day.

10. Tax obligations of a legal entity shall be discharged by its separate division in cases specified by this Code.

11. The fulfillment of tax obligations in the event of the bankruptcy of a taxpayer shall be carried out in accordance with civil legislation of the Republic of Tajikistan and bankruptcy legislation.

#### **Article 60. Fulfillment of tax obligations in the event of the liquidation of legal entity**

1. Founder (founders) of legal entity- a resident, its authorized body or a court within 5 business days from the day of making decision on the liquidation shall inform in writing the tax authority at the place of its location.

2. A legal entity under the liquidation shall submit to tax authority at the place of its location an application on the comprehensive tax audit together with liquidation tax reporting within 3 business days from the day of approval of the interim liquidation balance sheet.

3. Liquidation tax reporting shall be prepared for the types of taxes, taxpayer and (or) tax agent of which is a legal entity under the liquidation.

4. A legal entity which is under the liquidation shall pay the taxes, as recorded in the liquidation tax reporting, no later than 10 calendar days from the date of submission of the liquidation tax reporting to tax authorities.

5. Comprehensive tax audit shall be started within not later than 20 business days after receipt of an application of a legal entity under the liquidation by tax authority.

6. Tax debt of a legal entity under the liquidation shall be paid from its funds, including the funds derived from the sale of its property, in order of priority established by the legislative acts of the Republic of Tajikistan.

7. Persons, whom will be transferred the land of a legal entity under the liquidation, which is an agricultural enterprise, shall bear subsidiary responsibility for the remaining amount of the tax debt of such legal entity.

8. If the property of a legal entity under the liquidation will not be enough for full payment of the tax debt, the remaining amount of the tax debt shall be paid by the founders (participants) of this legal entity, if in accordance with the legislation, charter of association or constituent documents they bear solidary responsibility for the obligations of this legal entity.

9. After completion of the comprehensive tax audit and payment of the tax debt in full, a legal entity under the liquidation in the meantime shall submit to the tax authorities at the place of its location the liquidation balance sheet.

10. Tax authorities are obliged to give a taxpayer a certificate confirming the absence of tax debts in the manner and in the deadlines established by this Code.

11. Fulfillment of tax obligations of a branch and representative office of a non-resident legal entity and of a permanent establishment of a non-resident legal entity, which ceases its activity in the Republic of Tajikistan, shall be made in accordance with the order set in this article.

**Article 61. Fulfillment of the tax obligations in the event of the reorganization of a legal entity**

1. Fulfillment of the tax obligations of the reorganized legal entity shall be entrusted to its successor (successors).

2. Determination of successor (successors), as well as the share of successor (successors) in payment of tax debts of reorganized legal entity shall be carried out in accordance with civil legislation of the Republic of Tajikistan.

3. Legal entity shall inform in written form a tax authority at the place of its location within 5 business days from the date of the carrying out decision on reorganization through merger, joinder, separation or division.

4. Legal entity, which is undergoing reorganization, shall represent to the tax authority at the place of location simultaneously an application on carrying out a tax audit and liquidation tax reporting within 3 business days from the date of approval of the handing over act or separation balance.

5. Liquidation tax reporting is drafted on basis of types of taxes, for which a legal entity, which is undergoing reorganization, is a taxpayer and (or) tax agent.

6. Reorganization of the legal entity is not a basis for changing the deadlines of fulfillment of its tax obligations on payment of taxes by successor (successors) of the legal entity.

7. Tax audit shall be started no later than 20 business days after receipt of the application of the legal entity, which is undergoing reorganization, by the tax authority.

8. At the merger of several legal entities, a newly established legal entity shall be considered as their successor in terms of fulfillment of tax obligation. Personal tax files of the legal entities, which have joined the newly established legal entity, shall be transferred to the tax authority at the place of location of the newly established legal entity on the basis of the handing over act.

9. At the joinder of one legal entity to another legal entity, the successor of the joined legal entity in terms of fulfillment of tax obligation shall be considered the legal entity, to which the indicated legal entity had joined. Personal tax file of joined legal entity shall be transferred to the tax authority at the place of location of the legal person, to which the indicated legal entity had joined on the basis of the handing over act.

10. At the division of a legal entity, the newly established legal entities originated from such division shall be recognized as the successors of the reorganized legal entity in terms of fulfillment of tax obligations.

11. At the separation from a legal entity, the newly established legal entities originated at the result of such separation, as well as this legal entity shall be recognized as the successor of the reorganized legal entity in terms of fulfillment of tax obligations, unless otherwise provided by handing over act.

12. If the separation balance or handover act do not let to determine the share of each successor of the reorganized legal entity or exclude fulfillment of tax obligations by any successor in full, the newly established legal entities are jointly responsible for the fulfillment of tax obligations of the reorganized legal entity or the relevant part of the tax obligations.

13. In the event that one legal entity is transformed to another legal entity by means of changing its organizational-legal form, the newly created legal entity shall be recognized the legal successor of the reorganized legal entity in regard of the fulfillment of the tax obligations.

14. Legal entities separated from a legal entity at the result of separation fulfill jointly tax obligations of the indicated reorganized entity.

**Article 62. Fulfillment of the tax obligation of individual entrepreneur ceasing its activity**

1. Individual entrepreneur shall inform in written form the tax authority at the place of location within 5 business days from the date of carrying out the decision on cease of the activity.

2. Liquidation tax reporting shall be drafted on basis of types of taxes for which the individual entrepreneur ceasing activity is a taxpayer (tax agent).

3. Payment of taxes, reflected in the liquidation tax reporting, shall be carried out by individual entrepreneur, simultaneously with the submission of the liquidation tax reporting to the tax authorities.

4. Tax audit shall be started not later than 3 business days after receipt of the application of the individual entrepreneur ceasing its activity by the tax authority.

5. With respect to the individual entrepreneur, operating on the basis of a patent, instead of a tax audit, by the relevant tax authority shall be performed reconciliation of paid taxes amounts.

**Article 63. Fulfillment of the tax obligations of deceased, incompetent and missing individuals or persons declared dead by the courts**

1. The tax obligations of a deceased individual or a person declared dead by the courts shall be fulfilled by heir (heirs) of the person within the limits of the value of the person's estate and in proportion to the heirs' shares in the estate as of the date of its receipt.

2. In the absence of the heirs or in the event that all of the heirs decline the inheritance, the tax obligations of a deceased individual or a person declared dead by the courts shall be terminated and written-off as bad tax debt in order prescribed by this Code.

3. The tax obligations of an individual declared as missing or incompetent shall be fulfilled by a person who disposes the property of the specified person, at the expense of the said property.

4. If the property of an individual declared as missing, incompetent or dead by the courts in the established order is insufficient for fulfillment of tax obligations of the given individual, including assessed interest and penalties, these tax obligations of the missing or incompetent individual or person declared dead by the courts, shall be written-off as bad tax debt following the procedure established by this Code.

5. At carrying out the decision following the prescribed procedure on reversal of a finding that an individual considered as missing or incompetent or on reversal of a relevant court decision declaring an individual as dead, tax obligations previously written-off in accordance with parts 2 and 4 of this article shall be reinstated, but interest and penalties shall not be assessed for the period from the date the individual has been declared missing or incompetent, or a citizen (individual) has been declared dead, till the date of carrying out the relevant decision.

#### **Article 64. Termination of the tax obligation**

The tax obligation is considered terminated and tax debt is considered paid in the event of:

- proper fulfillment of tax obligation and payment of taxes, interests and penalties;
- expiration of statute limitation for the tax obligation established by this Code;
- recognition of the taxpayer bankrupt, in case of insufficiency of the property, unless otherwise provided by the decision of a court;
- decease of an individual, in the absence of the successors or heirs;
- declaration of the individual as deceased, recognition of the individual missing or incompetent, in the absence or insufficiency of the assets of the given individual;
- writing-off of tax obligations following procedures established by this Code.

### **Chapter 10. Accounting of fulfillment of the tax obligations**

#### **Article 65. Foundations of accounting of fulfillment of the tax obligations**

1. Accounting of fulfillment of tax obligations is carried out by the tax authority by means of keeping a personal account of the taxpayer (tax agent).

2. Keeping personal account of the taxpayer (tax agent) by tax authority includes:

- opening personal account for each type of tax;
- following reflection in the personal account assessed, calculated, paid, credited, refunded amount of tax, penalties and interests;
- closure of the personal account.

3. Calculated amount of tax shall be the amount of tax calculated:

- by a taxpayer (tax agent) in tax reporting;
- by tax authority for different types of taxes from individuals, specified by this Code;
- by authorized body - on the grounds provided in this Code.

4. Under the assessment of the amount of taxes (tax obligations) in this Code shall be understood the calculation and adding by tax authorities into the personal accounts of the taxpayer the sums of taxes, penalties and interests payable by the taxpayer for a certain tax period. Assessment of the amount of tax, penalties and interest, including an increase or decrease of obligations shall be carried out by the tax authority in the following cases:

- in result of tax audit and any other information available to tax authorities;
- according to information of other authorities, in the results of in-house control, time study or other forms of tax control;
- on the basis of consideration of the taxpayer's (tax agent) appeal on notification on the results of a tax audit and (or) on decision of the higher level tax authority made on results of consideration of the taxpayer's (tax agent's) appeal.

5. Accounting of paid, credited, refunded taxes, penalties and interests in the personal accounts of a taxpayer (tax agent) shall be carried out on the basis of the following payment documents and other documents:

- on payment of taxes, penalties and interests;
- on performed offset, refund of overpaid taxes, penalties and interests;
- on performed offset, refund of excess amount of value-added tax applied as a credit over the amount of calculated tax;
- on performed offset and (or) refund of taxes paid by mistake;
- on amounts of collected tax debt, penalties, interest.

6. At change of deadline of performance of the tax obligation on payment of tax, penalties and interests in order prescribed by this Code, in the personal account of the taxpayer the amount of tax, penalties and interests, on which the deadline of fulfillment of tax obligation has been changed, shall be reflected subject to the deadline of its fulfillment. At the period of the change of deadline for payment of tax, penalties and interest by the tax authority shall not apply to the taxpayer measures of responsibility and measures of enforced collection.

7. The amount of interest assessed in the amount and in order specified in this Code shall be reflected in the personal account of the taxpayer (tax agent) with the specification of the period for which they have been assessed.

8. The head of the tax authority has the right to assess the amount of tax and to require immediate payment of assessed tax prior to the date on which the tax is generally paid, if this measure is necessary to ensure collection of the tax, and there is sufficient information that a taxpayer can avoid taxation through leaving the territory of the state, transfer of assets to another person or other measures that may prevent collection of the tax if immediate assessment of tax is not performed.



#### **Article 66. Statute of limitations**

1. Tax authorities may calculate (assess), revise (correct) the amount of taxpayer's tax and (or) collect the calculated (assessed, corrected) amount of tax within 5 years after the end of the calendar year, including the relevant tax period.

2. The taxpayer has the right to require a refund or offset of the amount of tax within 5 years after the end of the calendar year.

3. In respect of the taxpayers using preferential tax regime in accordance with section XVII of this Code, the statute of limitations shall be increased to the period of preferential taxation, determined in accordance with the legislation of the Republic of Tajikistan.

4. For the period of the moratorium on tax audits and the period of provided tax deferrals a statute of limitations shall be suspended.

#### **Chapter 11. Payment, collection and refund of taxes**

##### **Article 67. Forms and deadlines for payment of taxes, penalties and interest**

1. Taxes, penalties and interests calculated (assessed) in accordance with this Code shall be paid by transfer to the relevant budget accounts within the deadlines defined by this Code by the taxpayer (tax agent).

2. In rural areas, immovable taxes of individuals may be collected in cash form by an authorized of the tax authority official with the assistance of the officers of the self-government bodies of settlements.

3. While collecting immovable taxes from individuals in cash form, document of strict accountability on payment of tax shall be made in two identical copies, the form and order of usage of which shall be set the authorized state body under agreement with the Ministry of finance of the Republic of Tajikistan.

##### **Article 68. Place for payment of taxes and budgets to which taxes are transferred**

1. The national taxes shall be paid to the republican budget, and local taxes – to the local budgets.

2. Calculated (assessed) taxes, penalties and interest shall be paid:

- at the place specified in the notification of the tax authority on calculation (assessment) of a tax and in the request for payment of the tax;

- if the notice of the tax authority on calculation (assessment) of the tax is not required - at the place specified in the relevant act of tax legislation of the Republic of Tajikistan;

- if in a relevant act of tax legislation the place is not specified, - at a place of residence of a taxpayer being an individual, at the place of activity of an individual entrepreneur or at the place of state registration of a legal entity (branches and representative offices of foreign legal entities) or at the place of location of a tax agent (branch and representative of a resident legal entity).

3. Budget legislation of the Republic of Tajikistan for the relevant calendar year can be established the payment of national taxes (or its shares) to the republican and (or) local budgets.

4. Clarification of details (banking and treasury accounts), to which should be fulfilled payment of a certain tax, penalties and interest to any given budget, shall be made annually by the taxpayer in the tax authority where the taxpayer is registered.

5. Regardless of the provisions of parts 1-3 of this article, personal income tax and social tax in respect to individuals working in separate subdivisions of legal entities, shall be paid to the budget at the place of location of separate subdivisions, taking into account the distribution of the amounts of those taxes between republican and local budgets in accordance with budget legislation of the Republic of Tajikistan.

##### **Article 69. Credit or refund of taxes paid in excess amount**

1. Taxes, penalties and interests paid in the excess amount for the tax period, with the exception of the cases provided in article 191 of this Code, shall be considered the positive difference between paid to the budget and calculated, assessed amount of taxes, penalties and interest to the budget for this tax period.

2. Offset of taxes, penalties and interests of the taxpayer paid in the excess amount shall be carried out in national currency by the tax authority where the tax paid in the excess amount is listed in the personal account of the taxpayer.

3. Taxes, penalties and interests paid in excess amount shall be subject to offset in the following order:

- without application of taxpayer – for repayment of interest and penalties on this tax and (or) taxpayer's debt on other taxes, penalties and interest, payable to the same budget;

- by application of the taxpayer for offset obtained after applying to the tax authority – shall be credited the surplus left after performing the actions referred to in the first paragraph of this part, in respect of obligations for upcoming payments of those taxes, penalties and interest, which comes to the same budget as the surplus.

4. After performing actions prescribed by first and second paragraphs of part 3 of this article, unless otherwise provided by this Code, along with the relevant financial authorities shall be returned to the taxpayer the excess amount (the balance) within 30 calendar days from the filing of a written application by the taxpayer to the tax authorities at the place of registration.

5. If taxes, penalties and interests paid in excess amount are set off against the obligations for other taxes in accordance with parts 3 and 6 of this article, the tax authorities shall notify the taxpayer within a three-day period from the date of the abovementioned offset.

6. If at transferring (for transferring) of goods and transport vehicles across the customs border of the Republic of Tajikistan there is a fact of overpayment of tax, penalties and interest, the tax authorities having received confirmation of such overpayment from the relevant customs authorities in accordance with the application for

offset shall perform actions, specified in part 3 of this article, and shall notify the taxpayer and the relevant customs authority on its actions within a three-day period.

7. On the basis of the taxpayer's application, offset in accordance with part 3 of this article may also be undertaken for repayment of debts on taxes, penalties and interests, payable at transferring goods and transport vehicles across the customs border of the Republic of Tajikistan, by agreement between the tax authorities and customs authorities. Offset is permitted only if the surplus of tax paid in the excess amount and debt are related to the same budget.

8. Instead of refunding the overpaid excise duty on excisable goods, offset shall be made in respect of other taxes, except for cases of cease of the taxpayer's activity on manufacturing of these goods.

9. If taxes, penalties and interests are paid in excess amount to one budget, but tax obligations are related to another budget, offset or refund of taxes, penalties and interest paid in excess amount shall be performed by view of the tax obligation of the taxpayer in accordance with the instructions on the implementation of offset or refund of taxes, penalties and interest paid in excess amount, adopted by the authorized state body by agreement with the Ministry of finance of the Republic of Tajikistan.

#### **Article 70. Change of deadline for tax payment**

1. Under the change of deadlines for fulfillment of the tax obligations on payment of taxes, penalties and interests is recognized rolling over of a deadline for payment of taxes, penalties and interests established by this Code at a later date on the basis of a written application of the taxpayer.

2. Change of deadlines for fulfillment of the tax obligations are not allowed in respect of taxes withheld at source of payment and social tax.

3. Right on fulfillment of the tax obligations in changed deadlines cannot be assigned.

4. Deferral shall not exempt the taxpayer from liability in the form charging of interest on deferred sums of taxes.

5. Statute of limitation for collection of taxes, penalties and interests provided by this Code shall be suspended for the period of deferral.

6. Amount of taxes, penalties and interest, payment of which is deferred, shall not be considered as arrears till the finish of the deferral period and in respect with this amount shall not apply measures enforced collection of taxes, penalties and interests.

7. Repayment of the deferred tax obligations shall be made in the month following the month in which the deferral period has expired. Repayment of the deferred tax obligations of the taxpayer does not exempt it from the obligation to pay current taxes.

8. Deferrals may be granted to a taxpayer if at least one of the following grounds is present:

- this taxpayer suffered losses as a result of a natural disaster, an industrial accident, or other force majeure circumstances;

- this taxpayer works in the implementation and introduction of innovations, including the creation of new technologies and the improvement of existing ones, and the creation of new types of raw materials and supplies.

- this taxpayer experienced delays in receiving financing from the budget or payments for a state order fulfilled by this taxpayer;

9. It shall be prohibited to grant a second deferral on the payment of taxes, penalties, and interest without the full payment of taxes, penalties, and interest for which the deferral has been previously granted, with the exception of cases in which the grounds referred to in the first paragraph of part 8 of this article are present.

10. The decision to grant a deferral shall indicate the types of taxes, penalties and interest, for which is granted a deferral, their amount and deadlines of payment, in the order established by the Government of the Republic of Tajikistan.

11. Deferral shall not be granted, if:

- a criminal case on violation of tax legislation of the Republic of Tajikistan is initiated against a taxpayer;
- in respect of a taxpayer proceedings on case on tax violation or administrative violation have been carried out in connection with the breach of tax legislation of the Republic of Tajikistan;

- a taxpayer has been put into the list of irresponsible taxpayers;

- sufficient reasons exist, that at existence of unperformed tax obligation a taxpayer will benefit from such change and may conceal its money and (or) other property.

12. A decision on granting a deferral on national taxes shall be made by the Government of the Republic of Tajikistan based on a suggestion of the Ministry of finance of the Republic of Tajikistan.

13. A decision on granting a deferral on local taxes shall be made by the Majlis of people delegates of relevant city (district) based on a suggestion of relevant financial or tax authority of city (district).

#### **Article 71. Procedure for repayment of the tax obligation**

1. Repayment of the tax obligation is made by following manner:

- extra calculated interests;

- extra calculated penalty;

- calculated (extra calculated) amount of tax.

2. In this case, on extra calculated amount of tax, penalties and interests repayment of the tax obligation is performed in the following sequence:

- tax obligations of the past years shall be firstly repaid, starting from the earliest tax debts (tax debts that are the furthest for the current year) to latest tax debts (tax debts that are the closest for the current year);
- the rest amount shall be used for repayment of the tax obligations of the current year (if such exist).

## **Section V. Enforced collection of taxes and sanctions**

### **Chapter 12. Measures on ensuring performance of the tax obligation unfulfilled in deadlines**

#### **Article 72. Measures on ensuring performance of the tax obligations unfulfilled in deadlines**

1. Tax authorities shall ensure performance of tax obligation of a taxpayer that has not carried out his obligation within the deadline by the following measures, set by this chapter:

- calculation of interest on amount of taxes unpaid on time;
- suspension of debit transactions on banking accounts of a taxpayer in credit organizations;
- collection of tax debts from monetary assets on bank accounts of a taxpayer, and (or) its obligors, as well as from cash of a taxpayer;
- collection of tax debts by arrest and sale of property of a taxpayer.

2. Measures prescribed by the second, third and fourth paragraphs of part 1 of this article are applied:

- Directly by tax authorities on the extrajudicial order in respect of tax debts recognized by a taxpayer;
- In a judicial procedure in respect of tax debts not set by the first paragraph of this article.

3. In case of nonpayment of taxes, interests and penalties within the deadline by a taxpayer and occurrence of recognized tax debt, tax authorities shall:

- Notify a taxpayer on necessity of paying tax debts within 10 calendar days from the day of receiving of a notification by a taxpayer and on possibility of application of measures established by second, third and fourth paragraphs of part 1 of this article towards a taxpayer;
- In case of nonpayment of recognized tax debts by a taxpayer within the deadline, tax authority shall remind a taxpayer on necessity of tax debts payment within 30 calendar days from the day of receiving of the notification;
- While failure to comply requirements of notification prescribed by the first and second paragraphs of this part, tax authority shall apply simultaneously all measures prescribed by part 1 of this article towards a taxpayer who has tax debts.

4. Measures of enforced taxes collection connected with suspension of debit transactions on the accounts of taxpayers in credit organizations, collection of tax debts at the expense of monetary assets from bank accounts of a taxpayer and (or) its obligors, as well as cash of a taxpayer, can be carried out in extrajudicial order, except for:

- deposit accounts of individuals not performing entrepreneurial activity;
- credit accounts and special accounts, opened at the expense of international financial organizations' assets;
- debit transactions on accounts of taxpayer on payment of wages and other refunds equivalent to it, payments on current tax obligations and on repayment of tax debts.

5. In case of occurrence of recognized tax debt tax authorities can carry out decision which is obligatory for execution by credit organizations considering the restrictions set by part 4 of this article on suspension of debit transactions on accounts of a taxpayer by these organizations. These s may be applied having at least one of the following conditions as well:

- if a taxpayer does not submit tax returns by the set deadline and tax authorities had already notified the taxpayer on necessity of its submission, and if upon expiration of 30 calendar days from the date of such notification tax return has not been submitted;
- denial of access of tax authority officials for performance of a tax audit or other form of tax control, non-presentation of documents necessary for tax control, except the events of violation of prescribed procedure of tax control prescribed by this Code, if 10 days have passed from the day of receiving a notification of tax authorities by taxpayer on performance of one of the forms of tax control and on possibility of application of measure specified by this article.

6. Suspension of debit transactions on accounts of taxpayers in credit organizations for collection recognized tax debts considering parts 4 and 5 of this article shall be done in the following order:

- decision of a head (authorized deputy of a head) of tax authority shall be sent for execution to credit organizations, where the accounts of taxpayers are opened and are served;
- credit organizations are obliged to execute relevant decision of tax authority on suspension of debit transactions on accounts of a taxpayer, also do not have right to open new accounts for the taxpayer, give cash from its accounts and (or) provide a loan;
- until receiving tax authority's written notification on fully execution of decisions previously adopted by them on suspension of debit transactions on accounts, credit organizations are obliged according to the request of this tax authority on monthly basis to submit to tax authority where the taxpayer is registered, information on income and debit transactions and assets receipt (expenditure) on suspended bank accounts of the taxpayer. Tax authorities can examine correctness of execution of requirements set by this part and (or) reliability of the presented information.

7. Collection of recognized tax debts at expense of monetary assets on taxpayer's accounts and (or) his obligors in credit organizations, as well as taxpayer's cash is conducted taking into account restrictions of part 4 of this article in the following order:

- appropriate collection orders of a head (or its authorized deputy) of tax authority, as well as acts of reconciliation of accounts receivable (only in case of collection of debt from obligors of the taxpayer-debtor), shall be sent for execution to credit organizations where the accounts of the taxpayer and (or) its obligors are opened and

served. At collection of monetary assets held on foreign currency accounts, credit organizations shall perform the sale of currency assets of the taxpayer within two working days after receipt of a collection order and deliver the money to the relevant budget. Expenses related to the sale of foreign currency shall be covered by the taxpayer;

- credit organizations subject to the restrictions specified in part 4 of this article shall be obliged without requiring the tax authorities for additional documents in accordance with the procedure established by article 71 of this Code, to execute relevant collection orders of the tax authority on collection monetary (cash) assets from the accounts of the taxpayer and (or) from its obligors' accounts for tax debt repayment;

- before receipt of a written notification of tax authorities on full execution of decisions adopted earlier on collection of tax debts from monetary assets on the accounts of the taxpayer and (or) its obligors, credit organization have to submit a monthly information to the tax authority on the income and debit transactions and receipt (payout) of funds from bank accounts of the taxpayer and (or) its obligors in accordance with the request. Tax authorities may conduct audit of the correctness of the execution of the requirements established by first and second paragraphs of this part and (or) the reliability of the provided information;

- for collection of tax debts at expense of disposable cash resources of a taxpayer a relevant decision of the head (authority deputy of a head) of the tax authority shall be sent for execution to the taxpayer. After receipt of the relevant decision the taxpayer is obliged to send cash resources only for repayment of tax debts in accordance with the procedure established by article 71 of this Code, except for the payment of wages and other equivalent payments.

8. After elimination of the grounds that have led to the use of enforced measures of tax collection in accordance with parts 6 and 7 of this article, on the basis of written information of credit organizations on collected the amounts of money from the accounts of the taxpayer and (or) its obligors and (or) the reconciliation act of tax obligation execution of the taxpayer with the tax authorities, the tax authority shall recognize the decisions adopted earlier as fulfilled within one business day and shall send simultaneously a notification to the relevant persons. The decisions of the tax authority earlier adopted shall be deemed fulfilled for credit organizations and taxpayer from the date of sending a written notification from the tax authorities on their execution.

9. For collection of recognized tax debt through the sale of property of the taxpayer shall be made a decision of the tax authority on the arrest of the taxpayer's property and its sale for repayment of the tax debts, this decision shall be executed by the tax authority in accordance with the Law of the Republic of Tajikistan "On enforcement proceedings".

10. For the purposes of this chapter, accounts of public institutions that are opened in the authorized state body for budget execution are equal to the bank account, and the authorized state body for budget execution is equal to the credit organizations.

11. In the case, if a taxpayer, in respect of whom enforced measures of tax collection have been applied, will present real financial recovery plan, the tax authority and the taxpayer may conclude the agreement for a period up to 6 consecutive calendar months on the order and deadlines of tax debt repayment. Head of the authorized state body may further extend this agreement with the taxpayer for a period of up to 6 consecutive months. Execution of decisions adopted earlier on the application of the measures on enforced collection of taxes shall be suspended in the meantime for the validity period of the agreement. Period of fulfillment of this agreement and the suspension of the earlier adopted decisions of the tax authorities on the application of the measures on enforced collection of taxes cannot be extended.

### **Article 73. Interests**

1. Except for the cases specified in part 5 of this article, if the amount of tax, including the current payment, is not paid within the deadline prescribed by tax legislation of the Republic of Tajikistan, and there is an underpayment (arrears), the taxpayer (tax agent) is obliged to pay relevant interests from the date of payment due prior to the date of payment of underpayments (arrears).

2. Interest shall be calculated for each day of delay in fulfillment of the tax obligation from the first day following the date of payment due, including the date of payment.

3. The amount of interests shall be calculated and paid, regardless of the use of other enforced collection measures, as well as other sanctions for violation of the tax legislation of the Republic of Tajikistan.

4. Interest shall be paid in the form of bonus to the amount of underpayment (arrears).

5. Interests shall not be calculated:

- on tax debts of individual entrepreneurs and legal entities in respect of which a decision of the bankruptcy is made from the date of acceptance of bankruptcy case by the court;

- on the amount of tax debts, on the date of entry into force of the court's decision on recognizing an individual as missing, until its cancellation;

- on the interest and the amount of a penalty;

- on the amount of tax debts, repaid by offsetting the overpaid sums of taxes, from the date of the payment document on carrying out an offset;

- on the amount underpayments by one type of taxes, if any overpayment exists by other type of taxes;

- on the amount of underpayments of a deceased individual, whose death is confirmed by documents.

6. If from the date of filing the application by a taxpayer on refund (offset) of the excess amount of paid taxes, i.e. overpaid taxes, to the date of actual refund (offset) of overpaid taxes have passed 30 calendar days, interests on the amount of overpaid taxes on behalf of the taxpayer shall be paid from corresponding budget for the period from

the date of filing application on refund (offset) of overpaid sums of taxes to the date of actual refund. Interests shall not be paid to a taxpayer, if a refund of overpaid sums of taxes is carried out for the period less than 30 days from the moment of filing application by taxpayer on refund of overpaid sums.

7. In case of offset of the amount of overpaid sums a refund shall be considered to be done on the date of offsetting or, if overpayment or underpayment (arrears) is related to the different budgets, on the date of receiving permission for offset.

8. Interests are not calculated from the date of tax debt repayment.

9. Interests are calculated in the amount of 0.08 percent from the amount of tax debt for each calendar day of underpayment or overpayment.

#### **Article 74. Judicial order of enforced collection of tax debt**

1. In case of existence of grounds prescribed by second paragraph of part 2 of article 72 of this Code, the head (or authorized deputy of the head) of the tax authority, in which the taxpayer is registered, shall turn in accordance with the legislative order to the economic court or to the court of the place of location of the taxpayer on collection of tax debts by applying to the taxpayer the measures prescribed by second, third and fourth paragraphs of part 1 of article 72 of this Code, with sending a copy of the statement of claim to the taxpayer.

2. Economic court shall consider the statement of claim of tax authority on collection of tax debt from a legal entity or an individual entrepreneur in simplified jurisdiction procedure in accordance with Economic procedural code of the Republic of Tajikistan.

3. Court at the place of location of the taxpayer shall consider the procedural code of the tax authority on collection of tax debts from the individual, who is not an individual entrepreneur, in the compulsory proceedings according to the Civil procedural code of the Republic of Tajikistan.

4. Decision of a court on calculation of tax debts after entering into legal force is executed by the tax authority in manner prescribed by legislation of the Republic of Tajikistan.

#### **Article 75. Arrest of the property**

1. Arrest of the property is carried out by tax authorities in accordance with this Code and (or) Law of the Republic of Tajikistan “On enforcement proceeding” for ensuring performance of the tax obligation unfulfilled within the deadline in respect of tax debt of the taxpayer established by part 2 of article 72 of this Code.

2. Arrest is carried out just in regards of such property which is necessary and enough for fulfillment of the tax obligation. Arrest of the property of the taxpayer consists of property inventory, establishment of an order of the disposal, possession and usage of the arrested property, and also transfer of the arrested property for storage of the taxpayer or its seizure for the subsequent alienation (sale) with a view of repayment of tax obligations of the taxpayer.

3. On the basis of a written notification from the tax authorities regarding a decision on arrest of the taxpayer’s property, customs authorities shall suspend export operations of all the arrested property of the given taxpayer for the period specified in the written notification from the tax authority.

4. State notaries, chairman of self-government bodies of the settlements and villages and other officials, authorized to commit notary actions, as well as bodies authorized for registration of property pledge contracts, on the basis of a written notification of the tax authority regarding decision on arrest of the taxpayer’s property, shall suspend notary actions on any form of alienation (transfer) and pledge of all arrested property of the given taxpayer for the period specified in the written notification of the tax authority.

5. Arrest of the facilities, equipments, buildings, constructions and other fixed assets of the state organizations is prohibited.

6. Appraisal of the arrested property is carried out by individuals and legal entities that have license on performance of appraisal activity. Expenses connected with appraisal of arrested objects, as well as costs of the services of the appraisers are covered in the manner prescribed by legislation of the Republic of Tajikistan.

#### **Article 76. Arrested property sale**

1. Arrested property of the taxpayer shall be sold in accordance with this Code and Law of the Republic of Tajikistan “On enforcement proceeding”.

2. Proceeds from the alienation (sale) of the arrested property shall be used for execution of tax obligations of the taxpayer and repayment of tax debts according to the Law of the Republic of Tajikistan “On enforcement proceeding”. The remaining resources shall be returned to the taxpayer within 10 business days.

#### **Article 77. Reference to court for recognition of a taxpayer bankrupt**

In a case of nonpayment of tax debt by a taxpayer after implementation of all measures stipulated in article 72 of the present Code or if there is not enough funds on bank accounts and (or) liquid assets and (or) debit indebtedness, if there are presented signs of bankruptcy, the tax authority has the right to refer to a court on for recognition of a taxpayer bankrupt according to the legislation of the Republic Tajikistan.

#### **Article 78. Writing-off of bad tax debts**

Following tax debt of the taxpayer shall be recognized as bad tax debt and it shall be written-off in order established by the Government of the Republic of Tajikistan:

- in the cases indicated in second-sixth paragraphs of part 1 of article 64 of this Code;
- in the cases of natural disasters (accidents), emergency situations.

### **Chapter 13. Responsibility**

#### **Article 79. Tax violation**

1. A tax violation shall be recognized as unlawful act (action or inaction) of taxpayers, tax agents and its officials, as well as officials of other authorized bodies, which results in nonperformance or improper performance of the requirements of this Code and other legislative acts of the Republic of Tajikistan, control over which is assigned to tax authorities.

2. Commission on tax legislation violation by taxpayers, tax agents and its officials, as well as officials of other authorized bodies shall entail responsibility prescribed by this Code and other legislative acts of the Republic of Tajikistan.

#### **Article 80. Circumstances excluding the responsibility for commission on tax violations**

1. In addition to the situations specified by the legislation of the Republic of Tajikistan, in the following cases bringing to administrative and criminal responsibilities is not permitted:

- If a taxpayer (tax agent) is carrying out written explanations on fulfillment of tax obligations issued by authorized state body;
- If the taxpayer (tax agent) removes independently tax violations before application of tax control forms prescribed by this Code.

2. Persons cannot be brought to administrative and criminal responsibilities in presence at least one of the following conditions, unless otherwise specified by the legislation of the Republic of Tajikistan:

- non-presence of tax violation event;
- non-presence of a guilt of a person committed tax violation;
- commission of an action having all elements of tax violation by an individual who has not reached 16 years at the time of commission;
- expiration of period for bringing to responsibility for commission of tax violation.

### **Section VI. Resolution of disputes**

#### **Chapter 14. Resolution of disputes**

##### **Article 81. Appeal**

1. Each taxpayer has the right to appeal the decisions under tax authority reports, actions or inactions of their officials.

2. Appeal of the tax authority report means the simultaneous appeal of decision of tax authority adopted in respect of this report.

3. The appeal of a taxpayer can be filed with a higher level tax authority, authorized state body and (or) to a court.

4. Appeals (statement of claim) of a taxpayer filed with a court shall be considered and resolved following the procedure established by legislation of the Republic of Tajikistan

5. Written appeal of the tax authority report, assessment of tax, penalties and interests, as well as other decisions of the tax authority can be filed during 30 calendar days from the date of receipt of a tax authority report by a taxpayer.

6. In the event that the deadline for filing of a written appeal is not met for a valid reason, this deadline may be revived by a higher level tax authority, the authorized state body within the statute of limitations established by this Code, at the request of the person filing the appeal.

7. A taxpayer's appeal shall be considered, a decision regarding the appeal shall be made, and the person who filed the appeal shall be notified in writing on the decision that has been carried out not later than 30 calendar days from the date an appeal is submitted by a tax authority, if the alter of the terms is not connected with the fulfillment of the provisions of part 8 of this article.

8. Tax authority during the consideration of the appeal of a taxpayer, tax authority has the right:

- in the prescribed manner to appoint a tax audit, as well as order tax re-audit;
- to send requests to the relevant state bodies, as well as to the competent tax authorities of a foreign countries on matters within the competence of such bodies;
- to conduct meetings with the taxpayer on issues contained in the appeal.

9. At the end of the consideration of the appeal on merits a higher level tax authority shall adopt a motivated decision and shall send or give it to the taxpayer, and shall send a copy to the tax authority in respect of the decision of which appeal has been presented.

10. In the result of the consideration of an appeal a higher tax authority:

- leaves an appeal without satisfaction;
- adopts a new decision.

11. Actions (inactions) of tax authority officials shall be appealed in accordance with the legislation of the Republic of Tajikistan.

#### **Article 82. Consequences of filing a petition (appeal) regarding the assessment of tax, penalties and interest**

1. Only those tax obligations which are not being disputed by a taxpayer shall be payable and may be collected in accordance with the procedures established by chapter 12 of this Code prior to completion of the consideration of an appeal filed with tax authorities regarding the assessment of tax, penalties and interests, as well as other decisions.

2. The suspension of payment of all or part of the tax obligations in connection with the consideration of a taxpayer's appeal shall not exempt the taxpayer from payment of interest for the late transfer of taxes to the budget, including interest assessed for the period from the date the appeal is filed until a decision on the appeal is made.

## **Section VII. Tax authorities**

### **Chapter 15. Tax authorities**

#### **Article 83. Main functions of tax authorities**

1. The main functions of tax authorities are:
  - to ensure observance of the tax legislation of the Republic of Tajikistan and completeness and timeliness of arrival of payments to the budget;
  - participation within the scope of their authorities in development and implementation of tax policy of the Republic of Tajikistan, improvement of tax administration;
  - within the scope of their authorities to develop and to implement the state policy on matters of state registration of entrepreneurial subjects;
  - to provide support to the taxpayers while fulfilling tax obligation.

2. Tax authorities shall perform their activity in accordance with this Code and other legislative acts of the Republic of Tajikistan in cooperation with other state bodies, self-government bodies of settlements and villages, as well as with tax authorities of other states.

#### **Article 84. Legal status and the structure of tax authorities**

1. Tax authorities of the Republic of Tajikistan (hereafter to be referred to as "tax authorities") shall consist of the authorized state body and the territorial tax authorities. Regulation, structure of the central apparatus, scheme of governing and list of enterprises (organizations) of a system of the authorized state body approved by the Government of the Republic of Tajikistan.

2. Territorial tax authorities include tax department for Gorno-Badakhshan Autonomous Oblast, oblasts and the city of Dushanbe; tax inspectorates for cities (districts), tax inspectorate of large taxpayers, other regional tax authorities, as well as territorial bodies of the authorized state body on state registration of legal entities and individual entrepreneurs.

3. Authorized state body and territorial tax authorities shall form the single centralized system of tax authorities of the Republic of Tajikistan.

4. Authorized state body is included into the system of central executive bodies of public authority of the Republic of Tajikistan.

5. Territorial tax authorities are accountable and must report directly to the respective higher level tax authorities along a vertical chain of command and are not related to the local executive bodies of public authority.

6. Tax authorities are legal entities, have independent balances, special accounts in Central Treasury of the Ministry of finance of the Republic of Tajikistan or its bodies at the local level, stamps bearing an image of State Seal of the Republic of Tajikistan and with its name in state language.

7. Tax authorities have a symbol, as well as for encouragement of its officials, who achieved significant results, use departmental lapel badge, a description of which is approved by the Government of the Republic of Tajikistan.

8. Tax authorities have the plenitude of the power in matters of carrying out state control over full and timely payment of taxes, except for the cases, in which tax collection is assigned to other authorities by this Code.

#### **Article 85. Tax authority officials**

1. Persons, who meet the qualification requirements for holding the positions set by the Law of the Republic of Tajikistan "On state service" and other legislative acts, shall be appointed as tax authorities' officials. Officials of tax authorities are the state servants.

2. To the officials of tax authorities shall be conferred class ranks according to the established procedure.

3. Class ranks of officials of tax authorities are established by Majlisi namoyandagon Majlisi Oli of the Republic of Tajikistan. Regulations on the order of conferring class ranks to the officials of tax authorities and wage premiums associated with them shall be approved by the President of the Republic of Tajikistan.

4. Tax authority officials shall be given special uniforms and badges of merit according to the class ranks, patterns and rules of issuance of which is approved by the Government of the Republic of Tajikistan.

5. Service IDs shall be given to officials for confirmation of their authorities, samples of which are approved by the authorized state body.

6. Officials of tax authorities shall pass competence assessment in the prescribed manner set by legislative acts of the Republic of Tajikistan.

#### **Article 86. Assessment over professional activity of the tax authority official**

1. Professional activity of each tax authority official shall be subject to annual staff assessment on the basis of general and specific indicators, depending on the type of its activities, complying with the rules of assessment of the activities of state officials of the Republic of Tajikistan.

2. Indicators of professional activity (report) of the tax authority official based on the results of reporting year shall be determined by him/her individually and shall be submitted directly to the immediate supervisor for further review and assessment. Professional activity of the tax authority official, who has a work experience in tax authorities less than 6 month, is not subject to assessment.

3. Assessment of professional activity of tax authority employee shall be taken into account in the prescribed manner by higher management and (or) competence assessment commission in the following cases:

- in the case of promotion to another position;
- in the case of assigning bonuses and rewards;
- while applying disciplinary sanctions;
- in the other cases, defined by departmental legislative acts.

**Article 87. Cooperation of tax authorities with other bodies of public authority**

1. Tax authorities perform their activity, regardless of other central and local bodies of public authority, self-government bodies of settlements and villages. Decisions adopted by tax authorities in a scope of their authorities, are binding to all individuals and legal entities.

2. Central and local state bodies, self –government bodies of settlements and villages are obliged to assist to tax authorities in execution of the tax legislation of the Republic of Tajikistan, to provide completeness and timeliness of transfer of taxes to the budget. These bodies are prohibited to interfere into the activity of the tax authorities, unless otherwise specified by legislation of the Republic of Tajikistan.

3. Customs authorities, social security authorities, other state bodies and credit organizations must on regular basis provide to the tax authorities available information in the prescribed manner, necessary for the performance of the tax legislation of the Republic of Tajikistan.

**Article 88. Reports**

1. Within the six months of the end of each calendar year, the authorized state body shall provide the publication of a report on the performance of the tax authorities on the official web-site.

2. Report for the previous calendar year shall contain the following information:

- the amount of planned and actually collected taxes, on the types in a regional breakdown (cities and districts);
- the amount of tax debts on the types of taxes in a regional breakdown (cities and districts);
- statistic data on presented tax concessions and deferment of arrears, including duration of the reporting calendar year;
- short description of achievements and defects in tax authority's activity.

3. Authorized state body shall publish on the official web-site and always update the list of taxpayers, the tax of which has been calculated (assessed), but are still unpaid in the amount exceeding 5000 indexes for calculations with indication of the size of arrears.

**Article 89. Rights of tax authorities**

1. In accordance with this Code Tax authorities have the right:

- within the scope of their authorities, independently or by agreement with Ministry of finance of the Republic of Tajikistan, to develop and to approve legislative acts, provided by this Code;
- to conduct a tax control;
- to conduct an international cooperation on taxation matters;
- to demand from a taxpayer (tax agent) to provide access for review of the data of the software designed to automate accounting and tax accounting, and (or) information system containing data of primary accounting documents, information about objects of taxation and (or) objects related to taxation, if a taxpayer (tax agent) uses such kind of software and (or) information system;
- during tax audit, in the manner established by Code of the Republic of Tajikistan on administrative violations, to seize the documents from a taxpayer (tax agent), evidencing about commission of administrative violations, if grounds presented on probability of destruction, concealment, alteration or replacement of these documents;
- to calculate the amount of the tax obligation (using the methods of direct and indirect evaluation, market prices or data of time study) in accordance with this Code;
- during tax audits to carry out checks of financial documents, accounting books, reports, estimates, cash, securities and other assets, calculations, declarations and other documents related to the calculation and payment of taxes, to receive from officials and other employees of the organizations and from individuals information, oral and written explanations on the issues arising in the course of the said tax audits;
- during tax audits to examine the property being object of taxation and (or) object related to taxation, regardless of its location, make an inventory of the property of the taxpayer (tax agent) (except for residential premises) in the manner approved by the authorized state body by agreement with the Ministry of finance of the Republic of Tajikistan;
- during tax audits to examine all manufacturing, trading, warehouse and other premises of enterprises and individuals, regardless of their location, which are used for the purpose of receiving income or which are related to the storage of objects of taxation;
- to issue order to managers and other officials of organizations, as well as individuals, regarding the elimination of identified tax violations, execution of which shall be binding for them, and to monitor compliance with them;
- in case of tax violations to impose sanctions and penalties, provided by this Code and legislation of the Republic of Tajikistan, file motions on suspension (cancellation) of validity of licenses on performance of certain types of activities;
- to collect taxes, penalties and interests from taxpayers, their officials and individuals, including through filing claims through a court, in accordance with this Code;



- in case of violation of tax legislation to apply established types of responsibility;
- to demand from taxpayer (tax agent) presentation of documents, proving the correctness of calculation and timely payment (withholding and transfer) of taxes, written explanations and tax reporting prepared by the taxpayer (tax agent), as well as financial reporting of the taxpayer (tax agent), including the attachment of the audit report, in case, if for such person have been established compulsory audit by legislative acts of the Republic of Tajikistan;
- in manner established by this Code, legislation of the Republic of Tajikistan on enforcement proceeding and other legislative acts of the Republic of Tajikistan, to take measures on enforced collection of taxes, penalties, interests and to collect the amounts of tax debts;
- to attract (invite) specialists, experts and translators for conducting tax control, whose service fees shall be paid in the manner prescribed by the Government of the Republic of Tajikistan for forensic examination;
- in case of detecting administrative violations in field of taxes, to call persons as witnesses, who may be aware of any circumstances relevant for tax control;
- in the manner established by the Government of the Republic of the Tajikistan, with no reduction of overall size of tax proceeds in certain cities (districts) or certain categories of taxpayers for a period not less than 12 consecutive calendar months as an experimental basis to reduce the number of submitted declarations, tax payments to the budget and (or) other means of simplifying the procedure of the tax payments.

2. The rights of tax authorities set forth in this article may be exercised by tax police units only on the basis of a written instruction from first directors of tax authorities or their authorized deputies.

3. Tax authorities have also other rights, provided by this Code and other legislative acts of the Republic of Tajikistan.

#### **Article 90. Obligations of tax authorities**

1. The tax authorities are obliged:

- to comply with the Constitution of the Republic of Tajikistan, this Code, constitutional laws and other laws of the Republic of Tajikistan, joint resolutions of Majlisi milli and Majlisi namoyandagon of the Majlisi Oli of the Republic of Tajikistan, resolutions of the Majlisi namoyandagon (Parliament), legislative acts of the President of the Republic of Tajikistan and the Government the Republic of Tajikistan, and the rights and interests of enterprises, institutions, and organizations, as well as citizens, which are protected by law;
- to control correctness of calculation, completeness and timeliness of payment of taxes to the budget, to comply fully and exactly with tax legislation of the Republic of Tajikistan;
- to comply with and to protect the rights and legal interests of taxpayers;
- to conduct state registration of legal entities and individual entrepreneurs in accordance with the Law of the Republic of Tajikistan “On state registration of legal entities and individual entrepreneurs”;
- to provide the registration of taxpayers in full and in a timely manner, including the value-added tax payers, objects of taxation, recording of calculated (assessed) and paid taxes and arrears;
- to compile reports on tax proceeds to the budget, to maintain recording of and to compile reporting on the amounts of granted tax concessions with a breakdown by groups of taxpayers, types of taxes and concessions, as well as with a territorial breakdown;
- to apply and to collect promptly penalties and interest prescribed by this Code and other legislative acts of the Republic of Tajikistan
- to conduct tax control in accordance with legislative acts of the Republic of Tajikistan;
- to publish methodological directives and instructions on issues that fall within the scope of their authority, as well as manuals, brochures and posters, and to publish in the mass media advisory information and explanations on these issues;
- to present a notification to a taxpayer regarding the fulfillment of the tax obligations within the deadlines and in the cases provided for by this Code;
- upon application of the taxpayer within 5 business days to issue an extract from a taxpayer’s personal account on the status of settlements with the budget pertaining to the fulfillment of the tax obligations;
- to take measures on enforced collection of tax debts of taxpayer in accordance with this Code and other legislative acts of the Republic of Tajikistan;
- to furnish taxpayers with a second copy of a tax audit report and the relevant decision by a tax authority regarding to the results of a tax audit;
- to maintain the State register of cash registers with fiscal memory;
- to review requests, petitions, appeals and suggestions on matters within their authority of tax authorities following the established procedure;
- to furnish information to financial authorities on a monthly basis on taxes actually paid to the budget;
- to gather and analyze the information on violations of tax legislation, to make suggestions to appropriate state bodies on elimination of causes and conditions, leading to appearing of such situations;
- to credit and (or) refund to taxpayers tax overpayments in accordance with the provisions of article 69 of this Code;
- comply with the tax secrecy;
- to perform explanatory work regarding the application of tax legislation of the Republic of Tajikistan, in a prescribed manner to furnish taxpayers with tax reporting forms and to explain the procedure for filling them out, to

provide explanations, including written explanations, regarding the procedure for the calculation and payment of taxes;

- to provide during the statute of limitation the storage of tax reporting and other documents, including copies of these documents (receipts and etc.) given to taxpayers, proving the fact of fulfillment of tax obligations by taxpayers on payment of taxes to the state budget, as well as tax audit reports and other documentation related to this particular taxpayer. All above mentioned documentation are gathered into the personal file of a taxpayer (the personal file of a taxpayer shall be made). Tax authorities compose personal file of taxpayers in regard of taxpayers being legal entities and individual entrepreneurs, as well as individuals, obliged to present tax returns in accordance with this Code;

- if in the course of a tax audit the facts pointing to crimes related to tax evasion and evasion of other compulsory payments to the budget have been revealed, to forward to law enforcement bodies the relevant materials within 10 business days upon making a decision on the tax audit report for the implementation of measures in accordance with legislation of the Republic of Tajikistan;

- to monitor the activity of lower level territorial tax authorities and other enterprises, institutions and organizations under their jurisdiction;

- to provide the taxpayers access to the information on matters related to their taxation.

2. Tax authorities also fulfill other obligations provided by tax legislation of the Republic of Tajikistan.

#### **Article 91. Responsibility of tax authority officials**

1. For the failure of performance or improperly performance of duties, disclosure of state, service, tax, commercial and banking secrecy established by legislation of the Republic of Tajikistan, abuse of official position and other illegal actions the tax authority officials shall be subject to disciplinary, administrative or criminal responsibility in accordance with legislation of the Republic of Tajikistan.

2. Damage caused to a taxpayer as a result of illegal actions of tax authority officials shall be compensated in accordance with the procedure set by legislation of the Republic of Tajikistan.

#### **Article 92. Conflict of interest**

Tax authority official is forbidden to perform its official duties job in respect of a taxpayer, if:

- the given official is a relative of the taxpayer;

- a taxpayer or his relative has a direct or indirect interest in respect of the official.

#### **Article 93. Confidentiality of information (tax secrecy)**

1. Tax authorities, tax agents and their employees (during the work or after dismissal from service) must keep secret any information about taxpayers (except for information about the taxpayer identification number and other information related to the registration of taxpayers), acquired in the performance of their official duties.

2. Tax authorities and tax agents have the right to disclose such information in a manner established by authorized state body, only to the following persons:

- other tax authority officials for the purposes of fulfillment of their official duties;

- law enforcement bodies for the purposes of checking the person under law who has committed a violation of tax legislation of the Republic of Tajikistan or crime;

- courts in course of consideration of case on determination of the tax obligations of a taxpayer or responsibility for tax violation;

- tax authorities of other states in accordance with international legal acts recognized by Tajikistan;

- financial authorities to the extent necessary for the execution of the budget legislation;

- authorized state body on the state service issues in respect of persons required to file declaration about incomes;

- customs authorities for the purposes of the application of customs legislation of the Republic of Tajikistan, as well as other authorized bodies, who have the right to collect taxes in accordance with this Code.

3. Persons, who have received information in accordance with part 1 of this article, shall keep its secrecy in accordance with established procedure.

4. Tax reporting and any other documents prepared in the course of activity of tax authorities (personal files of taxpayers, tax audit reports, notifications and other documents required for tax control) cannot be transferred to other state bodies, except as provided by second paragraph of part 2 of this article.

5. Subject to the requirements of part 1 of this article, the originals of the documents mentioned in part 4 of this article may be transferred to law enforcement bodies and courts at their written request, when a criminal case has been opened against a taxpayer.

6. In this case, in accordance with legislation of the Republic of Tajikistan the tax authority shall compulsory retain the registered copies of the documents transferred to law enforcement bodies and courts.

7. In the event of termination of criminal cases for absence of the event of a crime or other legal grounds, or if a court decision has entered in force, the originals of the abovementioned documents shall be returned to relevant tax authority within 30 calendar days from the day of termination of the case or the entering of a decision of a court in force.

#### **Article 94. Material support, legal and social protection of tax authority officials**

1. Tax authority officials are representatives of executive body of public authority and are under state protection. Their legal requirements within their authority are binding for individuals and officials.

2. Obstruction of carrying out by tax authority officials of their official duties, impairment of their honor and dignity, danger to their life, health and property or infringement on their lives, health and property, providing them with resistance, use of violence against them in connection with performance of their official activities shall result in responsibility provided by the legislation of the Republic of Tajikistan.

3. Protection of life, health, honor, dignity and property of family members of tax authority officials shall be provided by this Code and other legislative acts of the Republic of Tajikistan.

4. State shall guarantee social protection of tax authority officials.

5. Material support and social welfare of tax authority officials and their family members shall be provided on the terms, in the manner and in the amount established by legislation of the Republic of Tajikistan in the field of state service.

6. Types and amounts of material support of tax authority officials, including the types and the size of financial allowance, are set in accordance with legislative acts of the Republic of Tajikistan.

7. Financing of the activity of tax authorities shall be made from the republican budget.

8. Order and rates of material and technical support of tax authorities is established by the Government of the Republic of Tajikistan.

9. Property of tax authorities is a state property and is not subject to privatization.

## **PART II. SPECIAL PART**

### **Section VIII. Personal income tax and corporate profit tax**

#### **Subsection 1. Personal income tax**

##### **Chapter 16. General provisions**

##### **Article 95. Taxpayers**

1. Payers of personal income tax are resident and non-resident individuals having objects of taxation.

2. Obligations on the collection of personal income tax at the source of payment are performed by a tax agent in the cases specified in this Code.

##### **Article 96. Object of taxation**

1. Object of taxation shall be a taxable income, including any income received by the following taxpayers, regardless of the place and the method of payment, defined for the tax period as the difference between gross income and deductions of the expenses prescribed in this subsection:

- by individuals who are residents, from the sources in the Republic of Tajikistan and (or) from the sources outside the Republic of Tajikistan;

- by individuals who are not residents, from the sources in the Republic of Tajikistan.

2. Gross income received by an individual, is divided into the following groups:

- income taxable at the source of payment;

- income not taxable at the source of payment.

3. If the provisions of this Code do not allow precise attributing income received by a taxpayer to income received from the sources in the Republic of Tajikistan, or income received from the sources outside the Republic of Tajikistan, attribution of income to a particular source shall be carried out by authorized state body.

##### **Article 97. Tax base**

1. Tax base of personal income tax is a taxable income of individuals - residents and non-residents defined for the tax period as the difference between gross income and deductions of the expenses prescribed in this subsection.

2. Non-resident individual, carrying out an activity in the Republic of Tajikistan through a permanent establishment, is a payer of personal income tax in respect of taxable income related to a permanent establishment and defined as the difference between gross income from the sources in the Republic of Tajikistan related to a permanent establishment and the amount of deductions related to received income prescribed in this subsection.

3. Gross income of a non-resident individual, which is not listed in part 2 of this article, is subject to taxation at the source of payment without deductions, if it is provided in article 128 of this Code.

4. Non-resident individual who has received income from the sources in the Republic of Tajikistan through selling or transferring of property and (or) property rights not connected with a permanent establishment in the Republic of Tajikistan, is a payer of personal income tax on the gross income of this kind reduced by the amount of deductions provided by this subsection and attributable to such income. If the relevant tax from the sale or transfer of the property and (or) property rights by the given non-resident individual has not been paid, a legal entity in which the given non-resident had (has) property rights, or its tax agent who pays income to the non-resident, shall withdraw and pay the tax without the deduction of expenses.

5. By collection of personal income tax, an employer is not allowed to deduct the expenses related to hiring an employee from the gross income of the individual being the employee.

6. For each type of income of an individual, in respect of which different tax rates have been set, the tax base is determined separately.

##### **Article 98. Gross income**

All income, premiums and benefits of an individual, payable in favor of an individual in cash, natural and nonmaterial form, except for income that is exempt from personal income tax in accordance with this subsection, shall refer to gross income of that person, including:

- income received in the form of wages;

- income from the activity that is not work for hire;
- any other income.

**Article 99. Income in the form of wages**

1. Any payments, benefits or premiums, including in natural and nonmaterial form, received by an individual, regardless of the form and place of payment, shall be considered as income received in the form of wages, including:

- income from work for hire;
- income from provision of services (performance of works) in accordance with the contracts of civil legal nature or without such contracts, including honoraria under author's contracts, except for contracts, the subject of which is the transfer of ownership or transfer of property rights;
- income from previous work for hire, received as a pension or in other form, or income from the upcoming work for hire.

2. Income received by a taxpayer in the form of wages, includes the following forms of payment in kind:

- wages in natural form;
- value of the property received on the gratuitous basis. Value of performed work, rendered services is defined in the amount of expenses incurred in connection with the performance of such work, rendering services;
- payment by an employer the cost of goods, performed works, rendered services, received by an employee from third parties.

3. For the purposes of part 1 of this article the value of benefits of a taxpayer shall be equal to the following sum minus any payment of the taxpayer for received benefit:

- in the case of receiving a loan at an interest rate below a market rate for loans of that type - the amount equal to the interest rate payable at the market rate;
- in the case of the sale or gratuitous transfer of goods, works or services - the market value of such goods, works or services;
- in the case of assistance in obtaining education by an employee or his dependants (excluding training programs directly related to the performance of the duties by the employee) - the value of the assistance provided to the recipient;
- in the case of compensation of expenses to an employee not directly related to his work for hire - the amount of compensation;
- in the case of the writing off (clearance) of debts or obligation of an employee in respect of an employer - the amount of the writing off (clearance) debts or obligation;
- in the case of payment of insurance premiums for life and health insurance and other similar amounts by an employer - the value of the premiums or sums for the employer;
- in other cases - the market value of the benefit.

4. Gross income of an employee does not include the reimbursement of travel expenses by an employer in accordance with the norms set out in the relevant legislative acts, as well as the reimbursement of travel expenses by international organizations and their institutions, foundations, non-governmental organizations being non-residents using the funds of the aforementioned persons.

5. Gross income does not include payments received by an individual for representation expenses and other related expenses (for performing celebrations, accommodation of guests etc.).

6. payment in natural (nonmaterial) form, value of benefits, payments and expenses of an employer in favor of individuals referred to in parts 2 and 3 of this article shall include the amount of excise tax, value-added tax and any other tax payable by the employer in connection with the evaluated transaction.

**Article 100. Income of individuals from activities not related to work for hire**

1. The following income from non-entrepreneurial activity of an individual shall be an income of an individual from activity not related to work for hire:

- interest income;
- dividends;
- income from the lease (rental) property and (or) gain of value from the sale of property;
- royalties;
- amount of a debt of a taxpayer forgiven by its creditor.

2. To the income of an individual from activity not related to work for hire shall refer also any benefit received by it and (or) other income except for income in the form of wages, and (or) income from individual entrepreneurial activity.

**Article 101. Adjustment of gross income of an individual**

Income in the form of wages, dividends, interest, winnings, royalties and other income, received by an individual and previously taxed at the source in the Republic of Tajikistan according to this Code, shall be deducted from the taxable income received in the tax period.

**Article 102. Personal deductions from personal income**

1. Personal deduction shall be carried out from income of an individual being an employee in the form of wages in the amount of one index for calculation for each calendar month.

2. Personal deduction shall be carried out from income in the form of wages of the following categories of individuals being employees in the amount of 10 indexes for calculations for each calendar month:

- heroes of the Soviet Union, heroes of socialistic labor, heroes of Tajikistan, persons treated as participants of the Great Patriotic War, participants of other military operations on protection of the Union of Soviet Socialist Republics, in particular the military who served in the military units, staffs and institutions that formed part of the army field forces, former partisans, soldier-internationalists, disabled persons of groups I and II;

- citizens who have suffered from and survived radiation sickness caused by the consequences of accidents at nuclear facilities, those who participated in operations on the clean-up of the consequences of such accidents within the exclusion zone, those who were involved during the clean-up of the consequences of such accidents in the operation or other works at nuclear facilities.

3. From income of an individual being an employee shall be allowed one the largest in size personal deduction, established on the basis of supporting documents in accordance with parts 1 and 2 of this article.

4. If an individual has been an employee of less than sixteen calendar days during a month, at determination of the taxable income of the employee personal deduction in accordance with paragraphs 1 and 2 of this article shall not be made.

5. Personal deduction from income in accordance with parts 1 and 2 of this article shall be allowed for income received only at one (main) place of work of an employee. In the case of an individual who is not a salaried employee and an individual entrepreneur, personal deductions determined in parts 1 and 2 of this article shall be allowed only at one place of payment of income, defined on the basis of submitted application by the employee.

6. At calculation of the taxable income of an individual shall be carried out a deduction at the rate of 1 percent of the sums of withheld social tax from the income for insured persons.

7. Person who is paying an income to an individual is responsible for the proper implementation of the personal deduction. In the case of violation of the provisions set out in this article, the non-assignment of the tax to the budget due to incorrect deduction shall be refunded by that person.

#### **Article 103. Rates of personal income tax**

1. Taxable income of an individual being an employee at the main place of work is subject to taxation at the following rates, if this article does not specify other requirements:

№	The amount of taxable income (in a month)	Amount and tax rate
1.	Does not exceed the personal deduction	Income shall not be subject to taxation (free from taxation)
2.	Excess of the personal deduction to 140 somoni	8 percent of the amount of taxable income in excess of the personal deduction
3.	Over 140 somoni	The amount of tax indicated in line 2 plus 13 percent of the amount of taxable income in excess of 140 somoni

2. Taxable income of an individual not specified part 1 of this article is subject to taxation at the rate of 13 percent without application of the deductions prescribed in article 102 of this Code, with the exception of a deduction for paid social tax for insured person.

3. Taxable income in the form of wages of an individual being a non-resident shall be subject to taxation at the rate of 25 percent.

#### **Article 104. Tax concessions**

The following incomes of individuals shall be not subject to personal income tax:

1) Income from official diplomatic (consular) and equivalent to diplomatic service of a person in the Republic of Tajikistan and outside of the Republic of Tajikistan, who is not a citizen of the Republic of Tajikistan.

2) The value of property in natural (nonmaterial) and (or) cash form, received from individuals through inheritance or gift, except for income received from the property, in particular from the premiums paid to the heirs (successors) of authors of scientific, literary and art works, as well as discoveries, inventions and industrial designs.

3) The value of gifts received from legal entities, as well as prizes (winning) at contests and competitions, including in the cash form, if:

a) the value of gifts received from legal entities does not exceed 100 indexes for calculations in a year;

b) the value of prizes (winnings) received at international contests and competitions does not exceed 500 indexes for calculations in a year;

c) the value of prizes (winnings) received on the republican contests and competitions does not exceed 100 indexes for calculations in a year.

4) State and insurance pensions, state scholarships, state benefits and state compensations.

5) Alimony of individuals receiving them, remuneration of donors for blood donation, breast milk donation and other aid.

6) One-time payments and material aid from the budget provided in accordance with legislative acts, the amount of travel expenses within the established norms paid by an employer to an individual being resident, the reimbursement of travel expenses out of the funds of international organizations and their institutions, foundations, non-governmental organizations being non-residents, as well as humanitarian and charitable assistance, including at the time of natural disasters.

7) Increase in value from the sale or other form of alienation:

- a) residential buildings (premises), which have been the main place of residence of a taxpayer for at least the last 3 years prior to alienation;
- b) other immovable property owned by a taxpayer for at least 2 years prior to the date of alienation.
- 8) Increase in value from the sale or other form of alienation of tangible (movable) property, except for:
  - a) property used by a taxpayer for entrepreneurial activity;
  - b) mechanical transport vehicles and trailers, subject to state registration and owned by a taxpayer for at least one year prior to the date of alienation;
  - c) antique property.
- 9) The amount of state awards and premiums of the Republic of Tajikistan.
- 10) Insurance payments received under contracts of an accumulative and return character within the payments pertaining to such contracts made by an individual, and insurance payments received by the death of the insured person.
- 11) Sums of money allowances, money rewards and other payments received in connection with service (the performance of official duties) by the military personnel, members of the rank-and-file and command staff of the system of the ministries of defense, internal affairs (except for the State service "Guard"), state bodies of national security, emergency situations and civil defense, law enforcement units of state bodies of state financial control and anticorruption efforts, customs authorities, Drug enforcement agency, the National guard, the system of the execution of criminal sanctions of the Ministry of justice of the Republic of Tajikistan.
- 12) Winnings from state bonds and state lotteries of the Republic of Tajikistan issued by the Ministry of finance of the Republic of Tajikistan in the amount not exceeding 50 somoni per bond or lottery.
- 13) Addressed social assistance, benefits and compensation, excluding payments related to payment of wages, paid from the state budget in the amount and manner established by the legislative acts.
- 14) Compensation of physical harm caused to an employee through injury or other harm to the health in connection with execution of employment duties, in accordance with the legislation of the Republic of Tajikistan.
- 15) Value of given special wear and (or) uniforms, footwear, personal protective equipment and first aid kit, soaps, decontaminating materials, milk or other equivalent food products for therapeutic-prophylactic nutrition according to standards and fields of activity set by the Government of the Republic of Tajikistan.
- 16) Insurance payments under obligatory employer's liability insurance contracts (at the expenses of an employer) for causing (when causing) harm to the life and health of an employee while performing of employment (service) duties.
- 17) The amount of compensation of material damage established by a court decision.

## **Subsection 2. Corporate profit tax**

### **Chapter 17. General provisions**

#### **Article 105. Taxpayers**

- 1. Payers of corporate profit tax are legal entities (except for those that match the terms of special tax regimes).
- 2. For the purposes of this subsection, any foreign subject other than an individual shall be considered as a taxpayer being an enterprise, until it proves that it acts as a participant of joint ownership in accordance with article 147 of this Code.

#### **Article 106. Object of taxation**

- 1. The object of taxation for corporate profit tax for residents is a gross income reduced by the amount of deductions provided by this Code.
- 2. Gross income consists of income, rewards and benefits of a taxpayer in cash and in natural (nonmaterial) form, including all proceeds, leading to an increase in the net asset value of the taxpayer, other than income exempt from corporate profit tax.
- 3. Object of taxation of a non-resident, operating in the Republic of Tajikistan through a permanent establishment, is its gross income from the sources in the Republic of Tajikistan connected with a permanent establishment reduced by the amount of deductions provided by this Code in respect of such income.
- 4. Types of gross income of a non-resident referred to in article 128 of this Code, which are not related to its permanent establishment, are subject to taxation at the source of payment without any deductions, if the source of income is located in the Republic of Tajikistan.
- 5. In the event of receiving income by a non-resident from the sale or transfer of property and (or) property rights which are not related to its permanent establishment in the Republic of Tajikistan, the object of taxation shall be its gross income from the operation from the sources in the Republic of Tajikistan, reduced by the amount of deductions provided by this Code.

#### **Article 107. Tax base**

- 1. Tax base is a gross income for the tax period reduced by the amount of deductions specified in this Code, except for the cases provided by part 4 of this article.
- 2. Gross income of a resident consists of income received (receivable) by the given person in the Republic of Tajikistan and outside of it during the tax period.
- 3. Gross income of a non-resident, operating in the Republic of Tajikistan through a permanent establishment, consists of incomes associated with such permanent establishment received (receivable) by the given person.

4. Tax base of a non-resident shall be a gross income received from the sources in the Republic of Tajikistan, not connected with a permanent establishment.

5. For the purpose of corporate profit tax shall not be considered as an income:

- value of property received by a taxpayer as a share and (or) contribution to the statutory capital;
- amount of money received by a taxpayer being an emitter from the placement of the shares issued by it.

6. Tax base shall be defined separately for each type of incomes in respect of which the different tax rates are set.

#### **Article 108. Adjustment of income**

1. Income from the supply of goods, works and services shall be adjusted in the following cases:

- full or partial return of goods, refusal of acceptance of work or services;
- amendments of the terms of a transaction.

2. Adjustment of income shall change the size of a gross income for the tax period in which takes place a return of goods or amendment of the terms of a transaction.

3. Adjustment of gross income can also be carried out during the transition to a special tax regime and back in accordance with the requirements established by section XVI of this Code.

#### **Article 109. Tax rates**

1. With consideration of parts 2 and 3 of this article corporate profit of a taxpayer reduced by the amount of incurred losses according to the requirements of article 124 of this Code, shall be subject to taxation at the following rates:

1) For activity of goods production:

- from January 1st, 2013 - 15 percent, but not less than 1 percent of the gross income;
- from January 1st, 2015 - 14 percent, but not less than 1 percent of the gross income;
- from January 1st, 2017 - 13 percent, but not less than 1 percent of the gross income.

2) For other types of activity:

- from January 1st, 2013 - 25 percent, but not less than 1 percent of the gross income;
- from January 1st, 2015 - 24 percent, but not less than 1 percent of the gross income;
- from January 1st, 2017 - 23 percent, but not less than 1 percent of the gross income.

2. Types of the gross income of a non-resident specified in part 4 of article 106 of this Code shall be subject to taxation at the rates specified in article 128 of this Code.

3. Income of a non-resident in the cases specified in part 5 of article 106 of this Code, shall be subject to taxation at a rate of 25 percent, but not less than 1 percent of the gross income.

#### **Article 110. Tax concessions**

1. Below is the list of exemptions from corporate profit tax:

1) Institutions, religious, charitable, intergovernmental and interstate (international) noncommercial organization, with the exception of corporate profit they receive from entrepreneurial activity. At that, these institutions and organizations shall keep separate accounting of main activity (work exempted from corporate income tax) and entrepreneurial activity.

2) Gratuitous transfers obtained by noncommercial organizations, gratuitous property and grants used for noncommercial activity, as well as membership fees and donations received by them.

3) Enterprises other than enterprises engaged in trading, mediatory, supply-selling and procuring activities, in which simultaneously in the reporting tax year:

a) at least 50 percent of employees are disabled persons;

b) at least 50 percent of wages and other material support, including in natural form, spent for the needs of disabled persons.

4) The National Bank of Tajikistan, the Deposit insurance fund of individuals.

5) Dividends received by a resident enterprise from a resident enterprise.

6) New enterprises manufacturing goods, from the date of initial state registration, when making the following volumes of investment to the statutory capital of such enterprises by their founders during 12 calendar months from the date of state registration for the period of:

- a) 2 years, if the investment is more than 200 thousand US dollars up to 500 thousand US dollars;
- b) 3 years, if the investment is more than 500 thousand US dollars up to 2 million US dollars;
- c) 4 years, if the investment is more than 2 million US dollars up to 5 million US dollars;
- d) 5 years, if the investment exceeds 5 million US dollars.

2. Exemption from corporate profit tax (tax holidays) in accordance with item 6) of part 1 of this Article shall not apply in the case of re-registration of an enterprise or its reorganization, changing owners of the enterprise, changing its organizational legal form and other similar changes. This tax concession shall not also apply to persons using (previously used) the preferential tax regimes.

3. Tax concession period provided by item 6) of part 1 of this article may continue on the basis of an application of a taxpayer while changing over to a special tax regime and back.

#### **Subsection 3. Deductions for the purposes of corporate profit tax**

##### **Chapter 18. Deductions from gross income**

#### **Article 111. Deductions of expenses connected with receiving income**

1. Deductions shall be made from gross income of all documented actual expenses prescribed in this Code and (or) other legislative acts not inconsistent with this Code, relating to the reporting period associated with receiving such income, including:

- documented expenses for tax obligations subject to the restrictions set in article 123 of this Code;
- documented expenses for remuneration of wages, travel expenses of employees within the established norms;
- documented expenses related to raw, materials, energy actually used in the tax period, except for the expenses for construction, purchase of fixed assets and their installation, and other expenses, having capital character in accordance with article 153 of this Code, and the expenses which are not subject to deduction according to article 112 of this Code and other provisions of this chapter.

2. Deductions are allowed if there are properly executed documents testifying the actual expenses associated to obtaining such income.

3. If the same expenses are provided in several expense items when calculating taxable corporate profit these expenses shall be deducted one time only.

4. Penalties, interests (fines), adjudged or recognized forfeits connected with obtaining the gross income that shall be paid (paid) by a taxpayer, are subject to deduction, except for those which shall be transferred to the budget.

5. Value-added tax, which is not to subject to value-added tax offset, shall be accounted in the value of purchased goods, works and services.

#### **Article 112. Non-deductible expenses**

1. Deductions are not allowed for expenses not related to entrepreneurial activity, as well as expenses related to the acquisition of goods (works, services) from individual entrepreneurs acting on the basis of a patent. Deductions are not allowed for the expenses on construction, operation and maintenance of facilities, as well as other expenses not related to entrepreneurial (primary production) activity.

2. Deductions provided by this chapter shall not be permitted unless they comply with the requirements of article 111 of this Code.

3. Deductions exceeding the norms determined by the Ministry of finance of the Republic of Tajikistan shall not be allowed in respect of representation expenses and other similar expenses (carrying out celebrations, accommodation of guests etc.).

4. Part 3 of this article shall not apply to a taxpayer whose entrepreneurial activity has an entertaining character, if the expenses are incurred in the course of such activity.

5. Deductions in respect of contributions to reserve funds shall be made only in accordance with the provisions of articles 115 and 116 of this Code.

6. From the gross income of an employer shall not be deducted expenses incurred at the cost of an employee related to the employment.

7. Value of the transferred property, work and services provided on the gratuitous (charitable) basis is not subject to deduction, except for the case provided by article 113 of this Code.

8. Deductions are not allowed for expenses related to light motor vehicle that are in the tax period at the disposal of employees or shareholders (participants of a taxpayer) for their personal use, including their use for transportation of workers to the work and back home.

9. Deductions are not allowed in respect of:

- contributions to the statutory capital, shares, payment for emissions above the allowable normative, contributions to voluntary insurance, voluntary membership fees to social organizations, prizes and gifts at the time of advertising campaigns;
- cash, property, works, services transferred in order of the advance payment, pledged property, deposit;
- deduction of the expenses in excess of the size set by this chapter.

#### **Article 113. Deduction for charitable payments**

1. Deduction for payments to charitable organizations and performance of charitable activity are allowed in the amount of payments actually made, but not more than 10 percent of taxable corporate profit defined without consideration of the amount of the deduction according to this article.

2. When making charitable payments in the form of property, the amount of the charitable payments actually made shall be considered equal to the lesser of two values - either the market value of the property or the production cost.

#### **Article 114. Limitation of deductions in respect of interests**

1. Unless parts 2 and 3 of this article provide otherwise, the interest actually paid for each loan shall be deducted, but in the amount not exceeding the threefold sum of interest calculated (to be calculated) with applying refinancing rate of the National Bank of Tajikistan existing in a tax period. This provision shall apply also to interest paid under financial lease (leasing) agreement.

2. Interest for loans paid in connection with the acquisition and (or) the establishment of depreciable fixed assets or connected with expenses influencing change of their value before setting them into operation, shall not be deducted from the gross annual income, but shall increase the value of such fixed assets.

3. In the case of an enterprise, more than 25 percent of the statutory capital (shares) of which are directly or indirectly owned by non-residents or legal entities exempt from corporate profit tax, for each loan used within a tax period, paid interest shall be deducted in accordance with part 1 of this article, but the maximum amount of interest that can be deducted in accordance with part 1 of this article shall be limited to the following sum:



- any interest income of the enterprise;
- plus 50 percent of the value obtained by reducing the gross income of this enterprise (other than interest income) for allowable deductions permitted under this chapter, except for the deductions in respect of interest.

**Article 115. Deductions in respect of bad (problem) debts**

1. Taxpayers have the right for deductions in respect of bad (problem) debts arising from the supply of goods, performance of works and provision of services, if the income associated with them has been previously included in the gross income received from entrepreneurial activity.

2. Deduction in respect of bad (problem) debts is allowed at the moment of the writing-off of debts as having no value from the accounting books of a taxpayer.

3. Banks, credit partnership and microcredit deposit organizations have the right to deduct 90 percent of allocations to reserves for covering possible losses on loans (hereinafter to be referred to as “reserve”) in accordance with the rules of formation of reserves and the classification of loans set by the National Bank of Tajikistan, except for standard loans, loans granted for the purpose of leasing or without mortgage security, loans to the benefit of related parties or loans to the benefit of third parties for obligations of related parties.

4. Allocations on loans, which are stored in reserves for more than 2 years after the expiration of a term set by a loan contract, shall be included in the income of the given banks, credit partnerships and microcredit deposit organizations.

5. Accumulated reserves in respect of bad (problem) debt cannot exceed 10 percent of the earnings during a reporting period.

6. Instruction on determination of the amount of allowable deductions from the gross income for the purposes of parts 3, 4 and 5 of this article shall be approved by the authorized state body by agreement with the National Bank of Tajikistan and the Ministry of finance of the Republic of Tajikistan.

**Article 116. Deductions of contributions to insurance reserve funds**

Legal entities engaged in insurance activities have the right for deduction of contributions to the insurance reserve funds in accordance with the procedure and norms established by the Government of the Republic of Tajikistan on the proposal of the Ministry of finance of the Republic of Tajikistan and the authorized state body.

**Article 117. Deductions in respect of the expenses for scientific research, project design, experimental and contractual works**

1. Deductions shall be made in respect of the expenses for scientific research, project design, experimental and construction works related to receipt of the gross income, except for expenses for the purchase of fixed assets, their installation and other expenses of a capital character. The basis for the deduction of such expenses are the technical specifications, project documentation, certificate of performed works and certificates of acceptance of the completed stages of such works.

2. Provisions of part 1 of this article shall not apply to the expenses for scientific research, project design, experimental and construction operations of the organizations that perform these types of activity in capacity of an executor (contractor or subcontractor). These expenses shall be treated as expenses for the activity of these organizations targeted to receiving of corporate profit (income).

**Article 118. Deduction of the sums of depreciation charges and other deductions of depreciable fixed assets**

1. Depreciation charges for fixed assets and intangible assets used in the entrepreneurial activity are subject to deduction according to the provisions of this article. Depreciation charges for fixed assets and intangible assets, which are not used in the entrepreneurial activity (used in noncommercial activity), shall not be calculated and shall not be deducted.

2. The following is not included in assets which are subject to depreciation:

- land, livestock, works of art, inventory reserves, including unfinished construction projects and uninstalled equipment, as well as property the value of which shall be fully deducted at determination of taxable corporate profit in the current year, and other assets not subject to depreciation;
- fixed assets which are received gratuitous;
- fixed assets, value of which previously has been fully deducted;
- fixed assets of noncommercial organizations, state institutions and social associations, in particular fixed assets used by them for receiving income.

3. Depreciable fixed assets are divided into groups with the following depreciation rates:

Group	Type of property	Depreciation rate (as a percentage)
1.	Automotive tractor road machines; special instruments, tools and accessories; computers, equipments and local data processing assets	20
2.	Trucks, buses; special motor vehicles and truck trailers; machinery and equipment for all branches of industry, foundry production; forging equipment; construction equipment; agricultural machinery and equipment; light motor vehicles; office furniture.	15
3.	Power machines and equipment; technical equipment; turbine equipment, electric motors and diesel generators; electric power transmission equipment; electronic	8

	equipment and communications tools; pipelines.	
4.	Buildings, constructions and structures; rail way, sea, river and air transport vehicles	7
5.	Depreciable assets not classified elsewhere.	10

4. Depreciation charges for each group of fixed assets (hereinafter to be referred to as “group”) shall be calculated by applying depreciation rates indicated under part 3 of this article to the value balance of the group at the end of the calendar year. Depreciation charges for fixed assets and intangible assets, which came in (retired) during a calendar year, shall be calculated (cut off) from the next calendar month after the actual use (actual retirement).

5. Depreciation charges for fixed assets of the group 4 shall be made not for the group, but for each fixed asset individually.

6. Value balance of a group at the end of a calendar year shall be equal to the amount determined as follows (but it shall not be less than zero (negative)):

- value balance of a group at the end of the previous year subject to the amount of the depreciation for the previous year, as well as the amounts indicated in parts 8 and 9 of this article;
- plus value of fixed assets in accordance with part 1 of this article and article 153 of this Code (without taking into account an increase in the value of assets due to reappraisal), added to the group during the calendar year, subject to the amounts specified in part 4 of this article and part 2 of article 119 of this Code (concerning non-deductible expenses for repair);
- minus of sum received from the sale of fixed assets in the calendar year established on the basis of the selling price, subject to requirement specified in part 4 of this article,.

7. If the value balance of a certain group of fixed assets at the end of the calendar year is less than zero, a taxpayer shall include the absolute value of the value balance as income to gross income and shall equate a value balance of this group of fixed assets to zero. Negative value of the value balance of a certain group of fixed assets means that during the calendar year, the amount received from the sale of fixed assets of this group exceeds the amount (value) of the value balance of this group of fixed assets at the end of the previous year minus the depreciation for the previous year, subject to (by adding) value of fixed assets included to the group during the calendar year.

8. If the value balance of a group at the end of the year is less than 50 indexes for calculations, the amount of the value balance shall be deducted.

9. If all of the fixed assets of a group have been sold, transferred or liquidated, the value balance of the group at the end of the calendar year shall be deductible subject to the requirement specified in part 4 of this article.

10. The value of fixed assets placed under financial lease (leasing) (received under financial lease (leasing)) shall be included in the value balance of the relevant group of the lessee.

11. For the lessor the principal sum, which is considered paid for fixed assets placed under financial lease (leasing), shall be considered the sum received from the sale of such fixed assets for the purposes of the third paragraph of part 6 of this article, if the fixed assets have been included in the value balance of the group prior to their placement under financial lease (leasing). For the lessee the principal sum paid to the lessor shall be treated as the acquisition price of the fixed assets.

#### **Article 119. Deductions of the expenses for repair of depreciable fixed assets**

1. Deductions are allowed for each group for the expenses on repair of fixed assets included in the group, in the amount of the actual sum of such expenses, but not more than 10 percent of the value balance of the group at the end of the calendar year.

2. The amount of the actual expenses on repair in excess of 10 percent of the value balance of the group shall be treated as an increase in the value balance of the group.

#### **Article 120. Deduction of expenses for insurance premiums**

Insurance contributions made by insured persons under mandatory insurance contracts shall be deductible, except for insurance premiums under the contracts of an accumulative and return character.

#### **Article 121. Expenses on geological prospecting work and preparations for the extraction of natural resources**

1. Expenses for geological prospecting work and work on preparation for extraction of natural resources shall be considered as the funding of fixed assets constituting a separate group and shall be subject to deduction from gross income pursuant to article 118 of this Code in the form of depreciation deductions at the depreciation rate for group 2 of fixed assets

2. This article shall also apply to expenses on intangible assets incurred by a taxpayer in connection with the acquisition of rights to perform geological prospecting work, development and extraction of natural resources.

#### **Article 122. Expenses on intangible assets**

1. Intangible assets shall include expenses on intangible items (intangible property, such as licenses, invention patents, trademarks, copyrights, contracts to use the name of a legal entity, computer programs, and so on) which are used for at least twelve months, if they have a limited service life.

2. Expenses for acquisition (production) of intangible assets shall be considered as funding of fixed assets constituting a separate group and are subject to deduction from gross revenue pursuant to article 118 of this Code in the form of depreciation deductions at the depreciation rate for group 5 of fixed assets.

3. The value of depreciable intangible assets shall not include expenses on their acquisition or production if they have already been deducted in calculating the taxpayer's taxable profit.

4. This article shall not apply to intangible assets referred to under article 121 of this Code.

#### **Article 123. Restriction on deductions for taxes and penalties**

Deductions for taxes and penalties shall not be allowed with respect to:

- the personal income tax or corporate profit tax paid on the territory of the Republic of Tajikistan or in other states;
- penalties and interest paid (payable) to the budget of the Republic of Tajikistan or to the budget of another state.

#### **Article 124. Attribution of losses to another period, losses from the sale or transfer of property**

1. Excess of allowed deductions of a taxpayer on gross income (loss from entrepreneurial activity) is carried over to the following period with duration up to 3 years inclusively and covers from the profit before the future period taxation

2. Losses arising in case of sale or transfer of the property (except for the property used for entrepreneurial activity, or the property, the profit of sale and transfer of which is exempted from tax), shall be compensated by the profit, earned from the sale or transfer of such property.

3. If losses provided in part 2 of this article cannot be compensated on the same year, they shall be carryover to the following period up to 3 years inclusively and compensated by profits, earned by the sale or transfer of such property. Losses, provided by the part 2 of this Code, shall not be subject to deduction from the gross income for the purpose of corporate profit tax.

#### **Subsection 4. Withholding the tax at the source of payment**

#### **Chapter 19. Withholding the tax at the source of payment**

#### **Article 125. Procedure for withholding the tax at the source of payment**

1. The following persons (tax agents) shall be required to withhold a tax at sources of payment:

- legal entities, including their separate subdivisions, individual entrepreneurs and permanent establishments of non-residents, which make payments (should make payment) to individuals working for hire income by way of salary;
- legal entities, as well as their separate subdivisions, individual entrepreneurs and permanent establishments of non-residents, which make payments for rendered in the Republic of Tajikistan services (works) income to individuals, not registered as individual entrepreneurs on the basis of civil law character contracts or without them, except for civil legal contracts, the subject of which are the transfer of property rights and other proprietary interests in property (property rights);
- legal entities, as well as their separate subdivision, individual entrepreneurs and permanent establishments of non-residents, making payments of pensions, scholarships and benefits to individuals, except for state pensions, scholarships and benefits;
- residents who make payments of dividends and interests;
- resident legal entities part of shares (share ownership) of which belong to non-residents, are realized (alienated), as well as authorized agents of non-residents, which realized (made alienation) or transferred the property (shares, share ownerships) of such non-residents in the Republic of Tajikistan, if confirming documents on tax payment of non-resident himself are not presented after the realization (alienation) or transfer;
- persons who make payments provided in article 128 of this Code;
- persons who pay winnings on bonds and lotteries and prizes (winnings, gifts) based on the results of contests, competitions and other actions.

2. Person, who pays income indicated in the part 1 of this article, shall be responsible for the withholding and payment of taxes to the budget. If the sums of tax are not timely paid to the budget, a person who pays income shall pay to the budget at his own expense the amount of tax that was not withheld and not transferred to the budget, as well as relevant penalties and interests.

3. Persons withholding (assessing) tax at the source of payment in accordance with part 1 of this article, including persons receiving funds for the payment of salary at credit organizations, are obliged to:

- to transfer the taxes withheld (assessed), including the social tax, to the budget simultaneously with the receipt of the income by way of the salary, and in other cases, within 5 business days after the end of the month in which the payments were made;
- when paying income by way of salary to provide the individuals earning the income by their request within 5 business days statements indicating surname, name and patronymic, identification number of taxpayer, the amount and types of tax, as well as the amount of tax withheld (if tax is being withheld)
- send (present) to individuals and legal entities, who earn (earned) income in accordance with part 1 of this article, by their request within 5 business days statement indicating identification number of a taxpayer, name (surname, name and patronymic) of a person, the total amount of income and total sum of tax, withheld in reporting year.

4. It shall be prohibited to credit organizations to give disposable funds to payment of incomes by way of salary without preliminary transfer to the budget by taxpayers (tax agents) the sums of personal income tax and social tax, appropriate to the abovementioned sums of disposal funds.

5. Withheld of personal income tax and payment of social tax by the financing from the budget incomes of citizens of the Republic of Tajikistan, performing the activity in international organizations, diplomatic, consulate and other equivalent to them enterprises as representatives of the Republic of Tajikistan abroad, performed in centralized procedure, prescribed by the Ministry of finance of the Republic of Tajikistan in cooperation with authorized state body.

**Article 126. Withholding the tax on dividends at the source of payment**

1. Dividends paid by resident enterprises shall be subject to taxation at the source of payment at the rate of 12 percent, with the exception of dividends paid to resident enterprises.

2. Dividends that are taxable in accordance with part 1 of this article shall not be included in the recipient's gross income and shall not be subject to further taxation.

**Article 127. Withholding the tax on interest at the source of payment**

1. Interest paid by a resident or permanent establishment of a non-resident, or on behalf of such an establishment, shall be subject to taxation at the source of payment at the rate of 12 percent of the amount to be paid, if the income is received from a source in the Republic of Tajikistan, with the exception of the cases referred to in the part 2 of this article.

2. Interest, including interest under financial leasing agreements, paid to resident credit organizations, resident leasing companies shall not be subject to taxation at the source of payment.

3. Interest that is taxable in accordance with part 1 of this article shall not be included in an individual recipient's gross income and shall not be subject to further taxation after being paid to said individual.

4. A resident legal entity whose profits are subject to taxation, in the event that interest is received that is subject to taxation in accordance with part 1 of this article, shall include in its gross income the full amount of interest income without deducting the tax that is withheld and shall have the right to a crediting of this tax withheld at the source of payment, provided that it has documents confirming the withholding of the tax at the source of payment.

**Article 128. Withholding the tax on non-residents' income at the source of payment**

1. A non-resident's income from a source in the Republic of Tajikistan, which is not related to a permanent establishment of this non-resident located on the territory of the Republic of Tajikistan, shall be subject to taxation at the source of payment as gross income, without taking deductions (with the exception of a deduction of the value-added tax in accordance with article 117 of this Code), at the rates specified in part 6 of this article.

2. Payment of income shall be understood transfer of money in cash or noncash forms, securities, goods, and other property, provision of benefits, performance of works, provision of services.

3. Payments made to non-residents in accordance with part 1 of this article which are related to the delivery of goods under foreign trade transactions (related to the importation of goods) into the territory of the Republic of Tajikistan shall not be subject to taxation at the source of payment.

4. Taxation of a non-resident's income at the source of payment shall be effected regardless of the disposition by the given non-resident of income earned in the Republic of Tajikistan in favor of third parties in the Republic of Tajikistan and (or) its separate subdivisions (other persons) in other states.

5. Tax on a non-resident's income from a source in the Republic of Tajikistan shall be withheld regardless of the form and location of the payment of the income.

6. In consideration of the provisions of this article, a non-resident's income from a source in the Republic of Tajikistan that is not related to a permanent establishment of the non-resident of the Republic of Tajikistan, shall be subject to taxation at the source of payment as gross income without making deductions (with the exception of a deduction of the value-added tax in accordance with article 177 of this Code), at the following rates:

- dividends – in accordance with article 126 of this Code;
- interests – in accordance with article 127 of this Code;
- insurance premiums paid by a resident in accordance with an insurance agreement or risk reinsurance agreement – at the rate of 6 percent;
- payments made by a resident for telecommunications or transportation services in the case of international communications or international shipments between the Republic of Tajikistan and other states, with the exception of payments for sea freight – at the rate of 5 percent, and payments for sea freight – at the rate of 6 percent;
- incomes in the form of wages stated in the article 99 of this Code, paid from the sources in the Republic of Tajikistan, regardless of the form and the place of income payment, by the rate prescribed in the part 3 of article 103 of this Code;
- other incomes, not provided by paragraphs 1-5 of this part, by the rate of 15 percents.

7. For the purposes of this article, payments made by a permanent establishment of a non-resident in the Republic of Tajikistan or on behalf of such an establishment shall be treated as payments made by a resident enterprise.

8. Organizations, which pay incomes to non-residents, participate in implementation of credit (grant) agreements without organizing permanent establishment in the Republic of Tajikistan, regardless of the place of income payment, obliged as tax agents to withhold the tax from the source of payment and make a payment to the budget. In case of not performance of this requirement the tax is collected from the said organizations.

**Subsection 5. General provisions on international taxation**

**Chapter 20. International taxation**

#### **Article 129. Taxation of the net profit of permanent establishment of a foreign legal entity**

In addition to the profit tax, a permanent establishment of a foreign legal entity, performing its activity in the Republic of Tajikistan, shall be subject to a tax on the net profit of this permanent establishment at the rate of 15 percent.

#### **Article 130. Foreign tax offset**

1. The amount of personal income tax or corporate profit tax paid outside the Republic of Tajikistan, in case of confirming of payment of the tax outside of the Republic of Tajikistan, shall be applied as a offset against the payment of these taxes in the Republic of Tajikistan following the procedure established by the authorized state body.

2. The amount of the offset referred to under part 1 of this article must not exceed the amount of tax assessed in the Republic of Tajikistan with respect to the given income or profit, at the rates in effect in the Republic of Tajikistan.

#### **Article 131. Income received in countries with preferential taxation**

1. If resident directly or indirectly has more than 10 percentage of statutory fund or has more than 10 percent of voting shares in a foreign enterprise that in its turn receives income in a country with preferential taxation, part of such income of the resident is included to his (resident's) taxable income (profit).

2. Foreign state shall be considered a state with preferential taxation, if:

- tax rate in it is 30 percent lower than rate set in accordance with this Code;
- there are the laws on confidentiality of financial information or information on companies in force that make it possible to keep a secrecy about actual property owner or recipient of income (profit).

#### **Chapter 21. Special provisions on international legal acts**

##### **Article 132. Procedure of international legal acts application**

Application of international legal acts on avoidance of double taxation and prevention of evasion of taxes on income and property (capital) is carried out according to instruction approved by the Ministry of finance of Republic of Tajikistan by agreement with authorized state body taking into account the requirements of this chapter.

##### **Article 133. Procedure for payment of the tax on income of non-residents from activity in the Republic of Tajikistan not leading to the creation of a permanent establishment**

1. The procedure for the payment of tax specified under this article shall apply to income received by a non-resident from activity in the Republic of Tajikistan that does not lead to the creation of a permanent establishment in accordance with the provisions of an international legal act, with the exception of income referred to under articles 134–137 of this Code.

2. A non-resident referred to in part 1 of this article who receives income from the sources in the Republic of Tajikistan shall have the right to apply the tax payment procedure provided by this article. In the event that the provisions of this article are not applied, a tax agent shall be required to withhold the tax at the source of payment and transfer it to the state budget following the procedure specified by general provisions.

3. Non-resident who receives income from the sources in the Republic of Tajikistan and wants to use the provisions of an international legal act on avoidance of double taxation, one of the parties of which is the Republic of Tajikistan, shall submit in the prescribed manner to the relevant tax authority the original of a document conforming the residency for the relevant calendar year and a statement on application of international legal act.

4. Tax agent at the moment of the payment of income to a non-resident is obliged to withhold tax at the sources of income at the rate stipulated by article 128 of this Code and to inform the relevant tax authority.

5. Tax authority within 15 calendar days from the moment of receiving information from the tax agent shall examine necessary documents of non-residents and is obliged to inform the tax agent about its decision within this term. In the case of necessity of getting additional information on the non-resident from tax authority of other state, the term of making a positive or negative decision can be prolonged.

6. When receiving a positive decision of the tax authority on refund of withheld tax, the tax agent shall pay the amount of withheld tax to a non-resident.

7. In the event that a non-resident does not agree with a negative decision of a tax authority, the non-resident shall have the right within 10 calendar days upon the receipt of the said decision to file an application with the authorized state body (with the involvement of a competent authority of the non-resident's country of residence, if necessary) with a request for a reconsideration of the issue concerning legality of the application of the provisions of an international legal act, accompanied by the simultaneous notification of the tax authority and the tax agent on appealing of its decision.

8. In the event that a tax authority makes a negative decision regarding a request and does not receive a notification from a non-resident of an appeal of the tax authority's decision within the 10 calendar days established by part 7 of this article, tax agent is obliged to transfer withheld amount of tax to budget.

9. In the event of not execution of requirements of this article by a non-resident or a tax agent, obligation on transferring the withheld tax at the source of income to the budget and fine sanctions for late transfer of tax shall be imposed on the tax agent.

10. Tax authorities shall maintain records of:

- the amount of income from the sources in the Republic of Tajikistan paid (provided to be paid) by the tax agent to non-residents, regardless of the place of payment and amount of withheld tax;

- the amount of tax paid (refunded) to non-residents who have the right to apply the provisions of international legal acts;
- the amount of tax withheld by tax agents from the incomes of non-residents in the Republic of Tajikistan and transferred to the budget.

**Article 134. Procedure for the application of international legal acts regarding taxation of income from the provision of transportation services in international carriage**

1. Income from the provision of transportation services in international carriage, one of the parties of which is the Republic of Tajikistan, received by a non-resident legal entity that has the right to apply the provisions of an international legal act, shall be exempt from taxation without the submission of a request for the application of the provisions of an international legal act on the basis of a document confirming the non-resident's residency, if the given legal entity has a permanent establishment in the Republic of Tajikistan in connection with this activity.

2. At that, a non-resident legal entity shall be required to maintain separate accounting records of income received from the provision of transportation services in international carriage (not subject to taxation in accordance with an international legal act) and from the provision of transportation services on the territory of the Republic of Tajikistan (subject to taxation), and also to indicate the said income in the corporate profit tax return. The total amount of taxable profit (taxable income) in the aforementioned return shall be reduced by the amount of taxable profit (taxable income) that is exempt from taxation in accordance with an international legal act, as calculated on the basis of separate accounting records.

3. In the event of the unlawful application of the provisions of an international legal act that results in nonpayment or underpayment of taxes to the budget, a non-resident shall bear responsibility in accordance with legislation of the Republic of Tajikistan.

4. The income of a non-resident legal entity that uses transportation vehicles in international carriage, one of the parties of which is the Republic of Tajikistan, without creation of a permanent establishment in the Republic of Tajikistan, and that has the right to apply the provisions of an international legal act, shall be exempt from taxation following the procedure established by article 133 of this Code.

**Article 135. Procedure for application of international legal acts regarding taxation of dividends, interest and royalties**

1. A tax agent shall have the right at the moment income is paid to a non-resident in the form of dividends, interest and royalties, to apply the provisions of the relevant international legal acts without requiring the non-resident to submit a request for the application of the provisions of international legal acts, on the basis of a document confirming the residency, if the non-resident is the final recipient of the income and has the right to apply the provisions of an international legal acts.

2. A tax agent shall be required to indicate in the calculation of tax withheld at the source of payment, which is submitted to a tax authority, the amount of income paid (calculated) and (or) taxes withheld in accordance with the provisions of international legal acts, as well as the tax rates and the name of the international legal act and information from the document confirming the residency of a non-resident.

3. In the event of the unlawful application of the provisions of international legal acts, which results in the nonpayment or underpayment of taxes to the budget, the tax agent shall bear responsibility in accordance with the legislation of the Republic of Tajikistan.

**Article 136. Procedure for application of international legal acts regarding taxation of net profit from activity through a permanent establishment**

1. A non-resident shall have the right to apply the provisions of international legal acts regarding the taxation of net profit from activity in the Republic of Tajikistan through a permanent establishment without submitting a request for application of the provisions of international legal acts, on the basis of a document confirming residency, if the non-resident is the final recipient of the net profit and has the right to apply the provisions of the relevant international legal acts.

2. A non-resident legal entity shall be required to indicate in corporate profit tax return the tax rates and the amount of tax on net profit and the name of the international legal act on the basis of which the relevant tax rate has been applied.

3. In the event of the unlawful application of the provisions of international legal acts, which results in the nonpayment or underpayment of taxes to the budget, the taxpayer shall be responsible in accordance with legislative acts of the Republic of Tajikistan.

**Article 137. Procedure for application of international legal acts regarding taxation of other incomes from sources in the Republic of Tajikistan**

1. A non-resident who receives income from the sources in the Republic of Tajikistan, with the exception of cases referred to in articles 134-136 of this Code, shall have the right to file a request with the tax authority at the place of its registration for the application of the provisions of international legal acts following the form established by the authorized state body, before the income is paid.

2. A tax authority shall examine a request within 10 calendar days, and if the information contained therein is accurate, shall certify the request.

3. In the event of the unlawful application of the provisions of an international legal act, the tax authority shall issue a reasonable refusal (negative decision).

4. In the event that a non-resident does not agree with a negative decision of a tax authority, the non-resident shall have the right to file an appeal with the authorized state body (with the involvement of a competent authority of the non-resident's country of residence, if necessary) by submitting a request for a reconsideration of the issue concerning legality of the application of the provisions of international legal act.

**Article 138. General requirements for the submission of a request for application of the provisions of international legal acts**

A request for the application of the provisions of an international legal act, following the form established by the authorized government body, shall be accepted by a tax authority provided that the following requirements are met:

1) submission of the following documents with the request:

a) copies of contracts (agreements) for the performance of work (provision of services) or for other purposes;

b) copies of constituent documents;

c) explanation of income from the provision of transportation services in international carriage and in the territory of the Republic of Tajikistan;

d) certificate on performed work, when a non-resident performs various types of work; commissioning certificate - when construction works are performed; and an invoice or payment document confirming the receipt of income for provided services;

2) submission by a tax agent of accounting documents confirming the amount of income accrued and/or paid and taxes withheld;

3) confirmation of the applicant's residency by a competent or authorized body of the applicant's country, with which the Republic of Tajikistan has concluded an international legal act (with attachment of a document confirming residency);

4) diplomatic or consular legalization of the signature and seal of the body that has certified the non-resident's residency (document confirming residency), following the procedure established by legislation of the Republic of Tajikistan or an international legal act to which the Republic of Tajikistan is a party.

**Article 139. Inquiry of paid taxes in the Republic of Tajikistan**

At the request of a non-resident performing activity in the Republic of Tajikistan, a tax authority shall issue an inquiry of the amount of paid income from sources in the Republic of Tajikistan and the taxes withheld for the tax period, following the form and procedure established by the authorized state body.

**Subsection 6. Tax accounting**

**Chapter 22. Rules of tax accounting**

**Article 140. The order of income and expenses accounting**

1. Considering the requirements of the article 48 of this Code, taxable income (profit) shall be calculated on the same basis of accounting, which is used by the taxpayer in its accounting records, with the necessary adjustments in order to comply with the provisions of this Code, unless otherwise specified by this article.

2. Depending on the used tax regime, the taxpayer can keep accounting records for the purposes of taxation on a cash or accrual basis, provided that the taxpayer applies the same method during a calendar year.

3. If the method of accounting used by the taxpayer has been changed, the amendments to the accounting records of income, expenses and other elements, which affects to the amount of tax, shall be made in the year of changing the method, so that none of the above mentioned elements has been missed or counted twice.

4. For payers of value-added tax income and expenses accounting shall be made without value-added tax, except for the expenses for which offset of value-added tax is not allowed.

**Article 141. Principles of accounting of income and expenses on cash basis**

A taxpayer carrying out accounting on cash basis shall maintain accounting of income as of the date of its receipt and shall deduct expenses as of the date of their incurrence in accordance with articles 142 and 143 of this Code.

**Article 142. The moment of income receipt in certain cases while using accounting on cash basis**

1. If a taxpayer receives cash funds, the moment when income will be considered received, shall be the moment when the cash funds will be received, and in the case of a noncash payment, the moment when money will be placed on the taxpayer's bank account or to another account which the taxpayer controls or from which the taxpayer has the right to receive the said cash funds.

2. If settlements on cash basis for delivered goods, performed work or rendered service have not been performed within more than 6 calendar months, regardless of the provisions of part 1 of this article, for the taxation purposes the settlements shall be deemed performed in the last full calendar month.

3. In the event of the cancellation or discharge of a taxpayer's financial obligation, particularly, in the event of a mutual offset, the moment when income will be considered received, shall be the moment of the cancellation or discharge of the obligation.

**Article 143. The moment of incurrence of expenses in certain cases while using accounting on cash basis**

1. The moment when expenses will be considered incurred, shall be the moment when a taxpayer actually will incur the expenses, unless otherwise provided in this article.

2. If a taxpayer makes cash payment, the moment expenses will be considered incurred, shall be the moment the cash payment, and in the event of a noncash payment, it shall be the moment when a bank will receive an order from the taxpayer to transfer cash funds (assuming that there are enough available funds on taxpayers accounts at the bank).

3. In the event of the cancellation or discharge of a financial obligation to a taxpayer, particularly, in the event of a mutual offset, the moment expenses will be considered incurred, shall be the moment the cancellation or discharge of the obligation.

4. When interest is paid on a financial obligation of a taxpayer or when payments are made for the property lease, if the term of the financial obligation or the lease agreement covers several tax periods, the amount of paid interest (leasing payment), actually deductible for the tax period, shall be the amount of interest (leasing payment) due for the given period.

**Article 144. Principles of accounting of income and expenses on accrual basis**

A taxpayer carrying out accounting on accrual basis shall maintain accounting of income and expenses in accordance with articles 145 and 146 of this Code at the moment when the right to receive income will be acquired or when an obligation to effect a payment will arise, regardless of the time when income will be actually received or a payment will be actually made.

**Article 145. The moment of income receipt in certain cases while using accounting on accrual basis**

1. The right to receive income shall be considered acquired in the moment when the relevant sum of money will be unconditionally payable to the taxpayer or when the taxpayer will perform all of its obligations under a transaction or contract.

2. If a taxpayer performs work or provides services, the right to receive income shall be considered acquired at the moment of the final completion of work or provision of services specified in a transaction or contract.

If a transaction or contract prescribes the performance of work or services in stages, the right to receive income shall be considered acquired with respect to each stage at the time of the final completion of a particular stage of work or service, unless otherwise provided by article 148 of this Code.

3. If a taxpayer receives income or has the right to receive income in the form of interest or income from the property lease, the right to receive income shall be considered acquired at the moment when the term of the financial obligation or lease agreement will expire. If the term of a financial obligation or lease agreement covers several tax periods, income shall be distributed among these tax periods in the order of its charge.

**Article 146. The moment of incurrence of expenses while using accounting on accrual basis**

1. The moment, when expenses related to a transaction (contract) will be considered incurred, shall be the moment of fulfillment of all of the following conditions, except as otherwise provided by this article:

1) in the case of unambiguous recognition of a financial obligation by a taxpayer;

2) in the case of a sufficiently precise assessment of the size of financial obligation;

3) if all parties to the transaction or contract have actually fulfilled all of their obligations under the transaction or contract and the relevant sum of money are subject to unconditional payment.

2. In connection with the conditions prescribed in part 1 of this article, a financial obligation shall mean an obligation assumed by a taxpayer in accordance with a transaction (contract) for the purposes of the fulfillment of which another party to the transaction (contract) shall provide the taxpayer with the relevant income in cash or in another form.

3. In case of making payment of interest on a financial obligation or making payment for the leased property, the moment when expenses will be considered incurred, shall be considered the moment of expiration of the term of the financial obligation or lease agreement. If the term of a financial obligation or lease agreement covers several tax periods, the expense shall be distributed among these tax periods in the order of their discharge.

**Article 147. Joint ownership**

In the event of a written agreement on joint ownership of the property or joint performance of entrepreneurial activity or other written agreement, providing not less than two owners, but without establishing of a legal entity, they shall be subject to taxation in accordance with their equity stakes.



#### **Article 148. Incomes and deductions on long-term contracts**

1. In the event that a taxpayer applies accounting on accrual basis, income and deductions in connection with long-term contracts shall be reflected for each calendar year in accordance with the extent to which the contracts have actually been carried out.

2. The extent, to which a contract has been carried out, shall be determined by comparing expenses incurred during the tax year against the total estimated expenses provided for under the given contract.

3. Under the concept “long-term contract” shall be understood a contract for manufacturing, installation or construction, or for the performance of related services, which is not completed within a calendar year during which the work specified under the contract has been started, with the exception of contracts which, according to estimates, should be completed within 6 months of the date the work specified under the contract has been started.

#### **Article 149. Procedure for the inventory accounting**

1. Inventory accounting for the taxation purposes shall be performed exclusively in accordance with the accounting regulations in force, which have been prepared on the basis of legislation on accounting of the Republic of Tajikistan.

2. In inventory accounting a taxpayer shall be required to reflect in the tax reporting the value of goods manufactured or purchased by the taxpayer, which is determined on the basis of manufacturing expenses (cost of manufacturing) or purchase price. In particular, a taxpayer shall be required to include in the cost of these goods expenses associated with their storage and transport.

3. In inventory accounting a taxpayer shall have the right to estimate the cost of goods or products that are defective, morally obsolete or out of date, which for these or other similar reasons cannot be sold at a price that is greater than the costs associated with their manufacturing (purchase price), based on the price at which they could be sold.

4. In the case of goods for which a taxpayer does not maintain separate accounting records, the taxpayer shall have the right to use one of the three following methods for inventory accounting:

- the FIFO method, according to which in a reporting period goods, which are part of the inventory at the beginning of the reporting period, are assumed to be sold (used) foremost, and then goods produced (purchased) during the reporting period in the order of their production (purchase);

- the LIFO method, according to which in the reporting period goods, that have been produced (purchased) foremost, are assumed to be sold (used) aftermost;

- evaluation method based on the average cost of production.

#### **Article 150. Accounting in financial lease (leasing)**

1. In cases in which a lessor is an owner of depreciable tangible property before the beginning of a financial lease (leasing), the operation shall be treated as the sale of the property by the lessor and its purchase by the lessee.

2. Depreciable tangible property leased out under a financial lease (leasing) agreement shall be recorded on a lessee's balance sheet during the validity period of the financial lease (leasing) agreement, which shall give the lessee the right to make deductions related to the leased object (in particular, depreciation and repair expenses).

#### **Article 151. Compensated deductions and reduction in reserves**

1. If compensation is provided for expenses, losses, and problem debts which have been previously deducted, the amount received shall be treated as income for the tax period in which the compensation is provided.

2. If there is a reduction in reserves for which a deduction has been previously made in accordance with articles 115 and 116 of this Code, the amount of the reduction shall be treated as income.

#### **Article 152. Profit and loss from the sale or transfer of assets**

1. Profit from the sale or transfer of assets shall be the positive difference between receipts from the sale or transfer of the assets and the value of the assets defined in accordance with article 153 of this Code. When assets are transferred on a gratuitous basis or at a discounted price, the profit of a person providing the assets shall be defined as the positive difference between the market price of the property being transferred in this manner and its value as determined in accordance with article 153 of this Code.

2. Losses from the sale or transfer of assets shall be the negative difference between the amounts received from the sale or transfer of the assets and the value of the assets defined in accordance with article 153 of this Code.

3. Part 1 and 2 of this article shall neither apply to the assets that are depreciable by groups, nor shall they apply to inventory reserves.

#### **Article 153. Value of assets**

1. The value of assets shall include expenses related to their acquisition, manufacturing, construction, assembly and installation, as well as other expenses that increase their value, with the exception of reappraisal of fixed assets and expenses in respect of which a taxpayer has the right for deduction.

2. If only part of an asset is sold or transferred, the value of the asset at the time of its sale or transfer shall be distributed between the remaining and sold or transferred parts.

#### **Article 154. Non-recognition of profit or loss**

1. No profit or loss shall be taken into account when determining taxable income (profit) in the cases of:

- the transfer of assets between spouses;
- the transfer of assets between former spouses in the process of a divorce;

- the unintentional destruction of an asset or its alienation accompanied by the reinvestment of the proceeds (for example, insurance compensation received for the unintentional destruction of an asset) in an analogous asset or an asset of the same type before the end of the second year following the year in which the asset has been destroyed or alienated.

2. The value of a substituent asset referred to under third paragraph of part 1 of this article shall be determined taking into account (at the level of) the value of the substituent asset at the time of its destruction or alienation, with an increase in the value of the substituent asset by the positive difference between the taxpayer's expenses on reinvestment and the amount of the proceeds in accordance with third paragraph of part 1 of this article.

3. The value of an asset acquired as a result of a transaction (contract), in which profit is not counted for the purposes of taxation in accordance with first and second paragraphs of part 1 of this article, shall be the value of the asset for the party transferring it as of the date of transaction.

4. This article shall not apply to the assets that are depreciable by groups, except for first and second paragraphs of part 1 of this article, which shall apply in cases in which all assets in the group are transferred all at the same time.

#### **Subsection 7. Administrative provisions**

#### **Chapter 23. Administrative provisions**

#### **Article 155. Tax period**

1. The tax period for personal income tax on income in the form of wages received by individuals whose tax is withheld at the source of payment, shall be a calendar month, unless otherwise provided in this Code.

2. The tax period for personal income tax on income of individuals which is not subject to taxation at the source of payment in the Republic of Tajikistan, is a calendar year, unless otherwise provided in this chapter.

3. The tax period for corporate profit tax is a calendar year. At that, submission of calculations of current payments of corporate profit tax and their payment shall be made within the deadlines specified in articles 156-158 of this Code.

#### **Article 156. Submission of a tax return**

1. Unified tax return on personal income tax and social tax on the income in the form of wages of individuals, whose taxes are deducted at the source of payment, including by separate subdivisions of legal entities, shall be represented by the 15th of the month following the reporting month.

2. Unified tax return on personal income tax and social tax on income of individuals being the citizens of the Republic of Tajikistan, working in diplomatic, consular representations of foreign states and equivalent representations of international organizations in the Republic of Tajikistan, shall be filed by the 15th of the month following the reporting quarter. Information about the above mentioned individuals shall be submitted to the authorized state body by the Ministry of foreign affairs of the Republic of Tajikistan on a quarterly basis by the 15th of the month following the expiration of the reporting quarter.

3. Unified calculation on personal income tax and social tax on incomes of citizens of the Republic of Tajikistan, working in diplomatic and equivalent organizations of the Republic of Tajikistan outside its borders, shall be submitted quarterly, by the 15th of the month following the reporting quarter, by the Ministry of finance of the Republic of Tajikistan, and taxes on them shall be collected for the same period.

4. Tax return on personal income tax on incomes of other individuals which are not subject to taxation at the source of payment, and (or) a tax return on corporate profit tax shall be submitted by the 1st April of the year following the reporting year by the following taxpayers:

- residents being payers of the corporate profit tax;
- individuals who are residents and whose income is not taxed at the source of payment in the Republic of Tajikistan, with the exception of those who pay taxes in accordance with section XVI of this Code;
- individuals who are residents and have cash means on the accounts in foreign banks located outside the territory of the Republic of Tajikistan, as well as who receive income outside of the territory of the Republic of Tajikistan;

- individuals, who shall file a tax return on personal income tax and a tax return on property status in accordance with the laws of the Republic of Tajikistan. The procedure, deadlines and form of tax returns filed by those persons shall be determined by the Government of the Republic of Tajikistan;

- other non-resident legal entities and non-resident individuals receiving income from the sources in the Republic of Tajikistan, which is subject to taxation, but is not taxed at the source of payment.

5. Upon the liquidation of a legal entity the liquidation commission or a taxpayer shall immediately send a written notice to the tax authority. The liquidation commission shall submit a tax return to relevant tax authority.

6. An individual, who is not required to file a tax return, may submit a tax return with supporting documents with the requirement to recalculate the tax and to refund of overpaid tax amount.

7. Calculation on discharge of current (advance) payments of corporate profit tax, including the information about persons whose tax has been deducted at the source of payment, according to the form established by the authorized state body, shall be filed monthly (quarterly) by the 15th of the month following the reporting month (quarter) subject to the requirements of parts 1, 2 and 3 of article 157 of this Code.

8. Tax return on the corporate profit tax shall be filed by April 1st of the year following the reporting year.

#### **Article 157. Current (advance) tax payments**

1. Payers of corporate profit tax, except for those who are subject to taxation in accordance with section XVI of this Code, shall make monthly current payments to the budget not later than the 15th of the month following the reporting month.

2. Payers of the corporate profit tax, except for those who are registered with the tax inspection of large taxpayers, and persons whose tax amount for the previous calendar year exceeds the amount define by the Ministry of finance of the Republic of Tajikistan by agreement with authorized state body, shall make current payments to the budget quarterly not later than the 15th of the month following the reporting quarter.

3. The amount of each current monthly (quarterly) payment for the 12-month period beginning each April 15st, cannot be less than each of the following amounts:

- one twelfth (one fourth) part of the corporate profit tax amount for the previous calendar year, increased by a coefficient 1.1;

- 1 percent of the gross income for the reporting month (quarter).

4. Current tax payments for corporate profit tax shall be counted towards the amount of tax payable for the calendar year. Any excess of the current tax payments of corporate profit tax in comparison with tax obligation on this tax for the calendar year shall be counted towards other tax obligations on other taxes or shall be returned to the taxpayer.

5. Current payments of corporate profit tax shall be compulsory payments for late payment of which shall be calculated as an interest.

#### **Article 158. Payment of taxes and administrative provisions**

1. Payers of personal income tax shall pay the tax at the place of registration within the deadlines set for the submission of tax returns.

2. Citizens of the Republic of Tajikistan, receiving income from the work in the diplomatic, consular organizations of foreign states and equivalent representations of international organizations in the Republic of Tajikistan, shall pay from their incomes personal income tax within the deadlines set for the submission of a tax return.

3. Distribution of the current payments, as well as the amounts of corporate profit tax payable to the revenue side of the budgets at the end of the tax year, shall be carried out by an enterprise between the budgets at the place of location of a head subdivision of the enterprise, as well as at the place of location of each of its separate subdivision according to the proportion of expenses on payment of labor related to the enterprise (its head subdivision with all its separate subdivisions) in accordance with the accounting records of the enterprise. Proportion of expenses related to the payment of wages referred to in this part are determined on the basis of actual indicators of expenses related to the payment of wages of the head subdivision of the enterprise and its separate subdivisions in accordance with the accounting records at the end of the reporting period.

4. Assessment of the amount of current tax payments, as well as the amount of tax payable to revenue side of the budgets following the results of the calendar year at the place of location of the head subdivision of the enterprise and each of its separate subdivisions, shall be carried out separately. Information on the amount of current tax payments, as well as the amount assessed at the end of the tax year the enterprise shall inform to its separate subdivisions, as well as the tax authorities at the place of its location and the place of location of the separate subdivisions, shall be filed within the deadline established for current payments according to article 157 of this Code and for submission a tax return for corporate profit tax in accordance with article 156 of this Code.

5. The enterprise shall pay the amount of the advance tax payments and the amount of the tax assessed following the results of the calendar year to the budgets at the place of location of its head subdivision and its separate subdivisions through the head subdivision of the enterprise within the deadlines established by this article and article 157 of this Code.

6. Payers of corporate profit tax shall carry out a final calculation and shall pay the tax at the place of registration not later than 10th of April of the year following the reporting calendar year.

7. Control over payment of corporate profit tax and personal income tax shall be exercised by tax authorities.

8. Instructions on the calculation and payment of corporate profit tax and personal income tax, as well as the forms of the relevant tax returns and calculations shall be approved by the authorized state body by agreement with the Ministry of finance of the Republic of Tajikistan.

### **Section IX. Value-added tax**

#### **Chapter 24. General provisions**

##### **Article 159. The concept of value-added tax**

Value-added tax as an indirect tax shall be payable in all stages of manufacturing, circulation of goods, performance of works and provision of services.

#### **Chapter 25. Taxpayers**

##### **Article 160. Taxpayers**

1. A payer of the value-added tax shall be a person who is obliged to apply and to be registered as payer of the value-added tax in accordance with article 161 of this Code.

2. A person, who is obliged to be registered as payer of the value-added tax, shall be a taxpayer of the value-added tax from the beginning of the calendar year following the calendar year in which the obligation on the registration occurs.

3. In addition to those who are payers of the value-added tax in accordance with part 1 of this article, all persons engaged in the taxable importation of goods into the Republic of Tajikistan, shall be payers of the value-added tax on such import.

4. A non-resident, performing works or rendering services which are subject to taxation taxed in accordance with article 177 of this Code without registration for the purposes of value-added tax, shall be a taxpayer of the value-added tax on such works and services.

#### **Article 161. Requirement of filing an application for registration**

1. A person engaged in entrepreneurial activity, whose gross income for the previous year exceeds the threshold of 500 000 somoni, shall change over to general taxation system and shall submit to the tax authority at the place of its registration an application for registration for the purposes of value-added tax simultaneously with filing the application for changing over to general taxation system.

2. A non-resident shall file an application for registration as a payer of value-added tax, if the gross annual income from the following supplies of goods, performing works and rendering services (except for import) in the Republic of Tajikistan, not related with a permanent establishment of the non-resident, exceeds the threshold of 500 000 somoni, at the same time the recipients of these goods (works, services) in the Republic of Tajikistan shall not pay value-added tax:

- performance of works (provision of services) is actually carried out in the Republic of Tajikistan by a person who is in the Republic of Tajikistan during the performance of works (provision of services), regardless of whether these works (services) are made by employees-individuals or organizations (contractors) of a non-resident;

- performed works (provided services) are directly connected with immovable property located in the Republic of Tajikistan;

- telecommunication services, radio and television broadcasting services provided to customers in the Republic of Tajikistan;

- there are served calls coming from the Republic of Tajikistan, or a person who pays for such calls, is in the Republic of Tajikistan;

- there is provision of services for the insurance of risk and (or) property located in the Republic of Tajikistan, with the exception of life insurance services.

3. Successor of a taxpayer who continues the activity of the taxpayer, shall file an application for registration for the purposes of the value-added tax within 10 days after coming into the right.

#### **Article 162. Registration**

1. Application for registration for the purposes of value-added tax shall be submitted in the manner and in the form prescribed by authorized state body.

2. At applying for registration for the purposes of value-added tax, tax authority shall register such person in the register of value-added tax payers and shall issue a certificate of registration for value-added tax within 10 days upon submission of application, with an indication of full name (surname, name, patronymic), legal address (place of residence) and other information about a taxpayer, the date of issue of the certificate, the date on which the registration takes effect, and taxpayer identification number.

3. The blank of the certificate of registration for value-added tax is a blank of strict accountability and is issued free of charge.

4. Certificate of registration for value-added tax shall be kept by a payer of value-added tax and in the case of annulment of registration for the purposes of value-added tax shall be returned to relevant tax authority.

5. The form of a blank and the procedure of issuing and withdrawal of the certificate of registration for value-added tax shall be established by authorized state body.

6. Registration takes effect in one of the following dates, depending on which comes first:

- at mandatory registration - from January 1st, of a calendar year of transition to general taxation system;

- at voluntary transition to general taxation system of producer of agricultural production - from January 1st, of a calendar year of transition to general taxation system;

- in the case of a successor - from the moment of coming into the right.

7. Tax authorities must open and maintain a register of payers of the value-added tax that contains detailed information about all persons registered for the purposes of the value-added tax, in accordance with the order established by the authorized state body.

8. If a person is obliged to register for value-added tax and fails to apply in due time for registration with the tax authorities shall individually register him/her as a taxpayer, bring to responsibility in accordance with the legislation and send a taxpayer relevant documents.

#### **Article 163. Annulment of registration**

1. Taxpayer is obliged to file an application for annulment the registration for the value-added tax, if both of the following conditions are present:

- on the basis of the previous calendar year, the gross income of the taxpayer, using general taxation system, is less than 500 000 somoni, and

- three calendar years have expired after the last transition to general taxation system.

2. Annulment of registration for the purposes of the value-added tax comes into force from January 1st, of a calendar year simultaneously with the transition to special tax regime.

3. In case of liquidation of a legal entity (Termination of a permanent establishment of a non-resident), a payer of value-added tax, registration of such person shall be removed from the register for value-added tax (that is, the annulment of registration for the purposes of value-added tax in respect of such person shall enter into force) upon the exclusion of such person from the register of taxpayers.

4. If a registration of a person for the purposes of value-added tax shall be annulled, the tax authorities are obliged to exclude the name (surname, first name) of the person and any other information about such person from the register of payers of value-added tax, as well as to take out the certificate on the registration for value-added tax price in the manner prescribed by the authorized state body.

5. Annulment of registration for the purposes of value-added tax in accordance with this Code shall be carried out in the manner prescribed by authorized state body.

## **Chapter 26. Objects of taxation**

### **Article 164. Objects of taxation**

1. Objects of taxation with respect to the value-added tax shall be taxable transactions and taxable imports.

2. Taxable transactions shall be delivery of goods, work performance, and service provision, other than delivery of goods, work performance, and service provision that are exempt from the value-added tax, which are performed as part of a person's entrepreneurial activity, if they are considered to be performed in the territory of the Republic of Tajikistan in accordance with articles 175 or 176 of this Code. Taxable transactions shall not include the service provision or work performance outside the Republic of Tajikistan in accordance with article 176 of this Code.

3. If a taxpayer purchases goods (work, services) accompanied by payment of the value-added tax and receives (or has the right to receive) the corresponding amount as an offset, the use of said goods (work, services) or use of goods' (works', services') results for not entrepreneurial activity shall be considered a taxable transaction.

4. The delivery of goods, work performance, and service provision by a taxpayer for the taxpayer's own employees and any other persons who are not taxpayer of the value-added tax, including on a voluntary basis, shall be a taxable transaction.

5. Regardless of the other provisions of this article, the delivery of goods by taxpayer of the value-added tax, except for reduced tax rate by which these goods has been purchased as a result of a transaction subject to the value-added tax, but who did not have the right to offset amount of a value-added tax for the purchase of these goods according to article 183 of this Code, shall not be considered as a taxable transaction. If an offset was partially disallowed in the purchase of goods, the size of the taxable transaction shall be reduced in proportion to the amount of the offset that was disallowed.

6. The value of packaging (packing material) that is to be returned under the conditions and within the terms specified in an agreement (contract) on delivery of goods shall not be included in the taxable amount, with the exception of retail sales. Retail merchants may reduce the amount of taxable turnover by the amount indicated as paid by them as reimbursement for the return of packaging (packing material) by customers.

7. If the registration of a taxpayer is cancelled, goods remaining in the taxpayer's possession at the time of cancellation, except for reduced tax rates use, shall be treated as delivered part of a taxable transaction performed at that moment.

8. The sum of value-added tax, presented before value-added tax registration in respect of the remaining of purchased goods, which previously during taxation were not deducted from taxable income using the standard rates, shall be offset after registration as payer of the value-added tax in order provided by the present Code.

9. In the case of goods production, work performance, service provision using raw materials and supplies furnished by the customer, when the customer remains as the owner of the raw materials, supplies, and products processing, the taxable transaction for the processor (producer, service provider) shall be the services (work) involved in the processing of the raw materials and supplies into goods (work, services).

10. Taxable imports shall be goods and transportation vehicles imported into the territory of the Republic of Tajikistan (with the exception of those exempt from the value-added tax in accordance with article 169 of this Code), which are supposed to be declared in accordance with the customs legislation of the Republic of Tajikistan.

### **Article 165. Sale or transfer of an enterprise**

1. The sale or transfer of an entire enterprise under a single transaction as a property complex or an independently operating subdivision of an enterprise by one value-added tax taxpayer to another value-added tax taxpayer shall not be considered a taxable transaction.

2. In the case referred to in part 1 of this article, the buyer or recipient shall accept the rights and obligations of the seller, as set forth in this section, which are associated with sold or transferred enterprise or the independently operating subdivision of an enterprise.

3. This article shall apply only in the event that the selling (transferring) and purchasing (receiving) parties provide written notification to tax authorities on the decision to apply the provisions of this article no later than 30 calendar days after the sale (transfer) is done.

## **Chapter 27. Tax base**

### **Article 166. Value of a taxable transaction**

1. The value of a taxable transaction shall be determined on the basis of the amount (the value, including in kind) which the taxpayer receives or has the right to receive from a customer or any other person, including any duties, taxes, and (or) other charges, except for the value-added tax.

2. If a taxpayer receives or has the right to receive goods, work, or services in exchange for a taxable transaction, the value of the taxable transaction shall include the market value of these goods, work, or services (including any duties, taxes, or other charges), except for the value-added tax.

3. In the event that a taxpayer does not receive or does not have the right to receive any values in exchange for a taxable transaction, the value of the taxable transaction shall be equal to the market value of the delivered goods, the performed work, or provided services by the taxpayer in the process of said taxable transaction (including any duties, taxes, or other charges), except for the value-added tax.

4. In the case of the consumption or use of goods (work or services) for not entrepreneurial purposes as set forth in part 3 of article 164 of this Code, and also in the case of delivery of goods (work performance or service provision) for any persons, including its own employees, as set forth in part 4 of article 164 of this Code, the amount of a taxable transaction shall be equal to the market price of these goods, work, or services (including any duties, taxes, or other charges), but not including the value-added tax.

5. When goods are delivered under conditions for payment in installments, the value of the taxable transaction shall be determined in accordance with part 1 of this article, taking into account all of the payments to be made under the installment plan as specified by the terms of the agreement.

6. While selling (alienation) of pledge property, the value of this taxable transaction of a pledger shall be determined on the basis of the sold (alienated) pledge property's market value, not including the value-added tax to the value of pledge property (goods).

#### **Article 167. Adjustment of taxable turnover**

1. This article shall apply to the taxpayer's taxable transactions in the following cases:

- cancellation of a transaction or change of its nature;
- change of the taxable transaction's value;
- change in the agreed-upon compensation for a transaction due to a drop in prices and for any other reason;
- the full or partial return of goods to the taxpayer (refusal to accept work or services performed by the taxpayer);
- deduction of bad (problem) debts according to article 115 of this Code.

2. If a taxpayer as a result of the event occurrence prescribed by part 1 of this article – presented invoice on the value-added tax in which sum of the value-added tax is indicated false or had shown in the value-added tax return the sum of the value-added tax incorrect, then adjustment shall be made according to part 2 of article 182 and part 8 of the article 183 of this Code.

3. An adjustment of the taxable transaction shall be made on the basis of a supplemental value-added tax invoice or other documents confirming the occurrence of situations prescribed in part 1 of this article after the completion of the original taxable transaction.

#### **Article 168. Value of taxable imports**

The value of taxable imports shall be the customs value of goods as determined in accordance with the customs legislation of the Republic of Tajikistan, plus the amount of duties and taxes payable on the importation of goods into the Republic of Tajikistan, but not including the value-added tax.

### **Chapter 28. Tax concessions**

#### **Article 169. Tax Exemption**

1. An exemption from the value-added tax shall mean that delivery of goods, performed work, and provided services that are exempt from the value-added tax are not taxable transactions and their value is not included by the taxpayer in taxable turnover, and imports exempt from the value-added tax are not included in the value of taxable imports. Accordingly, the value of such delivery of goods, performed work, and provided services and such import of goods may not serve as the basis for calculation of the value-added tax by a taxpayer in accordance with article 181 of this Code.

2. The following delivery of goods (other than exports of goods), performed work, and provided services in the territory of the Republic of Tajikistan shall be exempt from the value-added tax:

- 1) the sale, transfer, or leasing of immovable property, other than:
  - a) the sale or transfer of hotel premises or housing for vacationers;
  - b) the sale or transfer of newly built residential premises;
  - c) the sale or rent of immovable property used for entrepreneurship purposes, except for sale or transfer according to article 165 of this Code.
- 2) Provision of separate financial services for remuneration list of which is determined by Ministry of finance of the Republic of Tajikistan with agreement of the National Bank of Tajikistan and authorized state body, including transfer of depreciable assets in respect to financial leasing (including aircrafts) performed in accordance with article 15 of this Code, except for immovable property, light motor vehicles and furniture.
- 3) Delivery of domestic and (or) foreign currency (other than for numismatic purposes), as well as securities;
- 4) Performance of religious and ceremonial services by a religious organization;
- 5) Provision of medical services by the state establishments, with the exception of cosmetic medical, dental and sanatorium resort services;
- 6) Provision of following services financed from state budget resources by state establishments in the sphere of education (if it is necessary, at the presence of license):
  - a) pre-school education;

- b) primary, general primary and secondary education;
- c) primary and secondary vocational education;
- d) higher professional education;
- e) post-graduate education after higher education institution;
- f) additional and specialized education.

7) Gratuitous transfer of (refusal from) goods in profit of the state, the supply of goods, works and services for humanitarian aid;

8) Delivery of goods, performed work and products by services provided directly by penitentiary institutions of the Republic of Tajikistan or state enterprises that are part of the penitentiary system of the Republic of Tajikistan;

9) Delivery of specialized products for individual use by disabled persons based on the list established by the Government of the Republic of Tajikistan;

3. The delivery of precious metal and precious stones, jewelry made of precious metals and precious stones, primary aluminum, metal concentrates, merchantable ore, ferrous and basic metals, other metals produced in the Republic of Tajikistan, cotton and cotton yarn and raw cotton shall be exempt from value-added tax.

4. The following types of imports shall be exempt from the value-added tax:

- import of domestic and(or) foreign currency (other than for numismatic purposes), as well as securities;
- import of precious metals and precious stones by the National Bank of Tajikistan and by the Ministry of Finance of the Republic of Tajikistan for the State Valuables Repository;
- import of goods gratuitously transferred to state bodies of the Republic of Tajikistan, import of goods as humanitarian assistance, import of goods transferred on a gratuitous basis to charitable organizations for the purpose of dealing with the aftereffects of natural disasters, accidents, and catastrophes.
- import of agricultural equipment, industrial process equipment and spare parts to it, forming a single technological package. The list of industrial-technological equipment and spare parts for it in accordance with the commodity nomenclature of foreign economic activity approved by the Government of the Republic of Tajikistan;
- import of medicines, medical pharmaceutical equipment and medical instruments (tools) based on a list established by the Government of the Republic of Tajikistan;
- import of goods for the implementation of investment projects of Government of the Republic of Tajikistan within the limits of proceeds from grants and (credits);
- import of goods for the construction of high-priority projects, a list of which shall be established by the Republic of Tajikistan's Government;
- import (with the exception of excisable goods) based on a list and in quantities established by the Republic of Tajikistan's Government, conducted directly by producers for the production of primary aluminum;
- import of specialized products for individual use by disabled persons based on a list established by the Government of the Republic of Tajikistan.

#### **Article 170. Taxation of international and transit carriage**

1. Provision of transportation or other services and the performance of work directly related to international freight and passenger carriage, as well as the delivery of fuel and lubricants and other consumables loaded onto own and (or) foreign aircraft for consumption during international flights, shall be exempt from the value-added tax. International carriage shall be understood freight and passenger transportation, the point of departure and point of destination of which (or one of these points) is located outside the Republic of Tajikistan.

2. For the purposes of this article, work and services performed in connection with international carriage shall include:

- work and services related to the transportation (carriage), loading, unloading (offloading), transshipment, and forwarding of goods transported from (to) the territory of the Republic of Tajikistan, as well as goods that transited across the territory of the Republic of Tajikistan;
- work and services related to the transportation (carriage) of mail, passengers, and baggage outside (inside) of the Republic of Tajikistan, except for income from sales in the Republic of Tajikistan tickets for international flights in accordance with the commission agreement, contract of agency or other similar agreements, regardless of their conclusion form;
- technical, commercial, navigation, and airport servicing of international flights, excluding income from sales in the Republic of Tajikistan tickets for international flights in accordance with the commission agreement, contract of agency or other similar agreements, regardless of their conclusion form.

3. In the case of the performance of work and provision of services prescribed in the first paragraph of part 2 of this article, exempt from value-added tax is applied following the next provisions:

- there is an agreement (contract) for the performance of work or provision of services concluded directly with the supplier of the goods;
- documentation of the carriage with a single set of international carriage documents;
- in the case of transit freight – existence of freight customs declaration for goods that have been imported onto the territory of the Republic of Tajikistan, documented on the basis of the transit regime.

4. In the case of the performance of work and provision of services referred to under paragraphs second and third of part 2 of this article, exemption shall be applied when the following conditions are met:

- existence of an agreement (contract) for the performance of work or provision of services concluded directly with the recipient (customer) of said work or services;

- documentation is provided in the form of a single set of international carriage documents.

5. The carriage and servicing of transit freight prescribed by paragraph third of part 1 of article 171 of this Code shall be exempt from the value-added tax.

6. This article shall not apply to states that use in respect of transportation provision or other services or on the performance of work directly related to international freight shipments and passenger carriage to the Republic of Tajikistan, value-added taxation regime.

#### **Article 171. Features of taxation while goods transferred through customs border of the Republic of Tajikistan**

1. When goods are imported into the customs territory of the Republic of Tajikistan, depending on and in compliance with the conditions of the chosen customs regime, taxation shall be applied according to the following procedure:

- when goods are placed under the release for free circulation customs regime, the tax shall be paid in full;
- when goods are placed under the re-import customs regime, the taxpayer shall pay the amount of taxes from which the taxpayer was exempt or which were refunded to the taxpayer in connection with the export of goods in accordance with this Code, following the procedure provided for by the customs legislation of the Republic of Tajikistan;
- when goods are placed under the international customs regime of transit, customs warehouse, re-export, duty-free, processing under customs control, free customs zone, free warehouse, destruction and refusal in profit of state, transfer of supply and special customs regime, tax shall not be paid;
- when imported goods are placed under the processing customs regime on the customs territory, full conditional exemption from the payment of taxes carried out according to the customs legislation of the Republic of Tajikistan;
- when goods are placed under the processing customs regime of temporary import, there shall be a full or partial exemption from payment of the tax following the procedure provided for by the customs legislation of the Republic of Tajikistan;
- in the case of goods, processing product importation that were placed under the processing customs regime outside the customs territory of the Republic of Tajikistan, there shall be a full or partial exemption from payment of the tax following the procedure provided for by the customs legislation of the Republic of Tajikistan;
- when placing the goods under the processing customs regime for free circulation, the tax is paid from the customs value of the processed products.

2. When goods are exported from the customs territory of the Republic of Tajikistan taxation shall be applied according to the following procedure:

- when goods are placed under the export customs regime outside the territory of the Republic of Tajikistan, the tax shall not be paid or taxes that have been paid shall be refunded (credited) by tax authorities of the Republic of Tajikistan following the procedure provided for by the customs legislation of the Republic of Tajikistan and this Code.

The present procedure shall also be applied to the export of goods outside the customs territory of the Republic of Tajikistan in accordance with the export customs regime with respect to goods which at the time of export were placed under the customs regimes of customs warehouse, free warehouse, or free customs zone;

- while applying re-export customs regime of foreign goods, taxes that were paid at the time the goods were imported into the customs territory of the Republic of Tajikistan (in connection with failure to meet the deadlines established by the customs legislation for the mandatory export of foreign goods placed under the re-export customs regime) shall be refunded to the taxpayer following the procedure and under the conditions determined by the customs legislation of the Republic of Tajikistan;
- while exporting of goods from the customs territory of the Republic of Tajikistan in accordance with other customs regimes not referred to under the first and second paragraphs of this part, no exemption from payment of the tax and (or) refund of the taxes paid shall not be performed according to customs regimes, except for otherwise provided by the customs legislation of the Republic of Tajikistan.

3. When individuals transport goods across the customs border of the Republic of Tajikistan, which are not intended for production or other entrepreneurial activity, a simplified or concessional procedure for payment of the tax may be applied. In this case the value of goods acquired and intended for personal consumption must not exceed the amount established by the Government of the Republic of Tajikistan. Any excess shall be subject to taxation following the generally established (non-concessional) procedure. The application of a simplified or concessional taxation regime to such operations shall be performed following the procedure established by the Government of the Republic of Tajikistan.

4. In the event of a failure to comply with the conditions of the chosen customs regime, a taxpayer shall pay the taxes as well as interests calculated on this amount provided for by the customs legislation of the Republic of Tajikistan.

#### **Article 172. Taxation of export of goods**

1. Exports of goods, other than precious metals and precious stones, jewelry from precious metals and precious stones, primary aluminum, metal concentrates, salable ore, ferrous and non-ferrous metals, other metals produced in the Republic of Tajikistan, cotton and cotton yarn and raw cotton produced in free economic zone to be subject to value-added taxation by zero rate.



2. In the event of a failure to provide confirmation of the goods export in accordance with article 173 of this Code within 90 calendar days from the date of the customs authority's notation that released the goods under the export regime, or in the event of the export of goods under the export via electric power lines regime or using the incomplete periodic declaration procedure, from the date of the notation made by the customs authority that performed the customs clearance, delivery of said goods shall be subject to the value-added tax at a positive rate indicated in parts 1-3 of article 181 of this Code.

**Article 173. Confirmation of the goods export**

1. Documents confirming the export of goods shall include:

- an agreement (contract) for the delivery of exported goods;
- a freight customs declaration with customs authority's notations that goods released under the customs export regime, or in case of the goods export under the customs export via electric power lines regime or using the incomplete periodic declaration procedure, a complete freight customs declaration with customs authority's notations that performed the customs clearance;

- copies of shipping documents bearing the customs authority's notation located at a point of entry in the customs border of the Republic of Tajikistan. In case of the goods export under the customs export via electric power lines regime delivery acceptance certificate of goods is submitted as well;

- payment documents and a bank statement (copy of a statement), confirming the actual receipt of currency earnings from supply of goods for export, to a taxpayer's accounts in the Republic of Tajikistan and (or) in his/her accounts in foreign banks opened in accordance with the legislation of the Republic of Tajikistan.

2. In the event if by the agreement (contract) it is stipulated that a payment has to be made in cash, a taxpayer shall submit a bank statement (a copy of a statement) confirming deposition by a taxpayer of the received funds to his account in a bank of the Republic of Tajikistan and (or) in his/her accounts opened in foreign banks according to the legislation of Republic of Tajikistan, as well as copies of receipt cash orders confirming the actual inflow of proceeds from a foreign person – buyer of the exported goods.

3. In the event of external economic transactions on exchange of goods (works, services) a taxpayer shall submit documents confirming import of goods (execution of works, service rendering) received as a result of the said transactions to the territory of the Republic of Tajikistan and as well as their posting.

4. Documents confirming the export of goods to states members of the Commonwealth of Independent States, are documents referred to under parts 1, 2 and 3 of this article, as well as a copy of a freight customs declaration prepared in the country of goods import that was exported from the customs territory of the Republic of Tajikistan under the export regime. In accordance with international legal acts, the authorized state body may establish a different procedure for confirmation of goods export to states members of the Commonwealth of Independent States.

5. In the event of the further export of goods that were previously exported outside the customs territory of the Republic of Tajikistan under the processing outside the customs territory regime, or products of their processing, confirmation of the export shall be performed in accordance with parts 1, 2, 3 and 4 of this article, and also on the basis of the following documents:

- a freight customs declaration, in accordance with which the processing regime is replaced with the export regime;

- a freight customs declaration prepared under the processing of goods outside the customs territory regime;

- a copy of a freight customs declaration prepared while importing goods into the territory of a foreign state under the processing of goods in the customs territory regime (processing of goods under customs control), certified by the customs authority that performed the customs processing;

- a copy of a freight customs declaration prepared under the customs export regime when goods or their processed products are exported from the territory of the state in which the products were processed, and certified by the customs authority that performed the customs processing.

6. Upon presentation of documents confirming the goods export to the tax authority with which a taxpayer is registered, a taxpayer shall have the right to obtain a tax refund that was paid in accordance with part 2 of article 172 of this Code within 120 calendar days from the date of the customs authority's notation as prescribed in the second paragraphs of part 1 of this article. Otherwise, a taxpayer shall not have the right for a tax refund that was paid in accordance with part 2 of article 172 of this Code.

**Chapter 29. Time and place of the performance of a taxable transaction and special rules**

**Article 174. Time of the performance of a taxable transaction**

1. A taxable transaction shall take place at the time of invoice for value-added tax and excise taxes is presented for the given transaction, unless otherwise provided by this article.

2. If an invoice for value-added tax and excise taxes is not presented before or at the moment (day) of the taxable transaction, part 1 of this article shall not apply, and the taxable transaction shall take place in the following cases:

- at the time of acceptance, sale or transfer of goods, performance of work or provision of services;

- in the case of delivery of goods which entails the shipment of the goods, at the time they have been shipped.

3. When payment is made before the time indicated in part 2 of this article, if an invoice for the value-added tax or excise taxes is not presented within five days after payment, parts 1 and 2 of this article shall not apply and the taxable transaction shall take place at the time payment is received.

4. For the purposes of part 3 of this article, with the exception of those cases specified in part 5 of this article, if two or more payments are received for a taxable transaction, each payment shall be treated as performed for a separate transaction in the amount of the payment.

5. If services are provided on a regular or ongoing basis, the provision of services shall be treated as taking place each time at the moment when an invoice is presented for payment in connection with any part of the transaction, or if payment is received earlier, at the time payment is made for any part of the transaction. In any case, regardless of the other provisions of this article, for the purposes of this part an invoice for value-added tax and excise taxes (invoice for payment) must be presented for each month not later than the 10th of the month following immediately the reporting month. If an invoice (invoice for payment) is not presented within the specified deadline, the provision of services shall be treated as occurring on the last day of the reporting month.

6. In case of the application of part 3 of article 164 of this Code, the moment when a taxable transaction is considered performed, shall be the start moment at which the goods, works or services are consumed or used.

7. In cases referred to under part 4 of article 164 of this Code, the moment when a taxable transaction is considered performed, shall be the moment that goods are delivered, works are performed or services are provided to employees or other persons.

8. The moment of the performance of a taxable transaction involving the delivery of electricity, thermal power, gas or water shall be determined in accordance with the rules in effect in regard to the provision of services on the regular or ongoing basis.

9. For the purpose of this chapter, regardless of the provisions of part 3 of this article, the moment for determination a tax base while performing construction and installation work shall be the earliest of the following dates:

- a date of the receipt (acquisition of a right to) of the current payment from a customer;
- a date of the partial (full) completion of construction work, fixed in the accounting reporting and tax reporting.

#### **Article 175. Place of the delivery of goods**

1. If the conditions of the supply prescribe delivery of goods, delivery shall occur at the place where transportation of goods begins. In other cases delivery of goods shall occur at the place of their transfer.

2. The delivery of electricity, thermal power and gas shall occur at the place where the goods are received. In case of the export of these goods from the Republic of Tajikistan, it shall be considered that delivery takes place in the Republic of Tajikistan.

#### **Article 176. Place of the performance of work or provision of services**

1. For the purposes of this section, the place where work is performed or services are provided, shall be:

1) The location of immovable property, if work (service) is related directly to this property. For the purposes of this section, the telecommunications services (including network connection, rent of channel, traffic sending and receiving and (or) Internet, distribution of international television and radio programs), the provision of which is associated with immovable property, shall be considered provided at the location of the immovable property.

2) The place where work (service) is actually performed, if related to movable property;

3) The place where services are actually performed, if they are provided in the sphere of culture, entertainment, science, arts, education (teaching), physical education, advertising, leisure and sports, outsourcing of staff or in another similar sphere of activity;

4) The place where transportation actually occurs, if works (services) are related to this transportation. For the purpose of article 170 of this Code, such a transaction related to the performance of work or provision of services by a taxpayer outside the Republic of Tajikistan shall be treated performed on the territory of the Republic of Tajikistan;

5) The location of a purchaser of services (works), to whom these services (works) are most closely related. The provisions of this part shall apply to the following services:

a) transfer of the ownership or assignment of patents, licenses, trademarks, author's rights or other similar rights;

b) performance of consulting, legal, audit, engineering-technical, design, marketing, accounting, engineering services, services of a legal counsel, as well as data processing (except for dissemination mass media products) and other similar services;

c) leasing of movable property (with the exception transport vehicles);

d) tourism arrangement services.

6) the place where an entrepreneurial activity is carried out by a person performing work or providing services, not specified in items 1)-5) of current part.

2. In the application of part 1 of this article, a place where works are performed or services are provided that is referred to under more than one item of part 1 of this article shall be determined on the basis of whichever item appears first.

#### **Article 177. Reverse taxation**

1. If a person, who is not a resident and has not been registered for value-added tax purposes in the Republic of Tajikistan, provides services or performs work on the territory of the Republic of Tajikistan for a tax agent referred to in part 2 of this article, then for the purposes of this section said performance of work or provision of services shall be subject to taxation in accordance with this article.

2. For the purpose of this article a tax agent shall be either organizations or individual entrepreneurs being taxpayers, operating in the Republic of Tajikistan.

3. In case of application of part 1 of this article, tax agents shall withhold taxes from the amount payable to non-residents. The amount of tax is determined by applying the rate established in part 1 of article 181 of this Code, to the amount payable to non-residents after tax withholding.

4. If a tax agent is registered for value-added tax purposes, withheld tax shall be payable to the budget and included in the value-added tax return as payable amount (as assessed amount) for the month in which the transaction takes place.

5. If a tax agent is not registered for value-added tax purposes, he/she must pay the withheld tax to the budget within five days from the day of payment to a non-resident and provide a declaration on the calculated and paid sum of value-added tax for a non-resident by the 15th of month following the reporting month.

#### **Article 178. Time of import**

Time of the importation of goods and transport vehicles is determined in accordance with customs legislation of the Republic of Tajikistan.

#### **Article 179. Combined transactions**

1. Delivery of goods, performance of work or provision of services, that are of an ancillary nature with respect to the principal delivery of goods, performance of work or provision of services, shall be treated as part of the principal delivery of goods, performance of work or provision of services.

2. A taxable transaction that includes independent elements, one or more of which entails a separate delivery of goods, provision of services or performance of works that are exempt from the value-added tax, shall be treated as consisting of separate transactions. A transaction that is exempt from the value-added tax and includes independent elements, one or more of which entails the separate delivery of goods, provision of services, or performance of work that are subject to value-added tax, shall be treated as consisting of separate transactions.

#### **Article 180. Transactions performed by an agent**

1. Delivery of goods, performance of work or the provision of services by a person who is acting as an agent (a trustee) of another person (a principal) on behalf of and on the instruction of this other person (principal), shall be treated as a transaction performed by the principal, unless otherwise provided by part 2-3 of this article.

2. Part 1 of this article shall not apply to services provided by an agent to a principal.

3. Part 1 of this article shall not apply to the delivery of goods to the Republic of Tajikistan by a resident agent of a person who is not a resident and is not registered as payer of the value-added tax in the Republic of Tajikistan. In this case the delivery shall be treated as being performed by the agent for the value-added tax purposes.

### **Chapter 30. Procedure for the calculation and payment of the tax**

#### **Article 181. Value-added tax rates and procedure for its calculation**

1. The value-added tax rate shall be 18 percent of taxable turnover, with the exception of exports and use of reduced tax rate and (or) 18 percent of taxable imports (hereinafter to be referred to as “standard rate”) unless otherwise provided by this article. Taxable transactions specified in article 172 of this Code shall be taxed at zero rate.

2. All taxable turnover of enterprises on production and (or) realization of products of public catering, enterprises of wholesale and retail trade, procurement and supply-sale enterprises, construction companies with the exception taxable imports and further supply of imported goods, as well as taxable export, shall be subject of value-added tax on rate 5 percents (hereinafter to be referred to as “reduced rate”) until the January 1st, 2016 without credit of the paid value-added tax

3. In case of performing taxable import, taxpayers mentioned in part 2 of this article shall perform further supply of imported goods with taxation at the rate of 18 percents and have the right to a credit of the value-added tax paid while importing in accordance with article 183 of this Code. In case of the processing of goods obtained in result of taxable imports and taxable operations, in another good, this part of further supply of such another good shall be subject of taxation at standard rate proportionally to the stake of imported goods in total amount of purchase, the other part of supply of another good shall be subject to taxation on reduced rate. These taxpayers are obliged in accordance with the requirements of article 49 of this Code, to maintain a separate accounting of objects of taxation (taxable operation and taxable import) according to the types of these activities.

4. Taxable turnover shall consist of the total value of taxable transactions in the reporting period.

5. The amount of tax assessed on taxable turnover shall be defined as the product of the value of taxable turnover to the appropriate tax rate according to part 1 and (or) 2 of this article.

6. The amount of tax assessed on taxable imports shall be defined as the product of taxable imports according to Article 168 of this Code to the appropriate tax rate according to part 1 of this article.

7. Assessment of the value-added tax from taxable turnover shall mean the performance of actions specified in parts 4 and (or) 5 of this article.

#### **Article 182. Value-added tax on taxable turnover payable to the budget**

1. The amount of value-added tax payable to the budget on taxable turnover for a reporting period in accordance with article 174 of this Code shall be defined as difference between the amount of tax assessed on taxable turnover in accordance with article 181 of this Code, taking into account (adding in) the tax amount assessed

in accordance with part 4 of article 177 of this Code, and the tax amount to be credited in accordance with article 183 of this Code.

2. In those cases specified in article 167 of this Code, when the amount of the payable value-added tax exceeds the amount actually shown by a taxpayer in the value-added tax and excise invoice or in the declaration on the value-added tax, the excess shall be treated as value-added tax that is payable for the reporting period in which an event referred to under article 167 of this Code occurred, and it shall be added to the amount payable for the reporting period in accordance with part 1 of this article.

**Article 183. Value-added tax to be credited when determining payments to the budget and using standard rate**

1. Except otherwise provided by this article, the amount of value-added tax to be credited when using standard rate, shall be the amount of tax payable (paid) by a taxpayer on the basis of value – added tax and excises invoices presented to the taxpayer, in accordance with requirements of part 4 of this article and timing of a taxable transaction on the importation of goods during the reporting period pursuant to article 178 of this Code and taxable transactions, which provide supply of goods, performing the works or rendering the services and which are counted as presented in reporting period in accordance with article 174 of this Code. Herewith, accredit of the value-added tax is allowed in those cases when goods, works or services, mentioned in this part, are used or have to be used in entrepreneurial activity of taxpayer, even if these goods, work, or services are not included in production expenses. In order to effect a crediting of the value-added tax on imports of goods, the value-added tax must have been actually paid to the budget.

2. The amount of value-added tax when using the standard rate, that may be credited in accordance with part 1 of this article shall be:

- the amount of tax payable to suppliers on the basis of invoices which are presented to the name (name) of taxpayer and in which the value-added tax is identified separately;
- the amount of tax indicated in a freight customs declaration prepared in accordance with the customs legislation of the Republic of Tajikistan, which has been paid to the budget of the Republic of Tajikistan following the established procedure and is not refundable in accordance with the conditions of the customs regime;
- the amount of tax indicated in a ticket issued for rail or air travel;
- the amount of tax indicated in documents used by a supplier of public facilities, settlements for which are effected through banks.

3. Value- added tax shall be credited in that tax period, in which the goods were received (works, services), in procedure established by part 2 of this article.

4. In cases when value-added tax that is payable (paid) by a taxpayer on the basis of value-added tax invoices presented to him for imports of goods and taxable transactions, which are in part intended for the taxpayer's commercial activity and in part for other purposes, the value-added tax shall be credited on the basis of the proportion of their use in commercial activity (if possible to determine the proportion of the earmarked use of goods (work, services) acquired through imports and under other taxable transactions directly within the tax period in which they have been received).

5. The crediting of value-added tax that has been paid (is payable) shall not be allowed in the case of:

- light motor vehicles, with the exception of those offered for sale or rent by a person for whom the sale or rental of automobiles is a principal entrepreneurial activity;
- entertainment and hospitality expenses, expenditures on charitable activities or for social purposes;
- value-added tax invoices in which the value-added tax amount due on the given taxable transactions is not identified (not indicated) as a separate amount in accordance with article 186 of this Code;
- expenses on geological prospecting work and works for the preparation to extraction of natural resources;
- expenses on acquisition, production, construction, assembling and installation, as well as reconstruction (repair) depreciable fixed assets and depreciable nonmaterial assets, regardless of the sum of expenses;
- expenses on goods (works, services), obtained from the persons, recognized as irresponsible taxpayers on criteria of unreasonable presentation of value-added tax invoices;
- all expenses, while using of reduced rate on value-added tax, except of expenses related to taxable imports for persons mentioned in part 2 of article 181 of this Code.

6. In the event a taxpayer using the standard rate of the value-added tax has both taxable transactions and transactions exempt from the value-added tax, the amount of the value-added tax subject to a credit shall be the amount of the value-added tax determined in accordance with article 185 of this Code. If taxpayer has only transactions exempt from the tax, then a credit shall not be allowed. Part 4 of this article shall apply before the application of this part, taking into account the provisions of article 184 of this Code.

7. In those cases described in article 167 of this Code, when using the standard rate on value-added tax, indicated in an invoice or in a declaration on value-added tax exceeds the value-added tax payable by a taxpayer, the excess amount may be credited to the taxpayer (that is, the taxpayer's tax obligations may be reduced by the excess amount) for the reporting period in which the case, referred to in part 1 of article 167 of this Code occurred.

8. In cases and procedures, established by the article 261 of this Code, the credit shall be allowed of paid amount of the cotton fiber and aluminum primary sales tax when presenting confirming documents.

9. Regardless of the provisions of part 1 of this article, towards the payment of the value-added tax shall be credited the amount actually paid by the taxpayer for acquired invoices on the value-added tax in accordance with article 186 of this Code (except for using the reduced rate).

**Article 184. Adjustment of the value-added tax amounts applied as a credit**

1. Value-added tax that was previously applied as a credit shall be excluded from the subsequent amount of the value-added tax to be taken as a credit in the following cases:

- in respect of goods (works, services) not used for the purposes of taxable turnover;
- in respect of goods, including fixed assets, in case of their damage or loss (with the exception of cases arising as a result of emergency situations). Damage, loss of goods as a result of emergency situations must be confirmed by a finding from the appropriate state authority for emergency situations, compiled not later than 30 calendar days from the date of the occurrence of the emergency situations and presented to the appropriate tax authority within the same time limit. Herewith, on the goods imported to the Republic of Tajikistan, this requirement shall be applied in that case, when taxpayer does not have the possibility to pay the tax on actual to imported goods directly when their import to the Republic of Tajikistan with respect to the requirements of article 363 of the Customs code of the Republic of Tajikistan, applied in respect of imported goods the customs procedures and (or) regimes indicating the nonpayment of customs duties, and damage, loss of imported goods occurred in the period of their existence under the action of the abovementioned procedure and (or) regimes;
- in case of non performance of the provisions, established by the article 186 of this Code.

2. For the purposes of this Code damage to goods (property) shall mean a deterioration in all or certain qualities (properties) of the goods (property) as a result of which the given goods (property) cannot be used for purposes of taxable turnover. Loss of goods (property) shall be understood an event as a result of which goods (property) are destroyed and (or) lost. Loss of goods (property) sustained by a taxpayer within the limits of normal wear and tear established by the legislative acts of the Republic of Tajikistan shall not be considered loss in this context.

3. In case of a change in the value of goods (work, services) received in cases referred in part 1 of article 167 of this Code, a corresponding adjustment shall be made in the amount of the value-added tax that was previously applied as a credit.

4. An adjustment to the amount of value-added tax applied as a credit shall be made in the same tax period in which the circumstances referred in part 1 and 3 of this article occurred.

5. Regardless of the provisions of the parts 1-4 of this article, taxpayer, using the standard rate is obliged until April 1st of each year, to carry out the adjustment of the value-added tax to all tax periods of previous calendar year.

**Article 185. The procedure for crediting the value-added tax for transaction exempt from the value-added tax and usage of standard rate**

1. The value-added tax that is payable to suppliers and on imports with respect to goods (work, services) used for purposes of exempt transactions shall not be taken as accredit.

2. If there are both taxable and exempt transactions, the value-added tax amount, determined using the proportional method for the tax period, shall be applied as accredit.

3. By the proportional method, the sum of value-added tax, which shall be credited, when using the standard rate, is defined based on unit weight of taxable transactions in the common amount of transaction

**Article 186. Value-added tax and excise tax invoices**

1. Unless otherwise provided under parts 11, 13 and 14 of this article, a person, who is registered as payer of the value-added tax and not recognized as irresponsible taxpayer and who performs a taxable transaction, is obliged, as of the date the registration for the purposes of the value-added tax enters into force, to present the value-added tax and excise invoice to the recipient of goods, works or services. A person who is not registered for the purposes of the value-added tax or included into the list of irresponsible taxpayers (except for payers of excise taxes, who are not payers of the value-added tax) shall not have the right to present the value-added tax and excise invoices.

2. Value-added tax and excise invoices are the documents, which is the basis when using the standard rate for crediting the value-added tax in accordance with article 183 of this Code, performed by the form established by the authorized state body and containing the following information:

- the name (surname, name and patronymic, address) of the taxpayer and purchaser (customer), as well as the trading name of the taxpayer if it differs from the legal name;
- the taxpayer identification numbers of the taxpayer and the purchaser (customer);
- the number and date of issue of the certificate of registration for the value-added tax of taxpayer (supplier);
- the name of the goods shipped, works performed or services provided;
- the amount of the taxable transaction;
- the amount of excise tax on excisable goods;
- the amount of value-added tax owed on the given taxable transaction;
- the date of issue of the value-added tax invoice;
- the ordinal number of the value-added and excise invoices.

3. An invoice shall be prepared (written up) in four copies. The first and second copies of the prepared invoice on the value-added tax and excise tax shall be given to the purchaser (recipient, customer) of the goods (work, services), the third and fourth copies shall remain for the accounting records of the taxpayer (the person who has drafted the value-added tax and excise invoice).

4. While presenting to the appropriate tax authority by the taxpayer declarations on the value-added tax, taxpayer simultaneously shall present in paper and (or) electronic form, according to the forms approved by the authorized state body, register and third copies of written up by the taxpayer value-added tax and excise tax invoice, as well as second copies of value-added tax and excise tax invoice obtained in result of the (purchase) acquisition by this taxpayer goods (works, services).

5. The preparation (writing up) of a value-added tax and excise tax invoice shall be recorded in a ledger for recording value-added tax and excise tax of a taxpayer.

6. Obtained value-added tax and excise tax invoice shall be recorded in a ledger for recording value-added tax and excise tax of a taxpayer.

7. The form and order of ledgers, indicated in parts 5 and 6 of this article is defined by the authorized state body. Abovementioned ledgers and register of written up value-added tax and excise tax invoices shall be carried out in paper form and electronically.

8. The invoices on value-added tax and excise tax are the documents of strict reporting, have the appropriate series and numbers, shall be printed by the specialized printing houses by the order of the Ministry of finance of the Republic of Tajikistan and for the price covering costs on their printing, storage and distribution, under requests of payers of value-added and excise tax shall be sold to them by the appropriate tax bodies.

9. Payers of value-added and excise tax, except of those who use reduced rate, shall take into account the cost of value-added and excise tax invoice acquired as a sum of value-added tax in accordance with article 183 of this Code.

10. A taxpayer shall be required to present a value-added and excise tax invoice to a purchaser of goods (customer of work, services) not later than the date of performing of taxable transaction (supply of goods, performing works, rendering services). A value-added and excise tax invoice shall be certified by the signatures of the managers and (or) chief accountant of the supplier or by other duly authorized officials of the supplier. Taxpayers, performing supply of electricity, water, and gas, communication services, public facilities, railway shipments, transportation services and bank transactions, which are subject of value-added tax, has the right to write up the value-added and excise tax invoices at end of tax period in deadline established by part 5 of article 174 of this Code.

11. The size of taxable transaction shall be indicated in invoice separately on each item of goods (works, services). The total size of a taxable transaction may be indicated if a document is attached to the invoice containing a list of supplied goods (work, services) supplied. In this case the invoice must contain a reference to the number and date of the attached document, as well as the name of the document.

12. Value-added and excise tax invoices shall be written up only when taxable transactions are performed. If the delivery of goods and the performance of work and (or) provision of services are exempt from the value-added tax in accordance with the provisions of this section, no value-added and excise tax invoices shall be written up.

13. A value-added and excise tax invoices for export transactions must include:

- a notation indicating that the invoice pertains to an export transaction;
- the country and point of destination of the exports;
- the value-added tax rate applicable to the export transaction.

14. Draft of an invoice shall not be required in the following cases:

- settlements for public services, communications services provided to the population, which are effected through banks using primary documents that serve as the basis for accounting records;
- transportation of passenger by travel means where tickets are issued;
- when providing goods (work, services) exempt from the value-added tax.

15. In the case of retail deliveries of goods and the performance of work or provision of services to purchasers who are not payers of the value-added tax, a receipt or simplified invoice may be issued by the form established by the authorized state body or a receipt from a cash register with fiscal memory may be issued.

16. Instruction on usage of the value-added and excise invoices shall be adopted by the authorized state body by agreement with the Ministry of finance of the Republic of Tajikistan.

#### **Article 187. Preparation of additional invoices in the event of adjustment in taxable turnover transaction**

1. In the event of adjustment in the size of taxable turnover, an additional invoice shall be prepared, which indicates:

- the ordinal number and date of preparation of the invoice for which the supplemental invoice is being drafted (to which it applies);
- the name, address, and tax identification number of the supplier and recipient of the goods (work, services);
- the size of the adjustment in taxable turnover, not including the value-added tax;
- the amount of the value-added tax.

2. An additional invoice shall be prepared by the supplier of the goods (work, services) and shall be confirmed by the recipient of the said goods (work, services).

#### **Article 188. Special rules**

Calculation and payment of the value-added tax, in case of services of travel agents, insurance services, consignment sales, sales of second-hand goods (partly used) and other types of activities in which direct determination of the tax base and other elements of taxation in accordance with this section is difficult, can be performed in other order established by the Government of the Republic of Tajikistan.

## **Chapter 31. Administrative and final provisions**

### **Article 189. Submission of tax returns and payment of the value-added tax**

1. Every taxpayer shall be required:
  - to submit to the appropriate tax authority a value-added tax return for each reporting period;
  - to submit by April 15th to the appropriate tax authority an additional (adjusted) declaration on activity for a previous calendar year with indication of expenses and remaining of invoice forms on the value-added tax and excises;
  - to pay tax to the budget for each reporting period not later than the deadline established for submission of the value-added tax return.
2. Except as otherwise provided by this section, a value-added tax return shall be submitted for each reporting period not later than the 15th of month following the reporting period. The list and third copies of the value-added tax invoices written up by the taxpayer within the reporting period in paper and (or) electronic form in the manner specified by authorized state body and also second copies of the value-added tax invoices received by the taxpayer for goods (work, services) purchased within the reporting period shall be submitted at the same time as the return.
3. Parts 1 and 2 of this article shall not apply to a person who is a taxpayer only in respect of import of goods.
4. Unless otherwise provided by this Code, the value-added tax on taxable imports shall be assessed and collected by customs authorities in accordance with this Code and the customs legislation of the Republic of Tajikistan.
5. Instructions on calculation and payment of the value-added tax and also forms of declarations (calculations) shall be approved by the authorized state body by agreement with the Ministry of finance of the Republic of Tajikistan.

### **Article 190. Tax period**

Tax period for the value-added tax shall be a calendar month.

### **Article 191. Transactions with budget in case of tax amount to be applied as an offset exceeds the amount of tax assessed for a reporting period**

1. In respect of a taxpayer at least 70 percent of whose taxable turnover for a tax reporting period is subject to taxation at zero rate, the tax amount to be applied as an offset in excess of the amount of tax assessed for the reporting period shall be refunded from the relevant budget by a financial authority in cooperation with the tax authority, within 30 calendar days from the moment the tax authority receives a request from the taxpayer for a refund of mentioned excess, which has been submitted by a payer of the value-added tax following the form approved by the authorized state body.
2. A refund of tax to be applied as an offset in excess of the amount of tax assessed for a reporting period shall be carried out on the basis of:
  - the value-added tax return for the tax period, submitted according to the established procedure;
  - documents required for confirmation of export of goods in accordance with article 173 of this Code;
  - findings of the tax authority made on thematic tax audit on validity of the value-added tax amounts for which a refund has been requested.
3. Value-added tax shall be refunded by carrying out the following sequence of actions:
  - offsetting the value-added tax in respect of outstanding debt owed by a payer of the value-added tax on other taxes, including debt on the value-added tax for previous tax periods;
  - offsetting in respect of the value-added tax payable for import of goods;
  - transferring the money remaining after actions specified under first and second paragraphs of this part to the bank account of the payer of the value-added tax.
4. In respect of other taxpayers not mentioned in part 1 of this article, the amount of tax to be applied as an offset in excess of the amount assessed for the reporting period shall be carried over to the following 3 tax periods and shall be credited in respect of tax obligations for these periods, and also in respect of debt owed by the payer of the value-added tax on other taxes, including the value-added tax, for previous tax periods. Any remaining from the excess amount shall be refunded from the budget within 30 days after expiration of these 3 tax periods.
5. In all cases where the tax authority reveals that certain amounts have been refunded to a taxpayer by a mistake, the tax authority may demand return of these funds following the procedure established for the collection of taxes.
6. The procedure for refunding taxes to be applied as an offset in excess of the amount of tax assessed for a reporting period shall be approved by the Government of the Republic of Tajikistan following the provisions of this article.

### **Article 192. Exemptions from the value-added tax for supply of goods (work, services) purchased at the expense of the funds from loan (grant) agreements on financing (implementation) of investment projects of the Government of the Republic of Tajikistan**

1. Exemptions from the value-added tax for supply of goods (work, services) purchased at the expense of funds from loan (grant) agreements on financing (implementation) of investment projects of the Government of the Republic of Tajikistan (in this article hereinafter to be referred to as “agreements”) shall be effected on the basis of a request of the grantee (loan recipient) or of a person authorized by him/her to the address of the supplier of goods (work, services) in case the following conditions are observed:

- supply of goods (work, services) is carried out at the expense of funds of the agreements approved by the Government of the Republic of Tajikistan;
- goods (work, services) are purchased exclusively for the purposes stipulated in the given agreements;
- supply of goods (work, services) is carried out in accordance with the agreement (contract) concluded directly with the grantee (loan recipient) or with a person assigned by him/her for fulfillment of a project.

2. The procedure for exemptions of supply of goods (work, services) purchased at the expense of funds from agreements from the value-added tax shall be approved by the Government of the Republic of Tajikistan.

**Article 193. Refund of the value-added tax to diplomatic, consular representations and equivalent representations accredited in the Republic of Tajikistan, as well as members of their staff**

1. Refund of the value-added tax to diplomatic, consular representations and equivalent representations accredited in the Republic of Tajikistan, the list of which is defined by the Government of the Republic of Tajikistan, as well as members of their staff (in this article hereinafter to be referred as “representations”) shall be carried out on a condition if such refund is provided on a reciprocal basis by international legal act to which the Republic of Tajikistan is a party.

2. The value-added tax paid by the representations to suppliers of goods (work, services) intended for official use of these representations, as well as for personal use of their diplomatic, administrative-technical and service personnel, including family members residing with them, shall be refunded in case if such refund is provided by international legal act.

3. Refund of the value-added tax to the representations shall be carried out on findings of tax departments in Gorno-Badakhshan Autonomous Oblast, other oblasts and Dushanbe city on the basis of combined statements (registers), prepared by these representations and certified copies of documents (invoices, receipts, etc.) confirming the fact of payment of the value-added tax.

4. Combined statements (registers) shall be filled out following the form approved by the authorized state body and shall be submitted by the representations to the Ministry of foreign affairs of the Republic of Tajikistan for confirmation of the exchange of notes regarding observance of the principle of reciprocity in granting concessions on indirect taxes (the value-added tax and excise) in accordance with the provisions set by international legal act. Following the confirmation, combined statements (registers) shall be submitted to the tax authority identified by the authorized state body for carrying out the refund.

5. If the value-added tax amounts are not identified under a separate line in documents attached to combined statements (registers), a right for refund of the value-added tax may be allowed only upon receipt of confirmation from supplier of the goods (work, services) on that the value-added tax was included into invoice.

6. Refund of the value-added tax to the representations shall be carried out by Ministry of finances of the Republic of Tajikistan on the basis of finding by the relevant tax authority within 30 calendar days of the receipt of combined statements (registers) by the authorized state body from the Ministry of foreign affairs of the Republic of Tajikistan. The value-added tax amount to be refunded from the budget shall be transferred to the appropriate accounts of the representations.

7. The procedure for refunding the value-added tax to the representations shall be determined by the Government of the Republic of Tajikistan considering the provisions of this article.

**Section X. Excise taxes**

**Chapter 32. Excise taxes**

**Article 194. The concept of excise tax**

Excise (excise tax) is an indirect tax included in the sale price of excisable goods (rendered services).

**Article 195. Taxpayers**

1. Taxpayers (payers of excises) shall be persons, including separate subdivisions of legal entities that carry out taxable operations.

2. Payers of excises according to this chapter are also foreign legal entities and individuals that carry out taxable activity in the Republic of Tajikistan.

3. In case the excisable goods are manufactured in the territory of the Republic of Tajikistan from raw materials supplied by the customer (customer-supplied raw materials), the payer of excises shall be the manufacturer, who is required to transfer to the customer the excisable goods (finished products) produced from the customer’s raw materials at a selling price that includes the excise in accordance with this Code, as if the customer-supplied raw materials belongs to the manufacturer.

4. Individuals, including individual entrepreneurs, are not entitled to import (manufacture) excisable goods, except for import (manufacture) of excisable goods for self-consumption within the established limits.

**Article 196. Object of taxation**

The following taxable transactions in respect of excisable goods and excisable services shall be the object of taxation:

1) Export of excise goods manufactured in the territory of the Republic of Tajikistan outside the enterprise (place of manufacture), including:

- a) supply of excisable goods, except for the cases when the excise tax for such goods was earlier paid;
- b) transfer of excisable goods to other person for processing on the basis of customer-supplied raw materials;
- c) delivery (transfer) of excisable goods that are the product of processing of customer-supplied raw materials and (or) materials, including excisable customer-supplied raw materials and (or) materials;



- d) contribution of excisable goods into the statutory fund (capital) of a subject of entrepreneurship;
- e) use of excisable goods while making mutual settlement by goods and payments in kind;
- f) deliver of excisable goods carried out by a manufacturer to its separate subdivisions;
- g) sale of competitive weight of excisable goods while conducting the procedure of bankruptcy of the taxpayer if the excise for the specified goods was not earlier paid in the territory of the Republic of Tajikistan according to the legislation of the Republic of Tajikistan.

2) Import of excisable goods to the territory of the Republic of Tajikistan in accordance with the customs legislation.

3) sale of confiscated, ownerless excisable goods, excisable goods bequeathed to the state and excisable goods transferred to the state on gratuitous basis in the territory of the Republic of Tajikistan, if in respect of the mentioned goods the excise was not earlier paid in the territory of the Republic of Tajikistan;

4) Use of excisable goods for own manufacturing needs and (or) for manufacturing of other excisable goods.

5) Assembly (complete set) of the excisable goods determined in paragraph five of part 1 of article 197 of this Code and their alienation;

6) Damage, loss of excisable goods.

7) Rendering separate types of services in the field of electrical communication (regardless the type and form of their expression in a license for rendering electrical communication services) defined in part 2 of article 197 of this Code.

#### **Article 197. List of excisable goods and excisable activities**

1. Excisable goods shall be:

- all types of spirits, soft and alcoholic beverages;
- processed tobacco, industrial tobacco substitutes, tobacco products;
- mineral-based fuel, petroleum and refined petroleum products; bituminous substances; mineral waxes; condensed gas;
- tires and rubber pneumatic tire casings, reconditioned or used tires and rubber pneumatic tire casings; solid or semi-pneumatic tires and tire casings, rubber tire treads and rim strips;
- passenger cars and other motor vehicles intended for passenger transportation;
- jewelry made from precious metals and precious stones and also their parts made from precious metals and (or) covered with precious stones.

2. Excisable activities shall be:

- public cellular mobile communication services of all standards (cellular mobile communication services);
- data transmission services (including cable communication and IP - telephony), including through networks of operators;
- services of telematic agencies;
- services of international (long-distance) telecommunication through networks of operators.

#### **Article 198. Tax base**

1. Tax base of excise tax in respect of excisable goods shall be:

- actual value of excisable goods;
- amount of taxable transaction defined on basis of cost of retail trade of excisable goods with deduction of the value-added tax and excises;
- amount of taxable transaction based on customs cost or actual volume index of the excisable goods defined in accordance with the Customs code of the Republic of Tajikistan with deduction of the value-added tax and excises;
- amount of taxable transactions defined on the basis of the retail cost of goods with deduction of the value-added tax and excises – while transfer of the excisable goods as payment in kind, gift by the owner of goods, while transfer of pledged goods into ownership of the pledgee or exchange transaction, also on gratuitous basis.

2. Prices defined in accordance with paragraphs two and four of part 1 of this article for calculation of tax obligation on excises cannot be less than current retail market price.

3. In case of setting in accordance with part 1 of article 200 of this Code different rates of excises for different types of spirits, soft and alcohol beverages, tax base shall be defined separately on transactions that are taxable under different rates.

4. The price of packaging, with exception of packaging that is returned, shall be taken into account while determining the amount of taxable transaction.

5. Provisions of parts 1-3 of this article shall be applied regardless of whether the goods are manufactured from own or customer-supplied raw materials.

6. For taxpayers carrying out separate types of activities in the field of electrical communication the tax base shall be the amount of rewards received (subject to receipt) for carrying out the mentioned services with deduction of the value-added tax and excises.

7. In case of damage, loss of excisable goods manufactured and (or) imported in the Republic of Tajikistan the excise shall be paid in full as per quantity of the damaged and (or) lost excisable goods, with exception of cases arising as a result of emergency situations confirmed under the procedure stipulated in second paragraph of part 1 of article 184 of this Code. At that, regarding the excisable goods imported to the Republic of Tajikistan, this paragraph shall be applied in the case, when a taxpayer, having no possibility to pay the excises for actually imported excisable goods directly while importing them to the Republic of Tajikistan, following the requirements of

article 363 of the Customs code of the Republic of Tajikistan, has applied in respect of imported excisable goods the customs procedures and (or) regimes providing non-payment of customs payments, and damage, loss of imported excisable goods has happened within the period of their stay under above mentioned procedures and (or) regimes.

8. For the purposes of this article, damage, loss of excisable goods shall be understood to mean events described under part 2 of article 184 of this Code.

#### **Article 199. Time of performance of a taxable transaction**

1. The time (date) of performance of a taxable transaction in respect of excisable goods manufactured in the territory of the Republic of Tajikistan and (or) imported to the Republic of Tajikistan shall be the time (date) of supply (transfer) of excisable goods, including:

- the time (date) of release (supply, sale) of goods outside the enterprise (place of manufacture);
- the time (date) of transfer of excisable customer-supplied raw materials to contractor (processor);
- the time (date) of transfer of excisable goods for processing or excisable goods produced from customer-supplied raw materials to the customer (person specified by him);
- the time (date) transfer of excisable goods when they are used for one's own manufacturing needs;
- the time (date) of preparation of a certificate regarding the write-off of the damaged excisable goods or the time (date) on making a decision regarding their further use in the production process, in case of damage of excisable goods.
- the time (date) of loss of the excisable goods in the case of the loss of excisable goods;
- the time (date) of contribution of the goods into statutory fund (capital) of the subject of entrepreneurship;
- the time (date) of transfer (shipment) of excisable goods at payment in kind;
- the time (date) of sale of confiscated, ownerless excisable goods, excisable goods bequeathed to the state and excisable goods transferred to the state on gratuitous basis in the territory of the Republic of Tajikistan, if in respect to the mentioned goods excise was not earlier paid in the territory of the Republic of Tajikistan;
- the time (date) of realization of competitive weight of excisable goods if on the specified goods the excise was not earlier paid in the territory of the Republic of Tajikistan according to the legislation of the Republic of Tajikistan;
- the time (date) of assembly (complete set) of the excisable goods determined in paragraph five of part 1 of article 197 of this Code;
- the time (date) of carrying out import pursuant to the customs legislation.

2. In respect of the excisable activities – separate services of electrical communication being carried out in the territory of Republic of Tajikistan the time (date) of performance of taxable transaction shall be the time (date) specified under part 5 of article 174 of this Code.

#### **Article 200. Tax rates**

1. The rates of excise tax for excisable goods shall be defined by the Government of the Republic of Tajikistan on the basis of the Foreign economic activity commodity nomenclature.

2. Excise tax rates may be established as a percentage of the value of the excisable goods (ad valorem rates) and/or as a fixed (absolute) amount per unit of measure of the excisable goods in physical terms.

3. Excise tax rates for spirit products shall be set depending on the product's content of absolute (100-percent) alcohol.

4. Excise tax rates for separate types of services in the field of electrical communication shall be established at the amount of 3 percent of tax base.

#### **Article 201. Exemption**

1. Followings shall be exempt from payment of excise:

- alcoholic beverages produced by an individual for his own consumption based on a list and within the limits established by the Government of the Republic of Tajikistan;
- import of one liter of alcoholic beverages or two carton (400 units) of cigarettes, jewelry in a quantity of 4 units (at the price not exceeding 150 indexes for calculations) by an individual for his/her own consumption (use), and also for persons entering the Republic of Tajikistan by motor vehicle, - the contents of the fuel tank;
- goods in transit across the territory of the Republic of Tajikistan;
- temporary import of goods in the territory of the Republic of Tajikistan, except for goods intended for re-export;
- excisable goods, except for alcohol and tobacco products, imported as humanitarian assistance, as well as those imported for the purpose of their unrequited transfer to charitable organizations to aid in dealing with the aftereffects of natural disasters, accidents, and catastrophes, and for unrequited transfer to state bodies of the Republic of Tajikistan;
- export of excisable goods, if such export meets the requirements established by article 202 of this Code.

2. The excise tax exemptions specified under third –sixth paragraphs of part 1 of this article shall apply only in cases in which the conditions are met for exemption from customs duty under the respective regimes in accordance with the customs legislation of the Republic of Tajikistan. In these cases, if for the purposes of collecting customs duty imports fall under the customs duty refund regime or if the payment of customs duty is required in the event of a violation of the exemption conditions, the same regime shall apply to the collection of excise tax.

#### **Article 202. Confirmation of excisable goods export**

1. While exporting excisable goods, the following documents must be submitted by the taxpayer to tax authority with which the taxpayer is registered for confirmation of the validity of the exemption in accordance with article 201 of this Code, within 120 calendar days of the date of the notation made by the customs authority that released the excisable goods under the export regime:

- an agreement (contract) for delivery of the excisable goods being exported;
- a freight customs declaration or a copy thereof, certified by a customs authority, with notations by the customs authority that released the excisable goods under the export regime, and in the case of export of the excisable goods under the export via the main pipeline system regime or application of the incomplete periodic declaration procedure, a complete freight customs declaration with notations by the customs authority that performed the customs processing;
- copy of shipping documents with the notation of the customs authority located at the point of entry into the customs territory of the Republic of Tajikistan, and in the case of the export of excisable goods under the export via the main pipeline system regime, an acceptance certificate for the goods;
- payment documents and bank statement (copy of the statement), confirming actual receipt of currency proceeds from delivery of excisable goods for export in accounts of the taxpayer in the Republic of Tajikistan and (or) in his accounts in banks abroad.

2. In case if settlement in cash form is stipulated by the agreement (contract), the taxpayer submits a bank statement (copy of the statement), confirming depositing by the taxpayer of the received means in his account in local bank and (or) in his accounts opened in banks abroad, as well as copies of received cash orders, confirming actual arrival of the incomes (amounts) from a foreign person - buyer of the exported goods.

3. In case of carrying out external economic operations on exchange of goods (works, services), the taxpayer submits documents confirming import of goods (performance of works, rendering services), received under the specified operations in the territory of the Republic of Tajikistan and their calculation.

4. In the event that a delivery of excisable goods for export is not confirmed in accordance with parts 1-3 of this article, such export shall be subject to the excise tax following the procedure established under this section for taxation of delivery of excisable goods into the territory of the Republic of Tajikistan.

5. While submission of documents confirming the export of excisable goods to the tax authority with which taxpayer is registered, within 180 calendar days of the date of the notation made by a customs authority referred to in part 1 of this article, the taxpayer shall be entitled to a refund of the tax assessed in accordance with part 4 of this article, with exception of the assessed percentages. Otherwise, the taxpayer shall not be entitled for a refund of the tax paid in accordance with part 4 of this article.

#### **Article 203. Crediting of the excise tax**

1. A payer of excise has a right to reduce the excise amount payable to the budget to the amount of excise paid while purchasing (receiving) or importing of excisable goods to the territory of the Republic of Tajikistan if mentioned excisable goods are used as the main raw material for manufacturing of excisable goods.

2. A payer of excise for excisable services in the field of electrical communication, with regard to internet services has a right to reduce in proportional method the amount of excise paid while purchasing (receiving) of the mentioned services, if these services are used by the taxpayer for rendering excisable services of electrical communication.

3. According to part 1 of this article crediting shall be carried out to the amount of excise for the quantity of excisable raw materials actually used within a tax period for manufacturing of excisable goods defined on the basis of norms of manufacturing of the excisable goods from excisable raw materials.

4. Provisions of parts 1 and 3 of this article shall be applied while transfer of excisable goods manufactured from customer-supplied excisable raw materials used as a raw material, in the condition of confirmation of payment of the excise by the owner of the customer-supplied excisable raw materials.

5. Crediting (or refund according to article 69 of this Code) the excise paid for excisable goods used for medical purposes by medical institutions and pharmacies by payers of excises, as well as by pharmaceutical enterprises in the production of medicines, shall be permitted in accordance with the procedure and norms established by the Ministry of health of the Republic of Tajikistan by agreement with the authorized state body and the Ministry of finance of the Republic of Tajikistan.

6. Crediting or refund of excise tax pursuant to this article shall be allowed only upon submission of an invoice confirming the payment of excise tax at the time of purchase of the excisable goods (raw materials) or on the condition of confirmation of the payment of excise tax by the owner of the customer-supplied excisable goods (raw materials), or in the case of the import of raw materials upon submission of the relevant documentation. A list of documents confirming the payment of excise tax shall be established by an authorized state body.

7. In accordance with this article crediting or refund of tax shall be performed with respect to the amount of excise tax determined on the basis of the volume (quantity, value) of the actual use in the tax period of excisable goods (raw materials) purchased (supplied by the customer) for the manufacturing of other excisable goods, for medical purposes by medical institutions and pharmacies, and also by pharmaceutical enterprises in the production of medicines.

#### **Article 204. Tax period**

Tax period for excise tax shall be a calendar month.

#### **Article 205. Payment of excises**

1. In the case of the manufacturing of excisable goods, the excises shall be paid on taxable transactions not later than the 10th of the month following the month in which the taxable transaction has been performed.
2. A taxpayer shall not have the right to move the excisable goods outside of the production premises without payment of the excise tax on these goods.
3. In the case of import of goods, excise shall be collected by customs authorities following the procedure specified by this Code and the customs legislation.
4. Payment of excise into budget for services in the field of electrical communication shall be carried out not later than the 10th of the month following the month in which the excisable transactions have been performed.

**Article 206. Tax audit in respect of excisable alcoholic, non-alcoholic and tobacco products**

1. Tax audit of accounting of output volume (bottling), storage, transportation, and release outside of the production premises of excisable alcohol, non-alcohol and/or tobacco products manufactured in the territory of the Republic of Tajikistan shall be carried out pursuant to this article and in the procedure defined by the Government of the Republic of Tajikistan.
2. The import of excisable alcohol and/or tobacco products into the territory of the Republic of Tajikistan under the release of goods for free circulation regime shall be permitted by customs authorities only after prior application of excise stamps to these products under the procedure established by the authorized state body.
3. Stamping of excisable alcohol and (or) tobacco products with excise stamps shall be provided by importer of these goods. In order to obtain excise stamp, excisable alcohol and (or) tobacco products imported into the Republic of Tajikistan must be stored in temporary warehouse or declared under the customs warehouse regime in accordance with the customs legislation of the Republic of Tajikistan.
4. Customs declaration of the excisable alcohol and/or tobacco products under the release of goods for free circulation customs regime may be performed in batches in proportion to the amount of customs duties established by the tax and customs legislation of the Republic of Tajikistan.

**Article 207. Place of payment of excise**

1. Excise tax payments on excisable goods shall be made at the place where the payer of the excise tax is registered, with the exception of those cases referred to parts 2 and 3 of this article.
2. Payers of the excise tax on excisable goods that have separate subdivisions shall pay the excise tax based on the location of the separate subdivisions which carry out manufacturing of excisable goods.
3. Excise for separate types of services in the field of electrical communication shall be paid to the budget based on the taxpayer's place of registration (regardless of having separate subdivisions).

**Article 208. Submission of tax return**

1. Payers of excises shall submit tax returns with attachment of the received and (or) sent invoices on the value-added tax and the excises in a procedure and in form established by the authorized state body not later than 10th of the month following the tax reporting period.
2. Payers of excises on excisable goods that have separate subdivisions along with return shall also submit calculations on the excise for separate subdivision.
3. Declarations on payment of excise while rendering services in the field of electrical communication shall be submitted not later than 10th of the month following the tax reporting period to the tax authority where taxpayers are registered.
4. Instruction on calculation and payment of the excise, and also forms of declarations shall be approved by authorized state body with concurrence of the Ministry of finance of the Republic of Tajikistan.

**Article 209. Refund of excise tax in the case of the re-export**

1. In case of re-export of goods the excise shall be paid at the time of the import of the goods and shall be refunded by the financial authorities to which excise is paid at the time of import, together with the relevant customs authorities, in accordance with the actual volume of the re-exported goods. The refund shall be provided under the established procedure within 30 days after the submission of a written request by the taxpayer.
2. Part 1 of this article shall not apply to import of goods which are exempt from the excise in accordance with fifth paragraph of part 1 of article 201 of this Code.

**Article 210. Excise stamps**

1. The Government of the Republic of Tajikistan shall identify the list of excisable domestic and imported goods, which require excise stamps. Sale of such excisable goods without excise stamps is prohibited. Tax authorities shall have the right to confiscate such excisable goods that are offered for sale without excise stamps following the procedure established by the legislation of the Republic of Tajikistan.
2. Excise stamps shall be considered as high-security documents with a certain degree of protection. The procedure for their production and circulation shall be determined by the Government of the Republic of Tajikistan.  
The procedure for the stamping of excise stamps to excisable products shall be established by the authorized state body.
3. The manufacturers and persons importing excisable goods shall be responsible for stamping of excisable goods with excise stamps.
4. Unless otherwise provided by this article, in the event of damage or loss of excise stamps the excise shall be paid in the amount of the declared types of excisable products.

5. Calculation of the excise based on damaged or lost (including stolen) excise stamps intended for the stamping of excisable goods in accordance with the provisions of this Code shall be performed on the basis of the established rates applicable to the unit volume of the container (package, packaging) indicated on the stamp.

6. In the event that a stamp does not indicate the unit volume of the container (package, packaging), calculation of the excise based on damaged or lost excise stamps shall be performed on the basis of the largest unit volume of the container (package, packaging) in which the excisable goods were bottled (packed, packaged) during the tax period preceding the period in which the excise stamps were damaged or lost.

7. In the event of damage, loss of excise stamps, the excise shall not be paid in the following cases:

- the damage or loss of excise stamps occurred as a result of emergency situations confirmed under the procedure established in paragraph two of part 1 of article 184 of this Code;
- the damaged excise stamps have been accepted by tax authorities on the basis of a certificate on writing-off for liquidation.

#### **Article 211. Excise tax invoices**

1. A taxpayer supplying and (or) importing excisable goods shall be required in accordance with provisions of articles 186 and 187 of this Code to write up and present to the recipient of the excisable goods an invoice on the value-added tax and the excises.

2. If a taxpayer is not considered as payer of the value-added tax, the invoices shall not contain information on the value-added tax.

### **Section XI. Social tax**

#### **Chapter 33. Social tax**

#### **Article 212. Taxpayers**

1. Payers of social tax shall be:

- legal entities, their separate subdivisions, permanent establishments of non-residents and individual entrepreneurs as employers who pay wages, rewards and other benefits to resident individuals performing for them a work for hire on the basis of labor agreements (contracts) or without them;
- legal entities, their separate subdivisions, permanent establishments of non-residents and individual entrepreneurs who remunerate for provided services(works) in the Republic of Tajikistan to resident individuals who are not registered as individual entrepreneurs, on the basis of civil legal nature agreements (contracts) or without them;
- individuals receiving payment listed in the first and second paragraphs of this part;
- individuals engaged in individual entrepreneurial activity in the territory of the Republic of Tajikistan, including members of peasant (farm) households without establishment of a legal entity.

2. If a taxpayer pertains simultaneously to several categories of taxpayers specified in part 1 of this article, the taxpayer shall calculate and pay tax on each basis.

3. Further in this chapter payers listed in the first and second paragraphs part 1 of this article shall be referred to as insurers, and payers mentioned in the third paragraph of part 1 of this article, shall be referred to as insured person, the payers listed in the fourth paragraph of part 1 of this article - both insurers and insured persons.

4. Citizens of the Republic of Tajikistan, who are migrant workers, have the right to submit a written application to the tax authorities in their place of residence in the Republic of Tajikistan and voluntarily become the payers of social tax and pay it to the amount and in the manner determined by the Government of the Republic of Tajikistan.

#### **Article 213. Object of taxation**

1. The object of taxation for the taxpayers referred to in the first and third paragraphs of part 1 of article 212 of this Code shall be:

- wages, rewards and other income, determined in accordance with article 99 of this Code, paid by the taxpayers to the benefit of employees;
- payments, rewards and other income paid to the benefit of individuals, not mentioned in the first and second paragraphs of part 1 of article 212 of this Code.

2. The object of taxation for the taxpayers specified in the second and third paragraph of part 1 of article 212 of this Code, shall be wages, rewards and other benefits under labor and civil legal agreements (contracts), the subject of which is performance of works, provision of services paid by the taxpayers to the benefit of individuals who are not individual entrepreneurs, including payments and remuneration under author's contracts.

3. The object of taxation for the taxpayers referred to in the fourth paragraph of part 1 of article 212 of this Code, is the gross income from entrepreneurial activity.

4. Pursuant to parts 1 and 2 of this article shall not be included into objects of taxation:

- amounts payable under civil legal contracts, the subject of which is the transfer of ownership or other rights to the property (property rights), as well as contracts related to transfer of property (property rights);
- amounts payable to individuals who are foreign citizens and persons without citizenship, under labor agreements (contracts) concluded with branches and representative offices of resident legal entities located outside the territory of the Republic of Tajikistan;
- amounts payable to individuals who are foreign citizens and persons without citizenship in connection with their activity outside the territory of the Republic of Tajikistan according to the contracts of civil legal nature, the subject of which is the performance of work, provision of services.

#### **Article 214. Tax base**

1. The tax base of the taxpayers being employers, mentioned in the first paragraph of part 1 of article 212 of this Code, shall be determined as the amount of wages, rewards and other benefits that the employers pay to individuals for the tax period.

2. The tax base of the taxpayers referred to the second paragraph of part 1 of article 212 of this Code shall be determined as the amount of payments, rewards and other benefits reimbursed without deductions to individuals for the tax period.

3. The tax base of the taxpayers who are individuals, referred to in the third paragraph of Part 1 of Article 212 of this Code, shall be determined as the amount of wages, payments, rewards and other benefits received for the tax period without deductions.

4. Any payments and rewards, including author's remunerations, determined as objects of taxation, in particular, full or partial payment for goods (works, services, property rights or other rights), designated for individuals, with the exception of tax concessions defined in article 215 this Code, shall be taken into account while determining the tax base.

5. For resident individuals who perform works and provide services to diplomatic, consular representations of foreign states, representations of international organizations in the Republic of Tajikistan under labor and (or) civil legal agreements (contracts) not performing their duties as taxpayers, the tax base shall be defined as the amount of wages, payments and other rewards received for the tax period without deductions. Information on incomes of the individuals shall be submitted to the authorized state body by the Ministry of foreign affairs of the Republic of Tajikistan on a quarterly basis by 15th of the month following the expiration of a quarter.

6. The tax base of individual entrepreneurs, including members of peasant (farm) households without establishment of a legal entity, referred to the fourth paragraph of part 1 of article 212 of this Code, shall be defined as the gross income without deductions received by such taxpayers for the tax period in cash and (or) natural form from entrepreneurial activity.

7. While calculating the tax base of payments and other benefits in kind in the form of goods (works, services) shall be used the value of these goods (works, services) on the date of payment (calculation) based on their market prices (tariffs), and by state regulation of prices (tariffs) for these goods (works, services) - based on the state regulated retail prices.

#### **Article 215. Exemptions**

1. The following shall be exempt from payment of the tax:

- the income of individuals who are not citizens of the Republic of Tajikistan, performing work and providing services to diplomatic and consular representations of the Republic of Tajikistan abroad;
- the income of citizens of foreign states from work for hire in the context of the implementation of investment projects of the Government of the Republic of Tajikistan;
- the income exempted from personal income tax in accordance with article 104 of this Code.

#### **Article 216. Tax rates**

1. Tax rate in the amount of 25 percent rate for insurers and 1 percent for insured persons shall apply to social tax paid to the budget the, unless otherwise provided by this article.

2. For individuals engaged in entrepreneurial activity on the basis of a patent, as well as members of peasant (farm) households without establishment of a legal entity, the minimum size of social tax shall be established by the Government of the Republic of Tajikistan. For individual entrepreneurs operating on the basis of a certificate, the rate of social tax as insured persons shall be equal to 1.0 percent of the tax base, but not less than the maximum amount of social tax established for the individual entrepreneur, operating on the basis of a patent, regardless of the size of the income.

3. For the citizens of the Republic of Tajikistan, performing work and providing services to diplomatic (consular) representations of foreign states and representations of international organizations in the Republic of Tajikistan, who pay the social tax independently, social tax rate shall be set in the amount of 25 percent as insurers and 1 percent as insured persons.

4. For the purposes of social insurance, including retirement insurance of individual entrepreneurs, members of peasant (farm) households, that are not legal entities, and persons mentioned in part 2 of this article, the total amount of social tax paid for the purposes of social insurance in accordance with the provisions of this chapter shall be 20 percent of the income received (declared) by the above mentioned individuals. If the length of pensionable service is not sufficient, the total amount of social tax paid for the entire period of the actual social insurance shall be considered carried out for a period not less than the minimum length of service for granting the pensions and other types of social insurance, in accordance with legislation on the state social insurance.

#### **Article 217. Tax period**

The tax period of social tax shall be a calendar month, unless otherwise provided by article 218 of this Code.

#### **Article 218. Calculation and payment of tax**

1. The amount of social tax, which is subject to transfer to the budget, shall be determined by multiplying the tax base to the relevant tax rate, unless otherwise prescribed by this chapter.

2. In the cases mentioned in paragraphs 1-3 of part 1 of article 212 of this Code, as well as in regard to members of peasant (farm) households without establishment of a legal entity, the social tax shall be withheld and

transferred to the budget by the 15th of the month following the tax period in the manner prescribed in article 125 of this Code.

3. Calculations shall be submitted quarterly by the Ministry of finance of the Republic of Tajikistan as an employer and collection shall be simultaneously performed by the 15th of the month following the reporting quarter in respect of the social tax for the citizens of the Republic of Tajikistan being state servants in the international organizations, diplomatic and consular representations and equivalent organizations of the Republic of Tajikistan abroad.

4. Individual entrepreneurs operating on the basis of a patent shall pay social tax simultaneously with payment of the patent fee to the budget. Individual entrepreneurs operating on the basis of a certificate, as well as citizens of the Republic of Tajikistan defined in part 2 of article 216 of this Code shall submit a tax return and shall simultaneously pay the amount of tax by the 15th of the month following the tax period.

5. Unified declaration on social tax and personal income tax of legal entities as taxpayers, their separate subdivisions, permanent establishments of non-residents, individual entrepreneurs, functioning on the basis of a certificate referred to in the first and second paragraphs of part 1 of article 212 of this Code, shall be submitted to the tax authorities at the place of their registration monthly by the 15th of the month following the reporting month, in the form established by the authorized state body and the amount of tax shall be paid in the meantime.

6. Peasant (farm) households without establishment of a legal entity shall submit unified declaration on personal income tax and social tax to the tax authorities at the place of their registration in respect of the members of these households each calendar half-year period by the 15th of the month following the reporting half-year period, in the form established by the authorized state body, and shall simultaneously pay the amount of taxes.

7. Citizens of the Republic of Tajikistan specified in part 3 of article 216 of this Code shall submit unified declaration on social tax and personal income tax to the tax authorities at the place of their registration quarterly by the 15th of the month following the reporting quarter, in the form established by the authorized state body, and shall simultaneously pay the amount of tax.

8. Control over payment of social tax shall be carried out by tax authorities.

9. Instructions for calculation and payment of social tax, tax return forms (calculations) shall be approved by the authorized state body by agreement with the Ministry of finance of the Republic of Tajikistan.

## **Section XII. Taxes on natural resources**

### **Chapter 34. General provisions**

#### **Article 219. Relations regulated by this section**

1. Taxes on natural resources shall be paid in case of the using natural resources, including subsoil use under subsoil use contracts and (or) use of water resources for the generation of electricity.

2. While using natural resources their users shall pay other taxes and other compulsory payments to the budget established by this Code and other legislative acts of the Republic of Tajikistan in the manner prescribed by legislation of the Republic of Tajikistan as well.

3. This section prescribes the procedure of calculation and payment of taxes by subsoil users during performance of operations on subsoil use, as well as royalty for water resources used for the generation of electricity.

4. Features of fulfillment of tax obligations on subsoil use conducted under the production sharing agreement are prescribed by the section XVII of this Code.

5. Taxes on natural resources shall include:

- taxes from subsoil users (subscription bonus, commercial discovery bonus, royalty on extraction);
- royalty on water resources.

6. All types of bonuses and royalties on natural resources shall be deducted from the gross income (are considered deductions) for purpose of corporate profit tax.

7. Control over the payment of taxes on natural resources shall be conducted by tax authorities.

8. Instruction on the calculation and payment of taxes on natural resources, as well as forms of tax returns (calculations) shall be approved by the authorized state body by agreement with Ministry of finance of the Republic of Tajikistan.

### **Chapter 35. Taxes from subsoil users**

#### **§1. General provisions**

##### **Article 220. Main provisions**

1. Present chapter uses the following basic terms:

- subsoil users – persons performing geological works and (or) mineral resources extraction, regardless of the presence of license (permissions);
- deposit - part of subsoil containing natural accumulation of mineral resources;
- mineral resources - natural minerals in the solid, liquid, and (or) the gas state (including underground water and mud) contained in subsoil, suitable for use in manufacturing and (or) consumption;
- extraction - complex of works related to the exploitation of mineral resources from subsoil to the surface, as well as technogenic mineral formations;
- processing of mineral raw materials - operations associated with the exploitation of mineral resources from mineral raw materials;

- commercial discovery - mineral resources, discovered within the contract territory of the subsoil user, which are approved by the State commission of the Republic of Tajikistan on reserves of mineral resources and are economically effective for extraction;

- subscription bonus and commercial discovery bonus - single fixed taxes paid by subsoil users, with the exception of state-owned enterprises engaged in the performance of work on the geological survey funded from the state budget;

- royalty on extraction - regular tax payable by the taxpayer (subsoil user) for mineral resources extraction.

2. Payment of taxes by subsoil users shall not exempt from payment of other taxes established by this Code, as well as the fulfillment of tax obligations for other activities (not related to subsoil use) in accordance with the tax legislation in force at the date of creation of such obligations (not related to subsoil use).

3. A non-resident may use subsoil in the Republic of Tajikistan by establishing a legal entity or branch of a foreign legal entity.

4. Taxes from subsoil users shall not be paid by:

- individuals for common mineral resources and groundwater, extracted on the land plots allotted to them for use, if the extracted mineral resources are not used for entrepreneurial activities;

- producers of agricultural production and state institutions engaged in extraction of underground water resources for their own economic needs;

- subsoil users for the produced extraction of groundwater by its re-injection for maintenance of formational pressure;

- persons extracting drainage groundwater which are not counted in the state balance of mineral resources, by developing the deposits of mineral resources, construction and operation of underground structures, using bog bottom lands.

#### **Article 221. Establishment of the tax regime in contracts intended for subsoil use**

1. Conditions of tax payment by the subsoil users (in this section hereinafter to be referred to as “tax regime”) established for each subsoil user in accordance with this Code shall be specified in subsoil use contract (in this section hereinafter to be referred to as “contract”) concluded between the subsoil user and the authorized body of the Government of the Republic of Tajikistan (in this section hereinafter to be referred to as “authorized body”) by agreement with the Ministry of finance of the Republic of Tajikistan and the authorized state body, following the procedure determined by the Government of the Republic of Tajikistan.

2. Contract shall be concluded between the subsoil user and the authorized body not later than 3 calendar months after receipt of the license (permission), if other terms are not foreseen by the Government of the Republic of Tajikistan.

3. Subsoil use is not permitted without conclusion of a contract. While using subsoil without conclusion of the contract, taxes for subsoil use (bonuses and royalties on extraction) for the entire period of such activity shall be paid by three fold the rates established in accordance with this Code, with subsequent bringing to responsibility of the subsoil user in the manner foreseen by the legislation of the Republic of Tajikistan.

4. The tax regime established under a contract shall comply with the requirements of the tax legislation of the Republic of Tajikistan at date the contract is concluded (signed).

5. The inclusion of issues related to the payment of subsoil user’s taxes in the licenses and other documents related to subsoil use, except for subsoil use contracts, shall be prohibited.

6. In cases when subsoil use is carried out under the same contract by several taxpayers, the tax regime established under the contract shall be the same for all of them. At that, for the purposes of taxation, the taxpayers shall be considered as single taxpayer in respect of activities performed under such contract, maintain a single consolidate accounting and pay taxes from the subsoil users in accordance with the tax legislation of the Republic of Tajikistan.

7. A subsoil user shall maintain a separate accounting for the calculation of tax obligations in accordance with the tax regime provided under the contract and for the calculation of tax obligations from the activity(not related to subsoil use) that falls outside the scope of the given contract.

8. The provisions of part 7 of this article in a part of separate accounting shall not apply to the cases in which a subsoil user, along with the activities under contracts on extraction of common mineral resources and (or) groundwater, performs activity (not related to subsoil use) that falls outside the scope of the given contracts.

9. In case of the exploitation of by-products and other mineral resources not specified in the contract for entrepreneurial purposes, a subsoil user shall pay tax from subsoil users by 3-times of the rates according to the provisions of this chapter before making any changes to the contract.

#### **§2. Subscription bonus**

##### **Article 222. General provisions**

Subscription bonus is a single fixed tax of the subsoil user for the acquisition of subsoil use rights within the territory determined by license (permission).

##### **Article 223. Taxpayers**

1. Subscription bonus shall be paid by a person who has won a competitive tendering on gaining the subsoil use right or has gained the subsoil use right on the basis of direct negotiations in accordance with the legislation of the Republic of Tajikistan, as well as received in due order one of the following licenses (permission):

- License (permission) for geological survey;



- License (permission) for extraction of mineral resources.

2. Provision of the second paragraph of part 1 of this article shall not be applied to the subsoil users, who concluded the contract on the basis of the exclusive extraction in connection with a commercial discovery within a matter of license (permission) for exploration in the appropriate territory.

#### **Article 224. Size of subscription bonus**

1. The size of the subscription bonus shall be set in accordance with rules determined by the Government of the Republic of Tajikistan and shall be reflected in the subsoil use contract.

2. The Government of the Republic of Tajikistan may set higher size of subscription bonus for separate deposits of mineral resources.

#### **Article 225. Deadlines for payment of subscription bonus**

1. Subscription bonus shall be paid within the following deadlines:

- 50 percent of the set amount – within 30 calendar days upon issuance of supporting document on subsoil use right.

- the rest 50 percent of the set amount – not later than 30 calendar days from the day a subsoil use contract enters into force.

2. Subscription bonus for common mineral resources and groundwater shall be paid at the place of location of a deposit.

3. The Government of the Republic of Tajikistan may set another deadline for payment of subscription bonus for separate deposits of mineral resources.

#### **Article 226. Tax return**

Declaration for subscription bonus shall be submitted by subsoil user to the tax authorities at the place of location of a deposit within deadlines prescribed for payment of this bonus.

### **§3. Bonus on commercial discovery**

#### **Article 227. General provisions**

1. Commercial discovery bonus is a single fixed tax from subsoil users for detection and registration of deposits of mineral resources economically feasible for extraction, as well as for obtaining extraction rights on the territory determined by license (permission).

2. Commercial discovery bonus is paid by the subsoil users, functioning on the basis of the following licenses (permissions):

1) for mineral resources extractions in the following cases:

a) for each commercial discovery of mineral resources within the contract area, previously announced by the subsoil user in the relevant contract area within a matter of the license (permission) for exploration;

b) for the detection in the course of additional exploration of a deposit leading to an increase of the volume of mineral resources extraction initially established by the authorized state body of the Republic of Tajikistan for these purposes;

c) for each commercial discovery of other mineral resources in the course of additional exploration of a deposit of extractable reserves, approved for this purpose by the authorized body of the Republic of Tajikistan.

2) For combined exploration and extraction for each commercial discovery of mineral resources in the contract area, including the discovery in the course of additional exploration of a deposit leading to an increase of the reserves of extractable mineral resources initially established for these purposes by the authorized body of the Republic of Tajikistan.

3. In respect of the license (permission) for carrying out the exploration of deposits of mineral resources which do not provide their subsequent extraction a commercial discovery bonus shall not be paid.

#### **Article 228. Taxpayer**

Taxpayers of commercial discovery bonus are the subsoil users, who announce the commercial discovery of mineral resources in the contract area while performing operations on subsoil use within a matter of the licenses (permission) for subsoil use.

#### **Article 229. Amount of commercial discovery bonus**

1. The size of commercial discovery bonus is set in the order determined by the Government of the Republic of Tajikistan, and is reflected in the subsoil use contract.

2. The Government of the Republic of Tajikistan may set higher size of the commercial discovery bonus for separate deposits of mineral resources.

#### **Article 230. Deadline for payment of commercial discovery bonus**

1. Commercial discovery bonus shall be paid to the budget not later than 90 days from the date of issuance of the license (permission) for the extraction of mineral resources or the date of the approval the volume of additional extractable reserves of mineral resources by state body of the Republic of Tajikistan authorized for these purposes, or the date of the approval by this state body volume of extractable reserve of mineral resources.

2. Commercial discovery bonus for common mineral resources and groundwater shall be paid at the location of the mineral deposit.

3. The Government of the Republic of Tajikistan may set another deadline for payment of commercial discovery bonus for separate deposits of mineral resources.

#### **Article 231. Tax return**

Declaration for commercial discovery bonus shall be submitted by subsoil users to tax authorities at the place of location of deposits within the deadlines set for payment of this bonus.

#### **§4. Royalty on extraction**

##### **Article 232. General provisions**

Royalty on extraction is a tax paid by subsoil users separately for each mineral resources type extracted on territory of the Republic of Tajikistan, regardless of whether they are delivered (shipped) to purchasers (recipients), or used for their own needs.

##### **Article 233. Taxpayers**

Payers of royalty on extraction shall be the subsoil users using subsoil within a matter of each type of the license (permission) for:

- extraction of mineral resources, including technogenic mineral formations;
- processing of mineral resources with receiving useful components.

##### **Article 234. Objects of taxation**

1. The object of taxation are mineral resources:
  - extracted from deposits on the territory of the Republic of Tajikistan in the subsoil plot allotted to a taxpayer;
  - extracted from waste (loss), if such extracts are subject to a separate licensing (permission).
2. Objects of royalty on extraction are determined separately for each type of finished product.
3. The object of taxation for hydrocarbons are:
  - extracted hydrocarbons, their primary processing, including associated mineral resources and useful components;
  - useful components extracted during the processing of hydrocarbons, but which are not subject to taxation as a finished product in the previous extraction and processing as a part of processed mineral resources.
4. Objects of royalty on extraction of precious metals and precious stones shall be extracted precious metals and precious stones, including the technogenic mineral formations.
5. The object of royalties on extraction of solid mineral resources are:
  - produced and (or) extracted solid mineral resources, including the technogenic mineral formations;
  - mineral resources extracted during processing in the processing enterprises.
6. The object of royalties on extraction shall include extraction of:
  - 1) Mineral resources as such:
    - a) oil, natural gas and gas condensate;
    - b) coal and oil shale;
    - c) merchantable ore;
    - d) groundwater, including groundwater underwent primary processing;
    - e) mica, asbestos, raw materials for the production of building materials;
    - f) non-metallic raw materials for the steel industry.
  - 2) Precious metals and (or) chemically pure metal in the sand, ore, concentrate.
  - 3) Concentrates of ferrous, basic, rare and radioactive metals, mining and chemical raw materials.
  - 4) Precious stones, gems and piezo-optical raw materials underwent primary processing.
  - 5) Other minerals, including mineral raw materials underwent primary processing.

##### **Article 235. Tax base**

1. The tax base of royalty on extraction for the tax period shall be the cost which is determined based on the price of supply or, in the absence of supply, based on the cost of the initial commercial product received from extracted mineral resources from primary processing (enrichment, cleaning) without value-added tax.
2. The tax base for certain types of mineral resources shall be defined as the amount of extracted mineral resources in kind.
3. The tax base shall be determined for each type of extracted mineral resources in chemically pure form, including precious metals and precious stones, common and other mineral resources.
4. Cost of extracted precious (gold, silver and platinum), and other metals for the tax period shall be calculated based on the average supply prices of these metals, formed for the tax period on the London metals exchange and the London precious metals exchange.
5. Cost of separate common mineral resources extracted by subsoil users for the tax period shall be determined based on the average estimated prices of mail construction resources determined by the authorized body in field of construction and architecture.
6. Unless otherwise provided by other parts of this article, the value of mineral resources extracted by the subsoil users for the tax period shall be determined based on the average supply prices of these extracted mineral resources for the tax period or initial commercial product extracted from the mineral resources, formed for the tax period in the international (regional) exchange or in the manner established by the Ministry of finance of the Republic of Tajikistan and the authorized state body.
7. In the absence of supplies of the extracted mineral resource from the taxpayer and full use of extracted mineral resources and (or) initial commercial product extracted from these mineral resources by the taxpayer for its own use, the value of extracted mineral resources for the tax period shall be determined based on the actual production cost of extraction and (or ) primary processing (enrichment, cleaning) attributable to these mineral resources determined in accordance with legislation of the Republic of Tajikistan on accounting, increased by 20

percent. In this case, the production cost of the extracted mineral resources includes material costs, costs on payment of wages, the amount of assessed depreciation, costs for repair, cost for development of natural resources and other expenses.

8. Evaluation of the cost of extracted precious stones shall be performed on the basis of their initial evaluation, in accordance with the legislation of the Republic of Tajikistan on precious metals and precious stones.

9. In production of several types of mineral resources, royalties on extraction shall be calculated and paid separately for each type of mineral resources.

**Article 236. Rates of royalty on extraction**

1. Royalty rates on extraction of common mineral resources are set in the following amounts:

<b>№</b>	<b>Name (item) of common mineral resources</b>	<b>Rates (in % from tax base)</b>
1	Sand (except for molding, glass for porcelain and cement industries)	10
2	Sand molding, glass sand for porcelain and cement industries	7
3	Sand and gravel mixtures	10
4	Clay (except for fire-proof clay, high-melting clay, molding clay for porcelain and cement industries, flonon, lake, bentonite, acid and kaolin clay)	6
5	Fire-proof clay, high-melting clay, molding clay for porcelain and cement industries, flonon, lake, bentonite, acid and kaolin clay	5
6	Loum (except for loum for the cement industry)	6
7	Loum for the cement industry	5
8	Quarry stone	5
9	Sandstone (except for bituminous, facing, silica and sandstone for glass industry)	7
10	Sandstone bituminous, facing, silica and sandstone for glass industry	4
11	Chalk stone	5
12	Quartz (other than silica, fluxing, facing, ferrous quartz for production of silicon carbide, crystalline silicon ferroalloys)	6
13	Silica, fluxing, facing, ferrous quartz for production of silicon carbide, crystalline silicon ferroalloys	5
14	Dolomite (except for dolomite for bituminous and cement industry)	6
15	Dolomite for bituminous and cement industry	5
16	Marlstone (except for marlstone for bituminous and cement industry)	7
17	Marlstone for bituminous and cement industry	5
18	Limestone (except for bituminous limestone, facing limestone, dusty limestone for cement, steel, chemical, glass, paper and sugar industries, as well as for the production of alumina)	6
19	Bituminous limestone, facing limestone, dusty limestone for cement, steel, chemical, glass, paper and sugar industries, as well as for the production of alumina	5
20	Shell limestone (except facing and decorative shell limestone)	6
21	Facing, decorative crystalline limestone and facing, decorative shell limestone	5
22	Shale (except for fuel and healing shale)	6
23	Fuel and healing shale	5
24	Argillite and aleurolite	5
25	Magmatic, volcanic and metamorphic rocks (except for facing, decorative rocks, rocks for production of fire-proof and acid-resistant materials, stone molding and mineral wool, and other rocks suitable for use in the cement industry)	6
26	Magmatic, volcanic and metamorphic facing, decorative rocks, rocks for production of fire-proof and acid-resistant materials, stone molding and mineral wool, and other rocks suitable for use in the cement industry	5
27	Gypsum	5

2. Royalty rates on extraction of groundwater are determined by the Government of the Republic of Tajikistan.

3. Royalty rates on extraction of mineral resources are established in the following sizes, except for part 1 and 2 of this article:

<b>№</b>	<b>Name (item) of common mineral resources</b>	<b>Rates (in % from tax base)</b>
1	Oil, gas condensate and natural gas	6
2	Coal and bog muck	4
3	Ferrous metals (iron, manganese, chromium, vanadium)	4
4	Basic and rare metals (copper, lead, zinc, stannum, nickel, cobalt, molybdenum, mercury, stibium, bismuth, cadmium, aluminum, strontium, titanium, zirconium,	6

	lithium, wolframium, tantalum, niobium and others)	
5	Alluvial mineral resources	9
6	Noble metals (gold, silver, platinum)	6
7	Precious stones	8
8	Colored stones (semiprecious stone) and (or) piezo-optical raw materials	8
9	Radioactive raw materials	5
10	Mining and chemical raw materials and thermal waters	5
11	Mining raw materials (concentrate) and (or) non-metallic raw materials for the steel industry	5
12	Other minerals that are not listed in this table, as well as in parts 1 and 2 of this Article	3
13	Basic and rare metals (copper, lead, zinc, stannum, nickel, cobalt, molybdenum, mercury, stibium, bismuth, cadmium, aluminum, strontium, titanium, zirconium, lithium, wolframium, tantalum, niobium and other), noble metals (gold, silver, platinum), produced from technogenic mineral formations (waste mining enterprises)	0,5

4. Royalty rate on extraction of all types of mineral resources payable to the budget shall be determined as the sum of the sum of products of the amount (volume) of each extracted mineral resources by the subsoil users for the tax period to the relevant royalty rates on extraction.

#### **Article 237. Establishment and payment procedure of royalty on extraction in natural form**

1. In case if an additional agreement is concluded between the subsoil user and the authorized body by agreement with the Ministry of finance of the Republic of Tajikistan and the authorized state body, the payment of royalties on extraction can be carried out in natural form.

2. Cost (value) of natural form towards payment of royalty on extraction shall be equivalent to cash form of this payment.

3. Followings must be specified by determination of the natural form towards payment of royalty on the extraction in the additional agreement:

- the recipient on behalf of the state of the part of production attributable to the royalty on extraction (in this section hereinafter to be referred to as “recipient”);
- the price and volume of the transferred mineral resources;
- place and conditions of the mineral resources supply.

4. Terms of transfer of production towards payment of royalties on extraction by subsoil user set in an additional agreement shall comply with the terms of its payment in cash form. At that, the subsoil user transfers products to the recipient not later than due date for payment of royalties on extraction in cash form, established in the subsoil use contract.

5. Recipient transfers to the budget the amount equal to royalty on extraction within the established terms in cash form, as well as independently monitors the timeliness and completeness of the transfer by subsoil user the respective amount of production in natural form.

6. Subsoil user and the recipient shall submit to the tax authority at the place of location of the deposit a reporting on payment of royalties on extraction in natural form within the prescribed terms according to the form and the manner established by the authorized state body.

7. The recipient is responsible for the timely and full payment of the amount of the royalties on extraction (according to the calculations of the subsoil user) to the budget in accordance with the laws of the Republic of Tajikistan, as well as for all received production.

#### **Article 238. Payment order of royalties on extraction**

1. Tax (reporting) period for determination and payment of royalties on extraction shall be a calendar month.

2. Declaration (calculation) of royalties on extraction shall be submitted by the subsoil user to the tax authority at the place of location of the deposit in the form and the manner established by the authorized state body by the 15th of the month following the tax reporting tax period.

3. Royalties on the extraction for all types of mineral resources shall be paid not later than the 15th of the month following the reporting period.

### **Chapter 36. Water resources royalty**

#### **Article 239. Taxpayers**

Payers of water royalty (in this chapter hereinafter to be referred to as “taxpayers”) shall be persons using water resources for generation of electricity in the Republic of Tajikistan.

#### **Article 240. Object of taxation**

The object of taxation of water resources royalty shall be recognized water objects used for the purpose of generation of electricity in hydro power stations.

#### **Article 241. Tax base**

1. The tax base is defined as the amount of electricity generated for tax period without regard to losses in the further transmission (supply).

2. The tax base is determined by the taxpayer separately for each water object.

**Article 242. Exemption**

Usage of water objects for generation of electricity in hydro power stations with a capacity of power generation facilities not exceeding 1000 kilowatt shall be exempted from the payment of water resources royalty.

**Article 243. Tax period**

The tax period for water resources royalty shall be a calendar month.

**Article 244. Tax rate**

Water resources royalty rate shall be set while using water object for the purpose of generation of electricity at the rate of 0.06 of the index for calculations for each 1,000 kilowatt / hour of produced electricity at the end of the tax period.

**Article 245. Procedure of water resources royalty calculation**

1. The taxpayer shall individually calculate the amount of water resources royalty.
2. Amount of water royalty at the end of each tax period shall be calculated by multiplying the tax base to the tax rate.

**Article 246. Terms of water resources royalty payment**

Amount of water resources royalty shall be transferred to the budget by 15th of the month following the tax period.

**Article 247. Tax return**

Tax return in the form determined by the authorized state body shall be submitted by a taxpayer to the tax authority at the place of its registration within the deadline prescribed for payment of tax.

**Section XIII. Road users tax****Chapter 37. Road users tax****Article 248. Taxpayers**

Payers of road users tax shall be persons who use general taxation system and have the object of taxation.

**Article 249. Object of taxation**

1. Unless otherwise provided by part 2 of this article, the object of taxation shall be:
  - the amount of actually incurred (to be incurred) expenses by the taxpayer in the tax reporting period for goods (works, services) in full. Following are not recognized as objects object of taxation: construction costs, acquisition of fixed assets and their installation, other expenses of capital character in accordance with article 153 of this Code, which are subject to deduction in form of depreciation allocations on fixed assets in accordance with article 118 of this Code;
  - 70 percent of the received (receivable) gross income of the taxpayer for the tax period, if expenses actually made (to be made) do not exceed 70 percent of the gross income.
2. Followings shall not be included into the object of taxation:
  - calculated (paid to the budget) road users tax;
  - taxes which are not included in the cost of manufactured goods (works, services) in the calculation of corporate profit tax in accordance with this Code;
  - expenses of persons who create the necessary structures for clean-up of disasters or solving other social problems, transferred free into the ownership of relevant state authorities.

**Article 250. Tax concessions**

This tax shall not apply to:

- state institutions, including state bodies funded from the state budget, except for taxable activities on provision of fee-based services;
- religious associations and organizations, other noncommercial organizations, with the exception of income and expenses related to entrepreneurial activity.

**Article 251. Tax base**

1. With respect to other parts of this article, the tax base resulting from the object of taxation shall be calculated by summing up all expenses of the taxpayer actually made (to be made) in the reporting tax period in full, including:

- expenses in cash and in natural form for goods, works and services, except for payments for the costs of construction, acquisition of fixed assets and their installation, other expenses of capital character in accordance with article 153 of this Code, which are subject to subsequent deduction in form of depreciation allocations on fixed assets;
- other expenses not mentioned in the first paragraph of this part, including the expenses for hiring employees (costs of labor compensation fund).

2. If the made (to be made) expenses of the taxpayer do not exceed 70 percent of the gross income, the tax base shall be equal to 70 percent of the gross income from all activities with the deduction of payments (allocations) for goods (works, services), previously included in the object of taxation of the previous tax periods.

3. For trading, procurement, supply-sale activities the value (price) paid (payable) for goods subject to further delivery (resale) shall be considered as payments (allocations) and shall be included in the tax base.

4. The tax base does not include:

- loans issued by credit organizations;
- the value of the property transferred as a contribution to the statutory capital;
- cash funds and (or) property gratuitously transferred to the state.

5. In case of a taxpayer performs simultaneously trade, procurement, supply-sale activities, as well as other activities, the tax base shall be calculated separately for each of these activities.

#### **Article 252. Tax rate**

The tax rate shall be set at the following rates:

- from January 1st, 2013 in the amount of 0.5 percent for trade, procurement, supply-sale activities and in the amount of 2 percent for other activities;
- from January 1st, 2015 in the amount of 0.25 percent for trade, procurement, supply-sale activities, and 1 percent for other activities;
- from January 1st, 2017 the tax shall be cancelled.

#### **Article 253. Tax period**

The tax period shall be a calendar month.

#### **Article 254. Procedure and terms of tax payment**

1. Road users tax return in the form established by the authorized state body shall be submitted by the 15th of the month following the tax reporting period.
2. Payment of road users tax on shall be carried out by 15th of the month following the tax reporting period.
3. Control over tax payment shall be performed by tax authorities.
4. Instructions on calculation and payment of road users tax, as well as the declaration forms, shall be approved by the authorized state body by agreement with the Ministry of finance of the Republic of Tajikistan.

### **Section XIV. Sales tax (cotton fiber and primary aluminum)**

#### **Chapter 38. Sales tax (cotton fiber and primary aluminum)**

##### **Article 255. Main provisions**

1. Following concepts are used in this chapter:
  - 1) Taxable goods - cotton fiber and primary aluminum.
  - 2) Taxable transactions (for the purposes of this chapter hereinafter to be referred to as "sale"):
    - a) supply of taxable goods;
    - b) importation of taxable goods to the Republic of Tajikistan and (or) export of taxable goods outside the customs territory of the Republic of Tajikistan;
    - c) independent processing of taxable goods by their producer, their transfer for processing, pledge and (or) as customer-supplied raw materials;
    - d) supply (sale) of taxable goods under futures (forward) contracts or other transfer (alienation) of taxable goods;
    - e) transfer of taxable goods to another person resulting from the provision of services for the manufacturing of taxable goods under the customs regime of processing on the customs territory of the Republic of Tajikistan.
2. Cotton fiber and primary aluminum sales tax (hereinafter to be referred to as "sales tax") shall be paid while performing taxable transactions, at that, value-added tax related to such transactions shall not be collected, except for taxable transactions defined in sub-item e) of item 2) of part 1 of this article.

##### **Article 256. Taxpayers**

Payers of sales tax shall be persons who have the object of taxation.

##### **Article 257. Object of taxation**

1. The object of taxation shall be the performance of taxable transactions with taxable goods.
2. Other taxable goods manufactured with the use of the customs regime of processing on customs territory and subject to sales tax shall be determined by the Government of the Republic of Tajikistan.

##### **Article 258. Tax base**

1. The tax base shall be the value of taxable goods, unless otherwise stipulated in parts 2-4 of this article. When calculating the tax base the unit price of the taxable goods with regard to quality, type and kind shall be determined based on prices existing at the date of the taxable transaction in London Basic Metal Exchange and Liverpool Cotton Association.
2. Taxpayers carrying out the resale of taxable goods shall pay the sales tax as the difference between the amount of tax calculated on the basis of prices used for taxation on the date of sale of taxable goods to purchasers and the date of the purchase from their suppliers.
3. The tax base for imported taxable goods with the use of the customs regime of release for free circulation shall be determined in accordance with the customs legislation based on the price defined in accordance with part 1 of this Article.
4. The tax base for taxable goods produced with the use of the customs regime for processing on customs territory shall be the value (volume) of products after processing, which is determined with regard to the price defined according to part 1 of this article.

##### **Article 259. Tax rate**

1. Rate of sales tax in respect of the tax base determined by parts 1-3 of article 258 of this Code shall be established in the following amounts:
  - for cotton fiber - 10 percent;
  - for primary aluminum - 3 percent.
2. Rate of sales tax in respect of the tax base determined by part 4 of article 258 of this Code, shall be established by the Government of the Republic of Tajikistan.

#### **Article 260. Procedure of calculation and deadlines for tax payment**

1. The taxpayers shall individually calculate payable tax amount on the basis of the value (volume) of taxable goods and tax rates. The documents on tax payment shall indicate the type of taxable transactions.

2. Resale of taxable goods, the tax shall be determined with respect to the price of taxable goods on the date of purchase (receipt), the date of sale (transfer) and the volume of taxable transactions.

3. 3. In the absence of information about exchange price on the date of sale (transfer), the tax shall be calculated based on the latest available data on exchange price of the taxable goods in the nearest to the day of sale date. The tax amount shall be adjusted by a taxpayer, upon receipt of data on exchange price of the taxable goods sold on the date of sale.

4. The tax payment shall be made before the delivery (transfer) of taxable goods or within 3 days after receipt of cash funds to the bank account of the taxpayer or by performing the settlement of cash in the desk, and in other taxable transactions - before the date of shipment, delivery or transfer of taxable goods. Persons who have acquired taxable goods in result of taxable transactions, within the 10-day period shall submit to the tax inspectorate of large taxpayers the copies of documents confirming the tax payment. In the absence of these documents, they are obliged to pay out the entire amount of tax from their own resources.

5. In case of export of taxable goods outside the Republic of Tajikistan, the tax payment shall be made prior to the crossing of customs border of the Republic of Tajikistan based on the current prices at the time of export. Customs clearance of taxable goods exported outside the Republic of Tajikistan shall be carried out based on the confirmation of sales tax payment by the tax inspectorate of large taxpayers.

6. Calculation of the tax on taxable transactions for import into the Republic of Tajikistan of cotton fiber and primary aluminum with the use of the customs regime of release for free circulation shall be carried out with respect to the requirements of this chapter and customs legislation of the Republic of Tajikistan.

7. Sales tax return in the form established by the authorized state body and supporting documents (calculations) on tax payment in respect of the tax base determined by parts 1-3 of article 258 of this Code shall be submitted by a taxpayer to the tax authorities within the deadlines specified for tax payment.

8. For the purpose of control over the production and sale of cotton fiber, the persons carrying out the processing of raw cotton in cotton fiber are obliged to submit a report on their activity, in form established by the authorized state body, to the tax authority at the place of registration monthly by 15th of month following the reporting period.

9. Sales tax return in the form established by the authorized state body and supporting documents (calculations) on tax payment in respect of the tax base determined by part 4 of article 258 of this Code shall be submitted to the relevant tax authorities by the supplier by 15th of month following the reporting month.

#### **Article 261. Offset of the amounts of sales tax towards value-added tax in the supply of products after processing to the domestic market of the Republic of Tajikistan**

1. In the case of supply of goods to the domestic market of the Republic of Tajikistan, which are products of processing of taxable goods in the Republic of Tajikistan, shall be allowed a credit of the paid amount of sales tax in respect of the tax base determined by parts 1-3 of article 258 of this Code towards value-added tax.

2. In the case of supply of products after processing of taxable goods to domestic market of the Republic of Tajikistan, a credit provided by part 1 of this article shall be carried out in accordance with procedure specified in article 185 of this Code.

3. While exporting the products after processing the amounts of sales tax shall not be credited towards payable value-added tax.

4. If the difference between the amount of value-added tax payable after the supply of products after processing to the domestic market and the relevant amount of the sales tax is negative, compensation (refund) of the amount of sales tax from the budget shall not be made. The positive difference between the above mentioned amounts shall be payable to the budget.

5. Instruction on the procedure of calculation and payment of sales tax, as well as forms of declarations (calculations) shall be approved by the authorized state body by agreement with the Ministry of finance of the Republic of Tajikistan.

6. Control over payment of sales tax shall be carried out by the tax authorities.

### **Section XV. Local taxes**

#### **Chapter 39. General provisions**

##### **Article 262. General provisions**

1. Majlises of people's delegates of cities (districts) shall establish local taxes in their territory, specified in article 6 of this Code.

2. Provisions of the general part of this Code shall apply in respect of the local taxes.

3. Decisions of the Majlises of people's delegates of cities (districts) on the local taxes must comply with the provisions of this Code and shall be officially published in publicly available periodic printed publication in the relevant territory.

#### **Chapter 40. Tax on vehicles**

##### **Article 263. Taxpayers**

Taxpayers are individuals who possess and (or) use the vehicles which are the object of taxation.

##### **Article 264. Object of taxation**

1. Objects of taxation are vehicles, self-propelled machines and mechanisms, crafts and locomotives used on the railways, which are subject to the state registration and (or) are registered in the Republic of Tajikistan, the list of which is determined by the Government of the Republic of Tajikistan.

2. Objects of taxation shall be registered by the authorized bodies in the field of internal affairs, transport, defense, agriculture and (or) other state authorities (hereinafter to be referred to as “authorized bodies”).

3. Failure of state registration and (or) non-registration of vehicles in the Republic of Tajikistan, as well as vehicles being out of repair or out-of-operation for other reasons, which have passed the abovementioned registration (being registered), shall not be ground for nonpayment of the amount of payable tax by the owners of the vehicles.

4. Exclusion of vehicles from the object of taxation shall be made after the exclusion from the state registration and (or) removal from the registration in the manner and on the grounds specified by relevant legislative acts.

5. Objects of taxation are subject to documentary inventory not less than once in 5 calendar years from the side of the authorized bodies defined in part 2 of this article.

#### **Article 265. Tax base**

The tax base for self-propelled transport vehicles shall be the engine capacity, measured in units of horsepower.

#### **Article 266. Tax rates**

1. Tax rates are established for transport vehicles and (or) self-propelled machines and mechanisms (per 1 horsepower of engine capacity) per year in the following amounts:

<b>Name (item) of object of taxation</b>	<b>Tax rate in % of index for calculations</b>
Motorcycles and scooters	2,5
Vans and pick-ups on the basis of light motor vehicles	6
Light motor vehicles	7,5
Buses (up to 12 seats)	7,5
Buses (for 13-30 seats)	8,5
Buses (over 30 seats)	9,5
Trucks and other transport vehicles with weight-carrying capacity up to 10 tons	11
Trucks (with weight-carrying capacity from 10 up to 20 tons)	12,5
Trucks (with weight-carrying capacity from 20 up to 40 tons)	13,5
Trucks (with weight-carrying capacity from 20 to 40 tons)	14,5
Tractors, vehicles with engines for construction, except for use in agriculture	2
Crafts, boats and floating self-propelled motor vehicles	15
Locomotives used in the railways	1

2. Tax rates by type of transport vehicles, self-propelled machines and mechanisms shall be placed on the web-site of the authorized state body annually by February 1st, of a calendar year.

#### **Article 267. Exemptions**

Followings shall be exempt from the tax:

- tractors used in agriculture, harvester picking and special threshers with engine, including cotton picking threshers;

- buses and trolley buses, vehicles used by enterprises as a public transport in cities;

- specialized medical motor vehicles;

- one hand-operated vehicle (cycle car) belonging to the disabled person;

- industrial railway transport (except for locomotives);

- one motor vehicle, regardless of the engine capacity, which is the property of a Hero of the Soviet Union, Hero of Socialistic Labor, Hero of Tajikistan, a participant of the Great Patriotic War of 1941-1945, persons with equivalent status, participants of other military operations on protection of the Union of Soviet Socialist Republics, in particular the military who served in the military units, staffs and institutions that formed part of the army field forces, soldier-internationalists, the liquidators of the Chernobyl nuclear power plant disaster, where mentioned vehicles are not used for entrepreneurial activity.

#### **Article 268. Procedure of tax payment**

1. The tax shall be payable to the relevant local budget at the place of state registration (of registration) of a vehicle not later than the date of registration, re-registration or annual vehicle technical checkup. Term of annual vehicle technical checkup shall be determined by the Government of the Republic of Tajikistan. Breach of the payment term shall be the basis for the interest calculation in the manner and to the extent specified in the Code. At re-registration of a vehicle the tax shall not be paid, if the previous owner has paid the tax for a calendar year.

2. Registration, re-registration and technical checkup shall not be made without the submission of documents on tax payment for a current year. A taxpayer does not have the right to operate a motor vehicle without paying tax on vehicle owners for a current year.



3. In the absence of a document on passing annual technical checkup authorized bodies shall require vehicle owners the documents on tax payment.

4. The calculation of the amount of tax payable for the current year shall be submitted by legal entities to the tax authority at the place of their registration by April 1st of the current year. Form of payment of the calculated tax amount shall be set by the authorized state body. Tax authorities shall maintain a record of vehicles in a breakdown of legal entities being owners of vehicles and the assessed amounts of taxes for them in the form and in the manner specified by the authorized state body.

5. Each year, by April 1st of a year following the last calendar year, the authorized bodies shall submit to the authorized state body information on vehicles which have passed state registration (being registered) by these bodies as of December 31st, of a reporting year, the number of vehicles which have passed annual technical checkup and the amount of tax which has been paid in a reporting year, in the form and in the manner established by the authorized state body by agreement with these bodies.

6. Control over tax payment shall be carried out by tax authorities. General control of the completeness and timeliness of payment of tax on vehicles shall be carried out by the tax authorities.

7. Instructions on calculation and payment of tax on vehicles, as well as forms of tax calculation shall be approved by the authorized state body by agreement with the Ministry of finance of the Republic of Tajikistan.

## **Chapter 41. Immovable taxes**

### **§ 1. General provisions**

#### **Article 269. Main provisions**

1. This chapter establishes the following immovable taxes paid for the use (disposal) of land plots and (or) items of immovable property:

- land tax;
- tax on items of immovable property.

2. The following concepts are used for the purposes of this section:

- immovable property – land, items of immovable property;
- land plots - land transferred for use or actually used on the basis of supporting documents or without them;
- items of immovable property - buildings, structures and other property inseparable from land, that is, objects which cannot be moved without causing a material damage to them.

### **§ 2. Provisions related to land tax**

#### **Article 270. Taxpayers**

1. Tax shall be paid by land users who have land plots transferred to lifelong inherited, perpetual, limited use or lease, or by land users who actually use the land plots, except for land users, who give effect to the conditions of a simplified tax regime for agricultural producers.

2. Payers of land tax are also:

- agricultural producers who have moved over to the general system of taxation, and (or) users of lands which are not subject to a single tax;
- persons who use special or preferential tax regimes, if exemption from land tax is not provided in accordance with these regimes.

3. Agricultural producers, who give effect to the conditions of special tax regime, shall move over to the payment of a single tax or a tax under the simplified form in the order set in accordance with the section XVI of this Code, if 3 calendar years have passed after the last transition to the general taxation system.

#### **Article 271. Object of taxation**

1. The object of taxation for land tax are lands of settlements, lands outside the settlements with regard to quality, cadastral evaluation of lands, intended use and environmental characteristics, appurtenance to which is determined by land legislation of the Republic of Tajikistan.

2. The basis for determining land tax with respect to the provisions of part 1 of this article shall be the title documents (land cadastral documentation) of a land user or the actual use of the land. If the area of actually used land is greater than the area of land specified by land cadastral documentation of a taxpayer for the purposes of taxation shall be taken the area of actually used land.

3. Land tax does not depend on the economic activity of a land user and shall be installed in stable payments per unit of land area calculated per one year.

4. Payers of land tax shall pay other taxes in the manner prescribed by this Code.

#### **Article 272. Tax base**

1. The tax base for the calculation of land tax is the area of land plot specified in the title documents of land users, or the area of land plots actually used by them (in their possession), except for lands which are exempt from tax payment.

2. Taxable area includes all vested lands, including land occupied by buildings, structures, land plots, which are necessary for their maintenance, protection zones of the objects, technical zones and other areas.

3. For a separate subdivision of a legal entity the tax base shall be an area of a land plot assigned to this branch (representative office) in the relevant city (district).

#### **Article 273. Land tax rates**

1. Tax rate from one hectare of land in a breakdown of regions and cities (districts) with respect to the cadastral zones and types of lands, including lands of settlements, lands under forests and bushes of settlements and

lands of agricultural use, shall be established by the Government of the Republic of Tajikistan every 5 years on the proposal of the authorized state body on land administration by agreement with the authorized state body.

2. The authorized state body shall carry out annual indexation of land tax rates in line with inflation rate for the previous calendar year defined by the authorized body in the field of statistics, and shall publish indexed land tax rates for the current calendar year on the official web-site.

3. Lands for residential construction of individuals in settlements are subject to taxation in the following order:

1) The area of each land plot assigned to a land user under separate (independent) supporting documents for the taxation purposes shall be treated separately, except for the cases if these land plots are considered as contiguous land plots. For the taxation purposes, the area of contiguous land plots assigned to the same land user based on different (or several) title documents shall be summarized, and these contiguous land plots are considered as one land plot.

2) Calculation of the amount of land tax shall be performed in the following order according to the size of land plot assigned to the land user:

a) up to 800 square meter – according to the set rates;

b) more than 800 up to 2,000 square meter - the amount of tax calculated according to sub-item a) of this item plus an amount calculated at 2-times of the tax rate for the area in excess of 800 square meters;

c) more than 2000 square meters - the amount of tax calculated under sub item b) of this item plus an amount calculated on the basis of 5-times of the tax rate for the area in excess of 2,000 square meters.

4. Actually excess of the area of the household land plots of individuals over the norms set by Land code of the Republic of Tajikistan shall be subject to taxation at 2-times of the tax rate.

5. For the taxation purposes, the area of each land plot assigned to the land user under separate (independent) supporting documents shall be regarded separately, except for the cases if these land plots are contiguous. For the taxation purposes, the area of contiguous land plots assigned to the same land user based on different (or several) title documents shall be summarized, and these contiguous land plots shall be considered as one land plot.

#### **Article 274. Land tax concessions**

1. Followings shall be exempted from land tax:

- the territory of natural reserves, national and dendrological parks, botanical gardens in accordance with the list of these organizations and the area of their territories established by the Government of the Republic of Tajikistan;

- lands used by state institutions for implementation of the goals, objectives and functions set forth in the founding documents of these institutions, except for lands transferred (used) for entrepreneurial activity;

- lands of the organizations, where located buildings and structures are protected by the state as monuments of history, culture and architecture according to the list of organizations and in accordance with the area of land established by the Government of the Republic of Tajikistan;

- lands transferred for use which are found disturbed (requiring remediation) in accordance with the findings issued by the authorized state body on land administration by agreement with the authorized state body, and lands in agricultural development stage - within 5 years after receipt (launch of developing) of these lands;

- lands occupied by a strip of tracking zone along the state border that are not used for other purposes;

- public lands in settlements and lands used for municipal services, including lands of religious organizations, cemeteries, with the exception of such land used for entrepreneurial activity;

- lands in the free state reserve as well as lands covered by glaciers, landslides, rivers and lakes if no entrepreneurial activity is not carried out on such lands;

- lands of organizations, if disabled persons count for at least 50 percent of their employees;

- land occupied by public roads and railroads, as well as lands occupied by public power and water supply facilities and state hydraulic structures, if no entrepreneurial activity is not carried out on such lands;

- lands allocated to provide the defense and security of the Republic of Tajikistan, in accordance with their location and area established by the Government of the Republic of Tajikistan, if no entrepreneurial activity is not carried out on such lands;

- one household plot and land plot for residential construction allocated to soldier-internationalists, participants of the Great Patriotic War and persons with equivalent status;

- household plots allocated to migrants from other regions of the Republic of Tajikistan for permanent residence in regions identified by the Government of the Republic of Tajikistan, - within 3 calendar years following the year in which land is allocated;

- household plots and lands for residential construction allocated to teachers and doctors working in rural areas at general education and medical institutions, - for the period they are employed at such institutions;

- land used directly for scientific and educational purposes, and also for testing varieties of agricultural crops, decorative and fruit trees by scientific organizations, experimental and scientific-testing farms, scientific research institutions and educational institutions specializing in agriculture and forestry, according to the land area and the list of land users determined by the Government of the Republic of Tajikistan;

- household plots and lands for residential construction allocated to disabled persons in all categories in the absence of an able-bodied family member;

- lands of pastures, hayfields, forests and other land not previously used for agricultural production, used for laying out of gardens and vineyards, - within 5 years from the year of establishment of these gardens and vineyards.

2. In the order to benefit from tax exemptions provided by this article, a taxpayer shall submit relevant title documents to the tax authority at the place of location of land plot.

### **§ 3. Provisions related to tax on items of immovable property**

#### **Article 275. Taxpayers**

Payers of immovable taxes shall be the owners (users) of items of immovable property that are subject to taxation.

#### **Article 276. Object of taxation**

1. Buildings, residential houses, premises, cottages, garages, and other structures and buildings on the territory of the Republic of Tajikistan, as well as incomplete construction objects from the moment of residence, use (hereinafter to be referred to as “items of immovable property”) shall be the objects of taxation.

2. Items of immovable property shall also include containers, cisterns, kiosks, awnings (tents), wagons and other objects that are used for entrepreneurial activity and placed stationary for at least 3 months in each calendar year at the place of entrepreneurial activity.

#### **Article 277. Tax base**

1. The tax base is the total area of an item of immovable property, including the area of each floor of a multistory building.

2. For the basement and the attic above the average height of 2 meters, the tax base shall be taken 50 percent of the occupied area. The tax base does not include a basement and attic of a residential buildings not used for entrepreneurial activity.

3. For individual outbuildings (garages, sheds and other ancillary premises) which are not used for entrepreneurial activity, the tax base shall be equal to 50 percent of the area occupied by them.

4. Sizes (proportions) of items of immovable property shall be defined on the basis of relevant technical documentation or other document related to such items. Sizes (proportions) of items of immovable property shall also be defined by the tax authority in the presence of the taxpayer through external measurement or due to impossibility of external measurement on the total usable area of the interior of the property multiplied by coefficient 1.25.

#### **Article 278. Tax concessions**

Tax on items of immovable property shall not apply to:

- state institutions financed from the budget in respect of state property directly used by these institutions for fulfillment of their statutory tasks;

- legal entities, if disabled persons account for at least 50 percent of their employees, in respect of items of immovable property directly used by these persons for performance of their statutory tasks;

- items of immovable property as a single residential house and other buildings located on one household plot or one land plot for residential construction or one apartment, where following persons reside: hero of the Soviet Union, hero of Socialistic Labor, hero of Tajikistan, participants of the Great Patriotic War of 1941 - 1945, persons with equivalent status, participants of other military operations on protection of the Union of Soviet Socialist Republics, in particular the military who served in the military units, staffs and institutions that formed part of the army field forces, former partisans and soldier-internationalists, the liquidators of the Chernobyl nuclear power plant disaster, soldiers-internationalists, the liquidators of the Chernobyl accident nuclear power plant, disabled persons of groups I and II;

- items of immovable property of religious organizations which are not used for entrepreneurial activity;

- state items of immovable property leased in the prescribed manner the rent payments for which is transferred in full amount to the state budget.

#### **Article 279. Tax rate**

1. The tax rate for items of immovable property is defined as a percentage of indexes for calculations with the regulatory coefficients in a breakdown of cities and districts, depending on the area of items of immovable property and their intended use.

2. The tax rate is set at the following rates:

- for items of immovable property used as a residential building (premises), up to 90 square meters – at the rate of 3 percent;

- for items of immovable property used as a residential building (offices), in excess of 90 square meters – at the rate of 4 percent;

- for items of immovable property used for trading activities, catering and consumer services, up to 250 square meters - at the rate of 12.75 percent;

- for items of immovable property used for trading activities, catering and consumer services, in excess of 250 square meters – at the rate of 15 percent;

- for items of immovable property used for other purposes, up to 200 square meters - at the rate of 9 percent;

- for items of immovable property used for other purposes, in excess of 200 square meters - at the rate of 12 percent.

3. The following regional coefficients regulate the size of payable tax on items of immovable property:

Groups	Cities and districts	Coefficients
1.	territory of Dushanbe City	1,0
2.	territory of cities of Khujand, Kulob and Kurgan-Tyube	0,8
3.	territory of cities of Kairakkum, Chkalovsk Taboshar, Istaravshan Isfara Kanibadam, Panjakent, Vahdat, Tursunzade, Ragun, Nurek, Sarband and Khorog	0,55
4.	territory of other cities and regions that are not specified in groups 1, 2 and 3	0,4
5.	territory of settlements and villages under subordination of districts (cities): Istaravshan, Kairakkum, Chkalovsk, Bobojon Gafurov, Isfara Kanibadam, Spitamen, Jabbor Rasulov, Panjakent, Vahdat, Rudaki, Tursunzade, Shahrinav, Gisar, Yavan, Vose, Dangara, Kulob, Farkhor, Hamadoni Muminobod, Nurek, Vakhsh, Kubodien, Qumsangir, Nosir Khisrav, Panj, Sarband, Khuroson, Jamoliddini Rumi, Jilikul and Shaartuz	0,3
6.	territory of settlements and villages under subordination of districts (cities): Asht, Zafarabad, Mastchoh, Temurmaliq, Baljuvon, Hovaling, Abdurakhmoni Jami, Bokhtar, Varzob, Faizabad, Tavildara, Tajikabad, Djirgatal and Shurabad	0,15
7.	territory of settlements and villages under subordination of districts (cities) Ganci, Aini, Mountain Mastchoh, Shakhristan, Nurabad, Rasht, Ragun, Vanj, Darvoz, Ishkashim, Roshtkala, Rushon, Khorog and Shugnan	0,09

4. The tax rate for items of immovable property located in the zones of tourism development and recreation shall be set in amount of two time rate provided for in parts 2 and 3 of this article.

5. For taxation of basements and attics and ancillary buildings (premises) shall be used the rates set forth in parts 2 and 3 of this article.

#### **§ 4. General provisions on the procedure of the calculation and payment of immovable taxes**

##### **Article 280. General procedure of the calculation and payment of immovable taxes**

1. Calculation of immovable taxes (land tax and (or) tax on items of immovable property) shall be carried out by multiplying the tax base to the relevant tax rate separately for each object of taxation.

2. Immovable taxes shall be calculated from the month following the month in which a taxpayer has acquired (obtained) the right to use (or possess) object to taxation.

3. In the event of termination of the right to use (or possess) an object of taxation, taxes shall be calculated for the actual number of months of use (possession) object of taxation, including the month of the termination of the said rights.

4. In case of transfer of land (of settlements) from one category of land (of settlements) to another category during the calendar year, taxes for the current year shall be collected from taxpayers according to the rates previously established for these settlements (land categories), and in the next year - according to the rates established for the new category of land (of settlement).

5. With the abolition of a settlement and its inclusion into another settlement, a new rate for immovable property shall apply in the territory of the abolished settlement from January 1st of the year following the year in which abolition has taken place.

##### **Article 281. Order of submission of tax calculation**

1. Each year, not later than March 1st of a current year, taxpayers, except for individuals who do not use taxable immovable property for entrepreneurial activity, shall submit to the tax authorities at the place of location of their land plots and (or) items of immovable property, calculation of the amounts of immovable taxes (land tax and (or) tax on items of immovable property) payable by them for the current year. The form and procedure of submission of such calculation shall be set by the authorized state body.

2. Calculation of the amounts of immovable taxes (land tax and (or) tax on items of immovable property) of individuals who do not use them in their use immovable property for their entrepreneurial activity, shall be performed by the tax authority at the location (location) of land plots and (or) items of immovable property. The said individuals shall be notified by the relevant tax authorities on calculated immovable taxes not later than the May 1st of the current year. The form and procedure for notification of such persons on the amount of immovable taxes shall be set by the authorized tax authority.

3. If for any reason a notification on calculated immovable taxes will not be handed to an individual, who does not use the said property for entrepreneurial activity, such individual is obliged to receive calculations of tax payments in the tax authority at the location of such property and (or) on its own to pay the amount of payable taxes within the deadlines defined by this Code.

4. For newly allotted (acquired, received) land plots and (or) of items of immovable property of persons defined in part 1 of this article, tax calculation shall be submitted within 30 calendar days from the date of allocation (acquisition, receipt).

#### **Article 282. Deadlines for payment**

1. The amount of immovable taxes (land tax and (or) tax on items of immovable property) for the current tax year shall be paid by taxpayers, except for individuals who do not use this property for their entrepreneurial activity, within the following deadlines:

- for items of immovable property (land and (or) items of immovable property) located in settlements - not later than February 15th (in advance), May 15th, August 15th and November 15th of the current year, on a cumulative total from the beginning of the year, in the amount of at least 25 percent, 50 percent, 75 percent and 100 percent of the annual amount respectively;

- for items of immovable property (land and (or) items of immovable property) located outside settlements - not later than February 15th (in advance), May 15th, August 15th and November 15th of the current year, on a cumulative total from the beginning of the year in the amount of at least 15 percent, 35 percent, 60 percent and 100 percent of the annual amount respectively.

2. By individuals who do not use taxable immovable property in their entrepreneurial activity, the amount of immovable taxes (land tax and (or) tax on items of immovable property) for the current tax year shall be paid no later than June 15th, August 15th and November 15th of the current year, on a cumulative total from the beginning of the year in the amount of not less than 33 percent, 66 percent and 100 percent of the annual amount respectively.

3. Taxpayer is obliged to make payment of immovable taxes within the deadlines specified in part 1 and 2 of this article. Interest shall be calculated by the tax authority for late payment, if a taxpayer does not make payments for each of immovable taxes within the specified deadlines.

4. Taxpayer has the right at any time during the current tax year to pay the remaining unpaid portion of the amount of each immovable tax by single payment in advance.

5. Regardless of the provisions of part 1-4 of this article, in accordance with a written statement, which is considered as a tax reporting, a taxpayer can pay the full amount of immovable taxes on the first payment date set out in part 1 or 2 of this article.

6. Control over payment of immovable taxes shall be carried out by the tax authorities.

7. Instructions on the calculation and payment of immovable taxes, as well as forms of declarations (calculations) shall be approved by the authorized state body by agreement with the Ministry of finance of the Republic of Tajikistan.

#### **Section XVI. Special tax regimes**

#### **Chapter 42. Taxation regime of individuals carrying out entrepreneurial activity on the basis of a patent or certificate**

##### **§1. General provisions**

##### **Article 283. General provisions**

1. Taxation regime of individuals, performing individual entrepreneurial activity on the basis of a patent, is a special tax regime, in accordance with which the holder of a patent is obliged to pay established taxes in fixed amount, regardless of earned incomes. Taxation of incomes of individuals, performing individual entrepreneurial activity on the basis of a certificate, shall be performed in accordance with tax regimes established by this Code.

2. Income of individuals actually performing an entrepreneurial activity but not registered in the state register shall be subject to taxation in accordance with this Code.

3. Use of the special tax regime by individual entrepreneurs, established by this chapter, shall be prohibited if such use mainly directed to reduce tax obligation of individual entrepreneurs and (or) persons using their services, including:

- if the individual entrepreneur, functioning on the basis of a patent or certificate, mainly provides the services to one person and (or) earns income from one source and (or) where provided services might appear as a labor contract;

- if the selection of a supplier of goods, works or services is mainly determined by use of the tax regime by the supplier established by this chapter.

4. Taxation of incomes of individual entrepreneurial activity of non-resident individuals shall be performed in the manner prescribed by the Government of the Republic of Tajikistan, with respect of the rate of personal income tax, established by part 3 of article 103 and other provisions of this Code.

##### **§2. Taxation of individual entrepreneurs operating on the basis of a patent**

#### **Article 284. Main provisions of the taxation of individual entrepreneurs operating on the basis of a patent**

1. Resident and non-resident individuals who are registered as individual entrepreneurs operating on the basis of a patent shall apply the tax regime of individuals engaged in entrepreneurial activity on the basis of a patent (hereinafter to be referred to as "patent regime"), if both of the following conditions are fulfilled:

- the document confirming their state registration as individual entrepreneurs is a patent;
- the amount of taxes provided by the patent regime is paid preliminary (in advance order) by the individual entrepreneur for the relevant entire tax periods of entrepreneurial activity;

- activity carried out directly by the individual using the existing property, but without hiring labor power and carrying out external economic activity;
- the types of activities carried out by the individual entrepreneur and a fixed amount of taxes paid by the taxpayer are determined by the Government of the Republic of Tajikistan;
- the gross income of individual entrepreneur applying the patent regime shall not exceed 100 thousand somoni for a calendar year (hereinafter to be referred to as “threshold income for the patent regime”).

2. Application of the patent regime shall not be permitted in the following cases:

- non-performance at least one of the requirements, mentioned in part 1 of this article;
- application by the individual entrepreneur any of other tax regimes established by this Code;
- for the cases prescribed by part 3 of article 283 of this Code.

3. In case if the activity of the individual entrepreneur having a patent will not more satisfy the paragraphs 2-5 of part 1 of this article, this individual entrepreneur shall lose the right of use of the patent regime and shall file an application for termination of the state registration of individual entrepreneurial activity on the basis of a patent within 10 calendar days according to the established procedure. Otherwise, such individual entrepreneur shall be imposed by a tax in the amount of 10-times of the rate corresponding its activity.

4. Application of the patent regime shall exempt the individual entrepreneur:

- from payments of taxes on incomes from its individual entrepreneurial activity established by parts 2 and 3 of article 6 of this Code, except for personal income tax and social tax directly included in the cost (price) of a patent;

- from presentation of tax reporting, except for presentation of declarations on the gross income for previous calendar year with attachments of copies of bank documents on tax payments (or for period from the beginning of the calendar year, in case of the cease of individual entrepreneurial activity);

- from the application of cash registers, unless otherwise provided by this Code.

5. Other taxes established for individuals shall be paid by taxpayers applying patent regime in accordance with this Code.

6. Tax obligations of an individual who has chosen the patent regime, shall be continued up to the official termination of the state registration.

#### **Article 285. Taxpayer and their registration**

1. Taxpayers shall be resident and non-resident individuals who satisfy the requirements of parts 1 and 2 of article 284 of this Code.

2. Taxpayers, applying patent regime are obliged to register with the tax authority on the place of performing the entrepreneurial activity. In case of a changing the place of activity in established procedure personal file of a taxpayer and balance of its personal account shall be transferred to the relevant tax authority.

3. Transition from patent regime to another taxation regime, as well as reverse transition, shall be carried out after the performance the established procedures of state registration.

4. Tax obligation of individuals operating on the basis of a patent shall be terminated from the 1st of the month following the month of termination of the state registration of such individual entrepreneur.

#### **Article 286. The amount of tax**

Tax rates of individual entrepreneurs operating on the basis of the patent on the separate types of activities with respect of regional specifics in accordance with this chapter shall be established by the Republic of Tajikistan.

#### **Article 287. Tax period**

Tax period shall be considered a calendar month.

#### **Article 288. The procedure of the payment of taxes**

1. Payment of taxes on patent regime shall be performed by the taxpayer independently by advance payment for one or several months to the bank accounts of local budgets on the place of the activity of a taxpayer.

2. Copies of bank documents on paid amount of taxes for last calendar year of the taxpayer shall be presented to the tax authority on the place of activity of a taxpayer not later than March 1st of the year, following the reporting calendar year, on the form, which shall be determined by the authorized state body.

3. Control of taxation of individual entrepreneurs, operating on the basis of the patent, shall be performed by the tax authorities.

### **§ 3. General taxation principles of individual entrepreneurs operating on the basis of a certificate**

#### **Article 289. General taxation principles of individual entrepreneurs operating on the basis of a certificate**

1. Annual gross income of resident and non-resident individuals registered as individual entrepreneurs operating on the basis of a certificate (hereinafter to be referred to as “entrepreneurs operating on the basis of a certificate”), from the all types of performed by them activities cannot exceed 500 thousand somoni.

2. entrepreneurs operating on the basis of certificate, depending on the type of the activity and received income, shall use in the prescribed manner the general taxation system or the following special tax regimes:

- simplified taxation regime for subjects of small entrepreneurship;
- simplified taxation regime for agricultural producers;
- special taxation regime for subjects of gambling business.

3. Entrepreneurs operating on the basis of certificate and applying simultaneously two special taxation regimes, mentioned in part 2 of this article, are obliged to maintain separate accounting of incomes, expenses and performing economic operations on each types of used special tax regime in the prescribed manner.

4. Special tax regimes are used by entrepreneurs operating on the basis of certificate, in case if their incomes and activities correspond to the requirements of these special tax regimes.

5. Unless otherwise provided by this article, other taxes shall be paid by entrepreneurs operating on the basis of a certificate in accordance with this Code.

6. Entrepreneurs operating on the basis of certificate shall not be exempt from the fulfillment of duties of tax agents prescribed by this Code.

7. The types of activities, which can be performed by the entrepreneurs operating on the basis of a certificate, the rules of their taxation shall be determined by the Government of the Republic of Tajikistan in accordance with this chapter.

8. Control over the taxation of individual entrepreneurs operating on the basis of a patent or certificate shall be performed by the tax authorities.

#### **Chapter 43. Simplified taxation system for subjects of small entrepreneurship**

##### **Article 290. General provisions**

1. Simplified taxation system for subjects of small entrepreneurship (hereinafter to be referred to as “tax under the simplified system”) is a special tax regime, under which the subjects of small entrepreneurship shall pay corporate profit tax from legal entities or personal income tax from individual entrepreneurs in a simplified order.

2. Unless otherwise provided in this chapter, the subjects of small entrepreneurship shall apply the tax under the simplified system, the gross income of which, calculated on a cash basis, for the previous calendar year (excluding excise duty and sales tax (cotton fiber and primary aluminum), does not exceed 500 thousand somoni (hereinafter to be referred to as “threshold income”).

3. The transition to the tax under the simplified system or return to the general taxation system shall be carried out by the taxpayers in the manner prescribed by this chapter.

4. A taxpayer, who pays the tax under the simplified system, shall not be a payer of:

- corporate profit tax, except for the income the tax on which is withheld at the source of payment;
- road users tax;
- personal income tax directly related to the income of an individual entrepreneur, operating on the basis of a certificate, except for the incomes where tax is withheld at the source of payment;
- value-added tax, except for value-added tax on goods imported into the customs territory of the Republic of Tajikistan and value-added tax of a non-resident, collected at the source of payment.

5. Unless otherwise provided by this chapter, other taxes shall be paid by payers of the tax under the simplified system according to this Code.

6. Persons applying the tax under the simplified system shall not be exempt from the fulfillment of duties of tax agents provided by this Code.

##### **Article 291. Taxpayers**

1. Followings shall be recognized as taxpayers:

- persons whose entrepreneurial activity has started in the current calendar year, irrespective of whether such persons undergo the state registration;
- persons who meet the conditions of parts 1 and 2 of article 290 of this Code and the first paragraph of part 3 of this article.

2. Tax under the simplified system shall not apply to:

- individuals who are registered as individual entrepreneurs on the basis of a patent, subject to taxation under the patent regime in regard to incomes from such entrepreneurial activity;
- individual entrepreneurs applying the simplified tax regime for producers of agricultural production, except for incomes taxation of which is not regulated under the simplified tax regime for producers of agricultural production;
- persons who use special tax regime for subjects of gambling business, except for income which is not related to gambling business.

3. The transition from the general taxation system to the tax regime under the simplified system, as well as the reverse transition shall take place from the January 1st of the calendar year in the following order:

- if at the end of the previous calendar year, the gross income of a taxpayer, using the general taxation system, is less than the threshold income, and if three calendar years has passed since the last transition from the tax regime under the simplified system to the general taxation system, this taxpayer not later than January 10th of the current year is obliged to inform in writing the tax authority at the place of registration on the amount of the gross income and shall apply for the transition to the tax regime under the simplified system from January 1st of the current year;
- if during the previous calendar year the gross income of a taxpayer, using the tax regime under the simplified system (including income obtained while using the other tax regimes), exceeds the threshold income, the given taxpayer not later than January 10th of the current year is obliged to inform in writing the tax authorities at the place of its registration on the amount of the gross income and shall apply for the transition to general taxation system from January 1st of the current calendar year;

- in case if a taxpayer does not fulfill the requirements established by the first or second paragraph of this part, the relevant tax authority shall ensure the transition of the taxpayer to the other tax regime, inform the taxpayer about it and bring the taxpayer to responsibility for the late transition to the other tax regime according to the legislation of the Republic of Tajikistan.

#### **Article 292. Object of taxation**

1. The object of taxation for the tax under the simplified system shall be the gross income, in particular income from the supply of goods, performance of works and provision of services, as well as other received incomes, except for income when the tax is withheld at the source of payment.

2. Gross income of a taxpayer of the tax under the simplified system shall be defined on a cash basis.

3. Gross income received during the reporting period by a foreign legal entity operating in the Republic of Tajikistan through a branch and (or) representative office, shall be determined on the basis of its income received from the sources in the Republic of Tajikistan.

4. For the purpose of this chapter, the date of receipt of the taxpayer's income shall be recognized a day of receipt of cash funds on accounts in credit institutions and (or) in desk, a date of receipt of other property (works, services) and (or) property rights, as well as the payment to a taxpayer by other means (cash basis).

#### **Article 293. Tax base**

1. The tax base of the tax under the simplified system shall be recognized as monetary value of the gross income received for a tax period.

2. Gross income shall be calculated on a cash basis and shall not include excise duty and sales tax (cotton fiber and primary aluminum). In case of a nonperformance of mutual settlements for goods, works or services supplied by a taxpayer for more than 6 calendar months, for the purposes of calculation of the tax under the simplified system these goods (works, services) are considered paid to the taxpayer.

3. Taxpayers applying the tax under the simplified system shall maintain accounting of their gross income for the purposes of determination of the tax base.

4. Taxpayers can use the simplified system of accounting established by the Ministry of finance of the Republic of Tajikistan by agreement with the authorized state body.

#### **Article 294. Concessions**

1. Concessions provided by article 110 of this Code shall apply for the purposes of this chapter.

2. Exemption from tax under the simplified system shall not exempt the taxpayer from submitting tax returns on the exempted incomes for each half-year period of the calendar year not later than the 20th of month following the reporting half-year period in the form approved by the authorized state body.

#### **Article 295. Tax period**

The tax period shall be considered a quarter.

#### **Article 296. Tax rates**

The tax rate for the tax under the simplified system shall be established in the following amounts:

- for the activity related to production of goods - 5 percent;
- for other types of activities - 6 percent.

#### **Article 297. Procedure of calculation and payment of the tax under the simplified system**

1. Tax under the simplified system shall be calculated by multiplying the tax base to the tax rate.

2. In case if a taxpayer performs several types of activities, the accounting of the gross income from these activities, as well as the calculation of the respective amounts of tax shall be made separately.

3. Taxpayers applying an accrual method for calculation of taxes under general taxation system prior to the transition to the tax under the simplified system shall comply with the following rules for the payment of the tax regime under the simplified system:

- funds, received in payment for the contracts, which are to be performed by a taxpayer after the transition to the tax regime under the simplified system, shall be included in the tax base cash prior to the transition to the tax under the simplified system;

- cash funds received after the transition to the tax under the simplified regime shall not be included in the tax base, if according to the rules of the tax accounting on the accrual basis these funds are added to the income in the calculation of the tax base for the general taxation system.

4. In case of the transition to taxation under the general taxation system, the income of a taxpayer of the tax under the simplified regime shall include incomes from the supply of goods (performance of works, services, property rights) received in the period of application of the tax under the simplified system, payment (partial payment) for which is not made prior to the date of transition to the general taxation system.

5. Incomes specified in part 4 of this article shall be recognized incomes for the last tax period prior to transition to the calculation of the tax base under the general taxation system.

6. In the transition from the general taxation system to the tax regime under the simplified system and the reverse transition, taxpayers shall comply with the following rules in respect of value-added tax:

- when moving from the general taxation system to the tax regime under the simplified system and the reverse transition, the amount of value-added tax calculated and paid to the budget from the amounts of payment (partial payment) received prior to such transition towards the future delivery of goods (works, services), carried out in the period after the transition to the tax under the simplified system, shall be subject to offset in the last tax period of the value-added tax;



- when moving to the general taxation system the amounts of value-added tax paid in respect of the remaining amount of purchased goods (works, services) by a taxpayer applying the tax regime under the simplified system, shall be taken as an offset on value-added tax by the taxpayer in the first tax period after the transition to the general taxation system.

7. The calculated amount of the tax under the simplified system shall be paid and tax declaration on a form approved by the state authority shall be submitted quarterly, but not later than the 10th of the month following the tax period.

8. Payment of the tax under the simplified system shall be carried out to the local budget at the place of registration of a taxpayer.

9. Control over the payment of the tax under the simplified system shall be performed by the tax authorities.

10. Instructions on the calculation and payment of the tax under the simplified system, as well as forms of declarations (calculations) shall be approved by the authorized state body by agreement with the Ministry of finance of the Republic of Tajikistan.

#### **Chapter 44. Simplified tax regime for producers of agricultural production (unified tax)**

##### **Article 298. General provisions**

1. Simplified taxation regime for producers of agricultural production (hereinafter to be referred to as “unified tax”) is a special tax regime for subjects of small entrepreneurship engaged in the production of agricultural production without its further processing. Unified tax shall apply to peasant (farm) households and other producers of agricultural production, for whom land is the primary means of entrepreneurial activity (hereinafter to be referred to as “producers of agricultural products”).

2. Unless otherwise provided by this article, a payer of the unified tax shall be exempted from the following taxes in terms of activity subject to the unified tax:

- the corporate profit tax (tax under the simplified system for subjects of small entrepreneurship), except for the income taxable at the source of payment;
- the value-added tax, except for value-added tax payable on goods imported into the customs territory of the Republic of Tajikistan, and (or) in the case of transactions taxable at the source of payment;
- the road users tax;
- the land tax.

3. Members of peasant (farm) households who pay unified tax received out of agricultural activities carried out without establishment a legal entity shall be exempt from income tax.

4. In the case of carrying out a non-agricultural activities in respect of income from such activities the producers of agricultural production being payers of the unified tax, shall be payers of the tax under the simplified system (or in the case of excess of the gross income over the threshold income - taxes under the general taxation system) and shall maintain separate accounting of income and expenses for agricultural and non-agricultural production.

5. Other taxes shall be paid by payers of the unified tax in the manner prescribed by this Code.

6. A payer of the unified tax shall not be exempt from the performance of duties of tax agents prescribed by this Code.

7. Producers of agricultural production satisfying the conditions of the general taxation system may voluntarily become payers of land tax and other taxes established by this Code.

##### **Article 299. Taxpayers**

1. Payers of the unified tax shall be recognized as producers of agricultural production that satisfy the conditions of part 1 of article 298 of this Code.

2. For the purpose of this chapter the agricultural production shall include initial result (product) of cultivation of agricultural production which does not undergo further processing.

3. Following persons are not entitled to move over to the payment of the unified tax (to remain a payer):

- taxpayers engaged in the production of excisable goods;
- taxpayers engaged in the gambling business;
- state institutions;
- taxpayers applying the tax under the simplified system for subjects of small entrepreneurship (as of main activity);
- taxpayers applying preferential tax regimes.

4. The transition from the general tax system to the payment of unified tax as well as the reverse transition shall be performed from January 1st of a calendar year in the following order:

- producers of agricultural production, subject to unified tax, whose gross income satisfies the requirements of the general tax system, are entitled to apply to the tax authorities on the transition to the general taxation system not later than January 10th of a calendar year;

- producers of agricultural production, whose gross income does not satisfy the requirements of the general tax system, if at least three calendar years have passed since the transition to general taxation system, are required to apply to the tax authorities on the transition from the general taxation system to the payment of unified tax not later than January 10th of a calendar year.

5. A taxpayer shall make mutual settlements of tax obligation on former tax regime prior to transition to other tax regimes.

### **Article 300. Object of taxation and tax base**

1. The object of taxation of the unified tax shall be land plots of the producers of agricultural production, without consideration of land exempt from the unified tax.
2. The tax base is the area of the allocated (used) land plot.
3. Tax obligation in regards to the unified tax does not depend on the results of economic activity of the producers of agricultural production and is set as a payment for area of the allotted land.
4. Gross income of a payer of the unified tax for the previous calendar year shall be defined on a cash basis in the same manner as for the taxpayers under the simplified regime.
5. In the transition from the unified tax to the general taxation system and the reverse transition the rules of the transition set out in article 297 of this Code for taxpayers of the tax under the simplified system shall be used.
6. Taxpayers of the unified tax applying other tax regimes for certain types of income and activities, shall maintain separate accounting of income and expenses in accordance with these tax regimes.
7. Taxpayers are obliged to maintain tax accounting, which is necessary for the calculation of the gross income for the calendar year, on the basis of accounting data. Taxpayers can maintain accounting of income and expenses for the purposes of taxation in the book of income and expense of subjects of small entrepreneurship being the producers of agricultural production according to the form and the manner of filling approved by the Ministry of finance of the Republic of Tajikistan by agreement with the authorized state body.

### **Article 301. Tax concessions**

From the unified tax shall be exempt:

- the territory of nature reserves, national and dendrological parks, botanical gardens in accordance with the list of such organizations and the area of their territory established by the Government of the Republic of Tajikistan, if these lands are not used for entrepreneurial activity;
- within 5 calendar years after the transfer of lands found disturbed (requiring remediation) in accordance with the findings issued by the authorized state body for land management by agreement with the authorized state body and lands in the agricultural development stage;
- lands occupied by a strip of tracking zone along the state border that are not used for entrepreneurial activity;
- lands of the free state reserve, if such lands are not used for an entrepreneurial activity;
- within 5 years after the transfer - lands of pastures, hayfields, forests and other lands not previously used for agricultural production and used for laying out of gardens and vineyards. As of the actual area of gardens and vineyards laid out on these lands the taxpayer shall report in writing to the tax authority at the place of their location within 30 calendar days from the date of completion of the works. In case of the late submission of such information, these lands are subject to taxation as lands planted with perennial vegetation without granting the aforementioned 5-year tax concession period.

### **Article 302. Unified tax rates**

1. Unified tax rates in the cadastral zones with respect to mountain regions shall be established by the Government of the Republic of Tajikistan for every hectare of land in a calendar year every 5 years on the proposal of the authorized body on land management by agreement with the authorized state body.
2. Unified tax rates for other lands that are not defined in part 1 of this article shall be equal to the relevant rates of the respective lands subject to land tax.
3. Sowing irrigated lands actually used for the cultivation of raw cotton, unified tax rate set at half the rates, determined in accordance with part 1 of this article. Information about the amount of lands actually used for the cultivation of raw cotton shall be reported by the taxpayer to the tax authority at the place of its registration before June 1st of the calendar (reporting) year.
4. The authorized state body shall carry out annual indexation of rates of the unified tax and land tax in line with inflation rate for the previous calendar year defined by the authorized body in the field of statistics, and shall place indexed rates of the unified tax and land tax for the current year on the official web-site.

### **Article 303. Tax period**

The tax period for the unified tax shall be a calendar year.

### **Article 304. Order of submission of tax returns**

1. The producers of agricultural production shall submit declarations to the tax authorities at the place of location of their lands each year by March 1st of the current year for unified tax owed for the current calendar year in the form established by the authorized state body.
2. The producers of agricultural production manufacturing non-agricultural production in respect of such production shall pay taxes and submit to the tax authority at the place of relocation the tax reporting in the forms, in the manner and within the terms established by the relevant tax regime.

### **Article 305. Deadlines, amounts and methods of payment of the unified tax**

1. Unified tax for the current tax year shall be paid at the place of location of lands of the producers of agricultural production on the following dates and in the following amounts (on a cumulative total from the beginning of the year):
  - not later than March 10th, at the rate of not less than 15 percent of the annual amount of tax;
  - not later than June 10th, at the rate of not less than 30 percent of the annual amount of tax;
  - not later than September 10th, at the rate of not less than 50 percent of the annual amount of tax;
  - not later than December 10th, at the rate of 100 percent of the annual amount of the tax.

2. The full amount of the unified tax can be paid by the taxpayer in advance by a single payment.
3. The taxpayer can pay the full amount of the unified tax in accordance with a written statement, which is considered a tax reporting, prior to the first deadline provided by this article.
4. Instructions on calculation and payment of the unified tax, the forms of declarations (calculations) for the unified tax shall be established by the authorized state body by agreement with the Ministry of finance of the Republic of Tajikistan.
5. Control over the payment of unified tax shall be carried out by tax authorities with the assistance of self-government bodies of settlements and villages.

#### **Chapter 45. Special tax regime for subjects of gambling business**

##### **Article 306. Concepts used in this chapter**

1. Special tax regime for subjects of gambling business (hereinafter to be referred to as “tax on gambling business”) is a special tax regime, which shall be used by subjects of gambling business, except for income of subjects of gambling business taxable at the source of payment.
2. For the purposes of this chapter, the following concepts are used:
  - gambling business - an entrepreneurial activity associated with the deriving income by a person in the form of winning and (or) payment for carrying out the gambling and (or) betting and (or) raffles, which is not a supply of goods (property rights), works or services;
  - betting - an agreement on the winning based on risk and concluded by two or more participants of gambling business among themselves or with the subject (owner, owner's representative) of gambling business, the outcome of which depends on the event, in respect of which it is unknown whether it will come or not;
  - gambling table - a space specially equipped by a subject (owner) of gambling business with one or more playing fields, designated for gambling (with and without winnings), in which the subject (owner) of gambling business is involved as a party or as an organizer through its representatives, except for gaming;
  - gambling machine - a special equipment (mechanical, electrical, electronic or other technical equipment) and (or) personal computer being used for gambling (with and without winnings) without participation of the subject (owner, owner's representative) of gambling business in the gambling, except for gaming;
  - totalizator counter or bookmaking office counter - a specially equipped place of the owner of gambling business, where amount of betting is counted and amount of payable winnings is determined;
  - play track – a special track designated for bowling game (skittles);
  - pool table - a special table designated for billiards game;
  - lotto - a game on special cards with numbers (pictures or other symbols), which are covered by chips;
  - lottery – an organized massive game in which the distribution of gains and losses depends on the accidental extraction of a card or number (lot) and on the size of the prize pool for each issue of the lottery. One part of the funds paid by the players is due to lottery organizers, the other part is paid to the state in the form of taxes;
  - other facilities of gambling business used for receiving income, determined by local bodies of public authority;
  - issue of lottery - the number of lottery tickets, prepared for selling by lottery organizer;
  - registration card for accounting of objects of taxation - a document certifying registration with the tax authorities tax the objects of taxation associated with gambling business, the form of which is approved by the authorized state body.

3. The use of the simplified tax regime for subjects of gambling business is exempt from the following taxes, except for incomes taxable at the source of payment:

- the corporate profit tax from gambling business;
- the personal income tax directly related to the proceeds from gambling business of an individual entrepreneur operating on the basis of a certificate;
- the road users tax;
- the value-added tax, except for the value-added tax on the provided services (works) to non-residents and in connection with the import of goods to the Republic of Tajikistan.

4. Persons carrying out other types of entrepreneurial activity in addition to the gambling business are obliged to maintain a separate accounting of income, expenses and economic activity and shall be subject to taxation in accordance with this Code.

5. Persons applying the tax on gambling business shall not be exempt from the performance of duties of tax agents provided by this Code.

##### **Article 307. Taxpayers**

Taxpayers of the tax on gambling business shall be legal entities, their branches, branches and representative offices of foreign legal entities and individual entrepreneurs engaged in entrepreneurial activity in the field of gambling business.

##### **Article 308. Object of taxation**

1. The object of taxation for the tax on gambling business shall be:

- gambling table;
- totalizator counter;
- bookmaking office counter;
- gambling machine without monetary winning;

- play track (for the bowling game (skittles));
- pool table (for the billiards game);
- organization of lotto (for lotto);
- issue of lottery tickets for the sale;
- other facilities of gambling business used for receiving income, defined by local bodies of public authority.

2. For the purpose of this chapter, each object of taxation referred to in part 1 of this article (except for issue of lottery tickets for the sale), shall be registered with the tax authority at the place of installation of the object of taxation not later than 10 calendar days before the date of application (use).

3. Each issue of lottery tickets for the sale referred to in part 1 of this article and the nominal amount of their sales in monetary terms is subject to registration with the tax authority not later than 10 calendar days before the date of the sale of lottery tickets.

4. Registration shall be performed by the tax authorities within 10 calendar days on the basis of a taxpayer's application for accounting of an object (objects) with a mandatory issue of the relevant certificate. The forms of application and certificates shall be approved by the authorized state body.

5. A taxpayer is obliged to register within the tax authorities at the place of location of objects of taxation any change in the number of objects of taxation within 10 calendar days before the date of installation or cease of application (use) of each object of taxation, including each issue of lottery tickets for the sale.

6. Upon the cease of activity in the gambling business and (or) retirement of all the objects of taxation (the completion of the sale of lottery tickets), accounting registration card for object should be given back to the tax authority within 10 calendar days.

7. Running of gambling business without registration of objects of taxation shall not be permitted. For the tax periods, in which the tax authorities reveal such objects of taxation, the tax for each unregistered object shall be paid in the amount of the 10 times of the rate established for the given type of the object of taxation with the subsequent registration of the object of taxation in accordance with this article.

#### **Article 309. Tax base and tax rate**

1. The income expected per each unit of objects of taxation (each issue of lotteries tickets for sale) shall be applied for the calculation of tax base for the tax on gambling business.

2. The amount of the tax on gambling business for the tax period shall be established by local bodies of public authority of cities (districts) by agreement with the authorized state body, regardless of the size of the derived income in the fixed amount, which is a multiple of the index for calculations, not less than the maximum amount of payment for each unit of the object of taxation (each issue of lottery tickets for the sale).

3. Payers of the tax on gambling business are obliged to maintain accounting of income and expenses in the manner specified by legislative acts of the Republic of Tajikistan.

#### **Article 310. Tax period**

The tax period shall be a calendar month.

#### **Article 311. Order of tax payment**

1. Declaration shall be file according to the form approved by the authorized state body and the calculated amount of tax shall be paid each month not later than the 5th of the month following the tax period.

2. Payment of tax on gambling business shall be carried out by a taxpayer (an authorized agent) to the bank accounts of the local budget at the place of location of objects of taxation.

3. If a subject of gambling business performs other types of activity, then the accounting of activity in gambling business and of other types of activity as well as their taxation shall be carried out separately.

4. Control over the use of special tax regimes for subjects of gambling business shall be carried out by the tax authorities.

5. Instructions on the calculation and payment of the tax on gambling business, as well as forms of declarations (calculations) shall be approved by the authorized state body by agreement with the Ministry of finance of the Republic of Tajikistan.

### **Section XVII. Preferential tax regimes**

#### **Chapter 46. Taxation of construction of hydro power station**

#### **Article 312. Tax concessions during the construction of hydro power stations**

1. During the construction of hydro power stations (hereinafter to be referred to as "construction") on the territory of the Republic of Tajikistan the customer of the construction and the general contractor of the construction can be fully or partially exempt from payment of the following taxes (from the maturity date) which is directly related to construction, according to the list of taxes, in the amount of and for the period (term) established by the Government of the Republic of Tajikistan in accordance with part 5 of this article:

- the value-added tax;
- the road users tax;
- the corporate profit tax (tax under the simplified system);
- the tax on vehicles;
- the immovable taxes;
- the social tax in respect of foreign citizens hired directly for the construction of hydro power station;
- the state duty for registration of non-state securities prospectuses, carried out in connection with the construction of hydro power stations.

2. Import of goods for construction of hydro power stations that are particularly important objects for the Republic of Tajikistan, shall be exempt from value-added tax and customs duties in accordance with the seventh paragraph of part 4 of article 169 of this Code and article 345 of the Customs code of the Republic of Tajikistan.

3. During the construction the suppliers of goods (works, services) for the abovementioned construction may be fully or partially exempt from the payment of value-added tax which is directly subject to calculation for the construction (in connection with the construction) of hydro power station, at the size of the exemption defined by the Government of the Republic of Tajikistan in accordance part 5 of this Article.

4. In this case, as the supplier of construction is considered a legal entity which has signed contract (agreement) with the customer of the construction of hydro power station or its general contractor, which provides the supply of goods, works and services related to the construction.

5. Government of the Republic of Tajikistan shall determine:

- deadline, type and size of taxes exempt from payment from the list defined in part 1 and 3 of this article, for which the given exemption is provided;

- the customer of the construction of hydro power station and general contractor of the construction of hydro power station, - by order of the Government of the Republic of Tajikistan on the proposal of the authorized state body in the field of energy;

- the period (term) of the construction of hydro power station, - by order of the Government of the Republic of Tajikistan on the proposal of the authorized state body in the field of energy prepared jointly with the customer of the construction of hydro power station and general contractor of the construction.

6. In respect of concessions provided by paragraphs 1-5 of this article followings shall be set:

- contracts (agreements) associated with the construction of hydro power station shall be recognized as contracts (agreements), approved by the customer of the construction of hydro power station according to construction estimates by agreement with the authorized state body in the field of construction;

- tax concessions shall be provided under contracts (agreements) associated with the construction of hydro power stations, concluded during the construction of hydro power station and subject to completion before the expiration of the construction period of hydro power station.

7. The customer of the construction, the general contractor of the construction, suppliers of goods (works, services) shall not be exempt from other obligations prescribed by this Code.

8. Instructions on taxation of the construction of hydro power station, as well as declaration forms (reports, data) shall be approved by the authorized state body by agreement with the Ministry of finance of the Republic of Tajikistan.

#### **Chapter 47. Features of taxation of newly established enterprises involved in full cycle of processing of cotton fiber in finished products (from cotton yarn to cotton sewing products)**

##### **Article 313. Features of taxation of newly established enterprises involved in full cycle of processing cotton fiber in finished products (from cotton yarn to cotton sewing products)**

1. Import of goods by newly established enterprises involved in the full cycle of processing of cotton fiber in finished products (from cotton yarn to cotton sewing products) (hereinafter to be referred to as “newly established enterprises”) directly for their own use shall be exempt from customs duty and value-added tax. In the case of supply of imported goods by newly established enterprises to the domestic market of the Republic of Tajikistan, such transactions shall be subject to taxation with customs duty, value-added tax and other taxes in accordance with the order established by the Customs code of the Republic of Tajikistan and the Tax code of the Republic of Tajikistan.

2. Exports of goods manufactured by newly established enterprises shall be exempt from value-added tax.

3. Newly established enterprises shall be exempt from corporate profit tax, tax paid under the simplified system and immovable taxes.

4. At creation of tax obligations for other taxes by newly established enterprises, such tax obligations shall be fulfilled in accordance with the tax and customs legislation of the Republic of Tajikistan.

5. The Government of the Republic of Tajikistan on the proposal of the authorized state body in the field of industry by agreement with the Ministry of finance of the Republic of Tajikistan and the authorized state body, in the prescribed manner:

- shall define a list of newly established enterprises, as well as tax concessions provided by parts 1, 2 and 3 of this article, which are granted to newly established enterprises for a period up to 12 years starting from January 1st, of a year of the state registration of newly established enterprise;

- shall define in respect of each newly established enterprise the starting date of construction and the date of putting into operation of objects of each production cycle while processing of cotton in finished products.

6. Terms of creation of each next cycle of processing must be substantiated by technical and economic calculations and international practice. As of launch of the actual work on the creation of objects of each cycle and the putting into operation of each processing cycle a newly established enterprise shall inform in writing the authorized state body and the Ministry of finance of the Republic of Tajikistan for the organization of a special (separate) accounting in order to obtain concessions established by this article.

7. If a newly established enterprise does not start the creation of the next cycle of processing set by this article within the terms specified in part 5 and 6 of this article, the tax concessions cease to be effective. In this case, the amount of tax concessions received by newly established enterprises from the moment of its state registration prior

to the cease of these concessions shall be calculated at the rates in effect in the period of receiving tax concessions, and shall be collected to the budget along with interest and penalties.

8. Tax concessions provided for in part 1, 2 and 3 of this article shall be granted to newly established enterprises after posting to the extra special (separate) accounting in the authorized state body and in the Ministry of finance of the Republic of Tajikistan in the manner prescribed by these state authorities.

9. For newly established enterprises the term for storage of accounting documentation and tax returns, as well as the statute of limitations shall be increased at the amount of time limit (period) of tax concessions in accordance with part 5 of this Article.

10. In the manner specified in parts 1-9 of this article, the Government of the Republic of Tajikistan may grant tax concessions for the industrial processing of leather, wool, raw silk and other agricultural raw materials in finished products for a period up to 5 years.

11. Instructions on taxation of newly established enterprises and the declaration forms (calculations, data) shall be approved by the authorized state body by agreement with the Ministry of finance of the Republic of Tajikistan.

#### **Chapter 48. Taxation under production-sharing agreements (contracts)**

##### **Article 314. Concepts used in this chapter**

For the purpose of this chapter following concepts are used:

- production – mineral resources mined from subsoil in the territory of the Republic of Tajikistan, on land plot provided to investor under the production-sharing agreement, and of a quality appropriate to the state standard of the Republic of Tajikistan or international standard. Products obtained from further processing (enrichment, technological conversion) of mined mineral resources and being production of processing industry shall not be considered as mineral resources;
- actual production – quantity of mining industry and quarrying products, contained in actually mined (extracted) from the subsoil (waste, loss) amount of mineral resources, mineral raw materials (rocks, fluids, and other mixtures) of a quality appropriate to the state standard of the Republic of Tajikistan or international standard, mined by investor during the works under the production-sharing agreement and reduced to the number of technological losses of these products within established standards;
- production sharing - sharing of actual production in natural and (or) value terms between the state and investor in accordance with the Law of Republic of Tajikistan “On production-sharing agreements” and the this Code;
- profitable product – output produced in the reporting (taxable) period while execution of the production-sharing agreement with deduction of compensatory production;
- compensatory production – part of actual production within execution of the production-sharing agreement, which is transferred to the ownership of investor as reimbursement of the expenditures aimed for execution of production-sharing agreement (reimbursable expenses), the content of which is established by production-sharing agreement. Compensatory production is established individually on each production – sharing agreement in consideration with economic value of mined resources. Compensatory production established by the production-sharing agreement cannot exceed 70 percent of the total volume (quantity) of actual production;
- sharing point – place of commercial accounting of actual production, in which the measurement (counting) of its total volume (quantity) and evaluation of quality, and in which the state transfers part of actual production, due to investor’s share under the terms of production-sharing agreement;
- price of production – as determined in accordance with the terms of a production-sharing agreement shipping delivery or export price of appropriate measurement unit of actual production, but not lower than the market price on the date of delivery or export;
- taxpayers (tax agents) – in respect of taxes payable within the current preferential tax regime persons deemed as investors in accordance with the Law of the Republic of Tajikistan “On production-sharing agreements” and this Code.

##### **Article 315. Main provisions of tax regime**

1. A person, using the right of application of preferential tax regime within execution of production-sharing agreement, represents to the tax authority on the place of his registration certified copy of production-sharing agreement. Similar information shall be submitted to the tax authority by the authorized body of the Government of the Republic of Tajikistan which has signed the production-sharing agreement on behalf of the state.

2. Established by this article preferential tax regime:

- could be expressed in a production-sharing agreement and shall be subject to application within the whole duration of this agreement;
- is applied in respect of taxpayers considered as investors;
- provides sharing of profitable production between investor and the Republic of Tajikistan, as well as payment of taxes by investors and other compulsory payments, established by this chapter.

3. While fulfilling production-sharing agreement providing the terms of actual production sharing in accordance with part 1 of article 10 of the Law of the Republic of Tajikistan “On production-sharing agreements”, the investor must pay the following taxes, duties and other compulsory payments:

- the tax on natural resources;
- the social tax;

- the road users tax;
- the state duty;
- the customs duties;
- the immovable taxes;
- the tax on vehicles;
- other compulsory payments connected with fulfillment of production-sharing agreements.

4. While fulfilling production-sharing agreement providing the terms of sharing of actual production in accordance with article part 2 of 10 of the Law of the Republic of Tajikistan "On production-sharing agreements", the investor pays the following taxes, charges and other compulsory payments:

- the social tax;
- the state duty;
- the customs duties;
- the immovable taxes;
- the tax on vehicles;
- other compulsory payments, linked with execution of production-sharing agreements.

5. While fulfilling of production-sharing agreement in accordance with parts 3 and 4 of this article:

- investor paying wages and other equivalent payments to hired workers, shall pay the personal income tax and the social tax in the prescribed manner;

- supply of the actual production by the investor is exempt from the value-added tax and excise tax;
- investor is exempt from the corporate profit tax;

- goods imported to the customs territory of the Republic of Tajikistan for performance of works under a production-sharing agreement envisaged by the work plans and cost estimates approved by the relevant production-sharing agreement in accordance with the procedure set forth in part 1 of article 9 of the Law of the Republic of Tajikistan "On production-sharing agreements" are exempt from the value-added tax. In case of supply (except for export) of these goods in the territory of the Republic of Tajikistan, the abovementioned and other taxes shall be paid in accordance with this Code and other legislative acts of the Republic of Tajikistan. The list of documents which must be submitted to the customs authorities for getting exemptions from taxes indicated in this article is determined by the Government of the Republic of Tajikistan;

6. While fulfilling a production-sharing agreement the object of taxation, tax base, tax period, taxation rate and tax computation procedures with regard to the taxes listed in parts 3, 4 and 5 of this article are determined in accordance with the tax legislation of the Republic of Tajikistan with due regard to the features provided by provisions of this chapter effective for the date of the production-sharing agreement.

7. If, during the term of the production-sharing agreement, any changes are introduced in names of any taxes listed in tax legislation and other compulsory payments without changing of the tax elements thereat, such taxes are calculated and paid in performance of the production-sharing agreement under the new names.

8. If, during the term of the production-sharing agreement, any changes are introduced in the names of tax payment procedures and also in the forms, filling out procedures and submission deadlines for tax declarations, without changing the tax base, taxation rate and tax computation procedures, the payment of taxes and also submission of tax declarations is carried out in accordance with the tax legislation of the Republic of Tajikistan.

#### **Article 316. The key elements (characteristics) of an agreement**

1. The actual production is subject to share between the state and the investor in accordance with the production-sharing agreement signed with due regard for requirements described in the Law of the Republic of Tajikistan "On production-sharing agreements" and this Code.

2. For the purpose of this chapter, reimbursable expenses shall be subject to reimbursement to the investor out of the compensatory production in the amount of the actually incurred expenses, but not exceeding the amount of the compensatory production established in the production-sharing agreement. Herewith, the compensatory production in each tax (reporting) period cannot exceed the amount determined by article 314 of this Code.

3. A production-sharing agreement, inter alia, for the purpose of this chapter, must contain following provisions:

1) In case if agreement is signed under conditions stipulated in part 1 of article 10 of the Law of the Republic of Tajikistan "On production-sharing agreements" it must determine procedures and conditions for:

- a) determination of the total volume (quantity) of the actual production brought to the sharing point and its value;
- b) determination of the part of the actual production which constitutes the compensatory production;
- c) sharing (determination of sharing proportions) of the profitable production between the state and the investor;

2) In case if agreement is signed under conditions stipulated in part 2 of article 10 of the Law of the Republic of Tajikistan "On production-sharing agreements" it must determine procedures and conditions for:

- a) determination of the total volume (quantity) of the actual production brought to the sharing point and its value;
- b) sharing (determination of sharing proportions) between the state and the investor of the total volume (quantity) of the actual production or the cost equivalent of the total volume (quantity) of the actual production. The

proportions of such sharing are determined by a production-sharing agreement depending on the geological-economic and value appraisals of mineral resources, engineering design, and results of the feasibility study;

3) In all cases when the agreement is signed under conditions stipulated in article 10 of the Law of the Republic of Tajikistan "On production-sharing agreements" it must determine procedures and conditions for:

a) transfer of the part of the actual production or its cost equivalent in accordance with the terms of the production-sharing agreement by the investor to the state;

b) receipt by the investor of the part of the actual production owned by the investor in accordance with the terms of the production-sharing agreement;

4. A production-sharing agreement can stipulate only one method of production sharing provided for in this article. A production-sharing agreement cannot provide a transition from one production-sharing method established in this article to another one. Also it cannot provide replacement of one production-sharing method with another one.

5. Activity of an investor with regard to performance of a production-sharing agreement is deemed in the Republic of Tajikistan as activities of an independent legal entity - a resident enterprise.

#### **Article 317. Determination of the total volume (quantity) of actual production and its value**

1. The total volume (quantity) of the actual production over the reporting (tax) period is determined at the sharing point in accordance with the production-sharing agreement.

2. The production-sharing point is determined in the production-sharing agreement.

3. The value of the actual production is determined at the production-sharing point for each reporting (tax) period as a product of multiplying the total volume (quantity) of actual production received during the reporting (tax) period measured in the sharing point and expressed in respective measurement units (tons, cubic meters, barrels, etc.) by the supply and export price to the sharing point for the same reporting (tax) period in accordance with the production-sharing agreement.

#### **Article 318. Reimbursable expenses**

Reimbursable expenses are the justified and documented costs of the investor actually incurred by it in performance of works under the signed production-sharing agreement in accordance with the work plans and cost estimates approved as provided by the Law of the Republic of Tajikistan "On production-sharing agreements", except for non-reimbursable expenses.

#### **Article 319. Contents of non-reimbursable expenses**

1. The following types of expenses (costs) are referred to the category of expenses incurred (covered) from the share of profit production due to the investor and are non-reimbursable with compensatory production:

- fees to participate in a competitive selection of investment programs to obtain the right to use subsoil resources in line with the provisions of the Law of the Republic of Tajikistan "On production-sharing agreements";

- fees to procure geological information;

- expenses exceeding the limits set forth in the production-sharing agreement with regards to certain cost items;

- mandatory payments for environmental pollution beyond the established limits.

- expenses related to supply and export of the compensatory production and the share of profit production owned by the investor, including expenses for delivery of the production from the sharing point to the supply or export point, transportation losses, insurance costs for transportation of the production to the destination point, commission fees and other expenses;

- expenses to conduct an audit of financial and business operations carried out upon the request of the investor's shareholders;

- expenses incurred as a result of the failure to perform or improper performance of its obligations established in the production-sharing agreement, including the obligations provided for in part 2 article 9 of the Law of the Republic of Tajikistan "On production-sharing agreements" and also expenses incurred as a result of violation of the legislation of the Republic of Tajikistan;

- costs of excursions and travels including those on the basis of board and treatment vouchers;

- payment of charges for (interest on) credit (loan) and use of loan fund as well as commissions and other expenses related to debt financing and use of loan funds in excess of the LIBOR rate plus the margin established by the production-sharing agreement. In such case the margin cannot exceed the LIBOR rate;

- losses (expenses) incurred as a result of accidents that took place through the fault of the investor on account of its failure to comply with the operating procedure and (or) safety rules;

- expenses related to voluntary insurance of the staff;

- expenses incurred in relation to judicial proceedings;

- fines and penalties (interest) imposed by public authorities on the investor;

- expenses to pay the staff personal consumption costs that are not provided by the legislation of the Republic of Tajikistan;

- paid taxes, charges and other mandatory payments in accordance with this chapter;

- any expenses that are not directly related to activities under the production-sharing agreement, including the value of transferred property, performed work and provided services by the investor (at the investor's expense) free of charge (charitable activity).

2. Expenses provided in paragraphs 3 and 4 of part 1 of this article, within established restrictions and limits are included to the composition of reimbursable expenses.



#### **Article 320. Procedures for coverage of reimbursable expenses**

1. Reimbursable expenses are compensated to the investor out of the compensatory production in accordance with the procedures outlined in this article and with due regard for the specifics established in the production-sharing agreement.

2. Reimbursable expenses are compensated to the investor out of the compensatory production starting from the month when the production is received.

3. The sharing between the state and investor of profit production or the total volume (quantity) of the actual production in accordance with the terms of the production-sharing agreement also starts from the month when the production is received.

4. For the purposes of this chapter reimbursable expenses are subject to coverage by transfer to the investor of the actual production in the amount that does not exceed the compensatory production in accordance with the production-sharing agreement.

5. The balance of reimbursable expenses that remain uncovered by the end of the tax period is determined as:

- reimbursable expenses that remain uncompensated to the investor by the beginning of the tax period;
- plus the reimbursable expenses incurred by the investor during the tax period;
- minus the reimbursable expenses compensated to the investor during the tax period (for the tax period).

#### **Article 321. Record of the compensatory and profitable production and reimbursable expenses**

1. The investor keeps a recording of the compensatory and profit production in natural measurement unit and also in the national currency and a foreign free convertible currency as determined in the production-sharing agreement and in accordance with the tax registration rules established by this Code with due regard for the provisions of this article.

2. The investor is obliged to provide record keeping of the compensatory production and reimbursable expenses so as to exclude the possibility of double entry of the same expenses under the categories of compensatory production and reimbursable expenses.

#### **Article 322. Determination of proportions for profit production sharing**

Proportions of profitable production sharing between the investor and the state are determined in the production-sharing agreement.

#### **Article 323. Calculation and tax payment**

1. Taxes which investor pays in accordance with this chapter, shall be calculated and paid to the budget following the procedure and deadlines established by this Code.

2. Tax declarations (calculations) shall be submitted by investor, following the deadlines established by this Code.

3. The control of tax payment by investor within using of tax regime, established by this chapter is made by tax inspectorate for large tax payers

### **Chapter 49. Fundamental principles of taxation of the activity in free economic zones**

#### **Article 324. Fundamental provisions**

1. Preferential tax regime, provided by this chapter shall apply only with respect to subjects of free economic zones in fenced and protected limited area of the territory of the Republic of Tajikistan, in accordance with the standards established by the legislation of the Republic of Tajikistan.

2. Foreign and domestic goods are imported into the territory of the free economic zone with full exemption from customs duties and taxes under the control of the customs authorities with the conditions defined by the customs regime of the free customs zone.

3. The export of goods from the territory of free economic zones to other regions of the Republic of Tajikistan is made under the control of customs authorities on the terms, established by customs regime of release for free turnover.

4. The export of goods from the territory of the free economic zone out of the customs territory of the Republic of Tajikistan is made under the control of customs authorities with and (or) without payment of customs duties and taxes in accordance with the terms defined by tax regimes.

5. Taxpayers – legal entities, individual entrepreneurs, functioning on the basis of certificate, branches of foreign legal entities, carrying out activity in the territory of the free economic zone as its subjects, are obliged to meet following conditions:

- have the supporting documents on the state registration in accordance with the Law of the Republic of Tajikistan “On the state registration of legal entities and individual entrepreneurs” and the registration in tax inspectorates of an appropriate district (city);
- not to have separate subdivision outside the territory of the free economic zone;
- carry out activities, which are not prohibited by provision of the appropriate free economic zone.

6. To the owner of immovable property, located in the territory of the free economic zone, shall be provided a time period for 3 years after the establishment of the free economic zone to obtain the status of the subject of the free economic zone or operate according the terms of tax regimes established by this Code, as a person who is not a subject of the free economic zone.

#### **Article 325. Tax regime in free economic zones**

1. The subjects of the free economic zone and the administration of the free economic zone under the activities performed in the free economic zone and the usage of the property, shall be exempted from all tax

payments and tax obligations of tax agents, established by this Code and other legislative acts of the Republic of Tajikistan, except for taxes mentioned in parts 2-3 of this article.

2. Organizations being subjects of the free economic zone shall be considered tax agents for personal income tax and payers of social tax in respect of individuals, to whom incomes, awards, payments, interests and other payments are paid (should be paid) in accordance with procedures established by this Code.

3. Individual entrepreneurs, functioning on the basis of certificate – subjects of the free economic zone:

- in respect of income directly received (receivable) by them - payers of personal income tax and social tax, that shall be paid on quarterly basis according to the procedures established by this Code;

- in respect of income, award, payment, interest and other payments which are paid (repayable) for the favor of individual - payers (tax agents) of personal income tax and social tax with the procedures established by this Code.

4. Tax concessions for subjects of the free economic zones shall apply only for that part of their activity, which is executed in the territory of the free economic zone.

#### **Article 326. Procedure for calculation and payment of taxes**

1. Calculation, procedure and the terms of payment of taxes, established for subjects of the free economic zones, as well as providing the declarations and other tax reporting is made in a manner established by the authorized state body.

2. The administration of the free economic zone on quarterly basis, but not later than the 15th of the month following the reporting quarter, provides the tax authority of the place of his registration with information about the subjects of free economic zone and objects of taxation by the form established by the authorized state body.

3. The subjects of the free economic zone independently keep records of their incomes, expenditures, assets, economic activity in accordance with the procedure established by the legislation of the Republic of Tajikistan.

4. Objects of taxation, located in the territory of the free economic zone and not belonging to the subjects of the free economic zone shall be imposed to tax in accordance with the tax legislation of the Republic of Tajikistan.

5. Specifics of the relationships between the tax authorities and the administration of the free economic zone can be defined by the agreement concluded between them.

6. The control of tax payments by the subjects of the free economic zones is made by the tax and customs authorities.

### **Section XVIII. Final provisions**

#### **Chapter 50. Final provisions**

#### **Article 327. Transitional provisions**

1. Hereinafter, before adjustment of legislative acts of the Republic of Tajikistan with the Tax Code of the Republic of Tajikistan, legislative acts of the Republic of Tajikistan related to the taxation, shall have effect in part where they are not in compliance with the Tax Code of the Republic of Tajikistan.

2. Tax Code of the Republic of Tajikistan shall be implemented in legal relationships, arising after its enforcement. In legal relationships, arose before the adoption of the Tax Code of the Republic of Tajikistan, Tax Code of the Republic of Tajikistan shall be applied to the rights and obligations, which arise after its enforcement, if the period of limitation is expired.

3. Taxpayers, who do not meet the requirements of the Tax Code of the Republic of Tajikistan according the results of 2012 are obliged:

- individual entrepreneurs functioning on the basis of a patent, whose gross income for 2012 year exceeds the threshold income for the patent regime, are obliged by April 1st, 2013 to cease their activity and move over to another tax regime of taxation. In case of carrying out further activity, these persons shall be exempt in the given period from payment of state duties for cease of activity and performing activity according to another tax regime;

- individual entrepreneurs, functioning on the basis of certificate, whose gross income in 2012 year exceeds the threshold income for the patent regime, are obliged by April 1st, 2013 to cease their activity and move over to another tax regime of taxation. In case of further carrying out activity, these persons shall be exempt in the given period from payment of state duties for cease of activity and performing activity according to another tax regime;

- taxpayers using simplified tax regime, whose gross income for 2012 year exceeds relevant threshold income, are obliged from January 1st, 2013 move over to general taxation system and pass the registration for the purpose of the value-added tax;

- taxpayers, functioning by the general tax regime, whose relevant income in 2012 year below the relevant threshold income, and at least for 3 last consecutive calendar years have been functioning under general tax regime, are obliged from January 1st, 2013 move over to the taxation on one of the special tax regimes and cancel their registration for the purpose of the value-added tax;

- taxpayers involved into gambling business are obliged from January 1st, 2013 mover over to the special tax regime for the subjects of gambling business. Prior to the adoption of decisions by Majlises of people's delegates of cities (districts) about the amount of the tax on gambling business, for these persons the amount of the tax on gambling business shall be defined as the average monthly amount of all taxes for 2012 year with usage of multiplying coefficient 1,5;

- before the adoption of decisions by Majlises of people's delegates of cities (districts) on local taxes, calculation and payment of local taxes shall be defined in accordance with the Tax Code of the Republic of Tajikistan and other legislative acts.

#### **Article 328. On recognition of invalidity of the Tax code of the Republic of Tajikistan**

From January 1st, 2013 to recognize as invalid the Tax code of the Republic of Tajikistan, adopted by the Law of the Republic of Tajikistan dated December 3rd, 2004 (News of the Majlisi Oli of the Republic of Tajikistan, 2004, №12, p. 1, art. 688; art. 689; 2005, №12, art. 629; 2006, №7, art. 341; №12, art. 543; 2007, №3, art. 172; №7, art. 668; 2008, №3, art. 195; №6, art. 455; 2009, №3, art. 86; №5, art. 332; №12, art. 823; 2010, №7, art.559; 2012, №4, art.263; №7, art.702).

**Article 329. Entry into force of the Tax code of the Republic of Tajikistan**

The Tax code of the Republic of Tajikistan shall enter into force from January 1st, 2013.

President of the Republic  
of Tajikistan  
September 17<sup>th</sup>, 2012.  
№901

Emomali Rahmon.