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**THE CORPORATE INCOME TAX LAW  
IN REPUBLIC OF SRPSKA  
(Unofficial translation)**

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Document contains:

- Corporate Income Tax Law ( "Official Gazette of RS" No 95/15) and
- Amendments to the Corporate Income Tax Law ("Official Gazette of RS" No 1/17) – *amendments are not included in the main text of Law, but the main changes are noted as follows:*

**NOTE:** The National Assembly of the Republic of Srpska (RS) adopted amendments to The Corporate Income Tax Law on 28 December 2016 ( "Official Gazette of RS" No 1/17).

With the amendments, the Law clarifies the definition of "taxable person" and harmonizes the concept of residence with the Profit Tax Law of the Federation of Bosnia and Herzegovina (FBiH) and Brcko District in order to avoid double taxation. Namely, a company is considered resident in BiH if it is registered as a legal entity there. An entity has a taxable presence in BiH if it carries out business activities in the jurisdiction that meet the criteria for a permanent establishment.

The sources of taxable income are as follows:

- profit derived from economic activities of both residents and non-residents in RS;
- profit derived from the sale of property located in RS and the sale of movable property if the sale is carried out within RS;
- dividends, profit shares and interest income;
- income from copyright and similar rights;
- income from rent and services paid by residents or permanent establishments in RS;
- Capital gains on transfers of securities and shares in equity of residents or permanent establishments based in the RS.

The taxable base is the profit determined by adjusting the profit stated in the profit/loss statement, except in cases prescribed by the law. In order to harmonize provisions of the RS Profit Tax Law with the Profit Tax Law of the FBiH, interest income on bank deposits is no longer tax exempt. Amortization of goodwill is also a non-deductible expense.

According to the recent amendments, the annual withholding tax returns must be filed by 31 January of the current year for the previous tax year, instead of previously set date of 31 March. The gross amount of payments to non-residents, such as interest income, royalties, technical service fees, insurance premiums, payments for entertainment events, rental payments for movable property and fees for telecommunication services, are all taxed with withholding tax at a rate of 10%.

Considering thin capitalization, with effect from 2017, if a legal entity has taken out a loan from a related entity at an interest rate below the market interest rate, it may reduce its taxable base by deducting the amount of interest paid. Yet, the net interest expenses must not exceed 30% of the tax base.

The new amendments also bring several changes in terms of tax incentives, so there are no longer incentives related to new employment. However, taxpayers may reduce their tax liability by 30% if they invest in manufacturing equipment, real estate and plants the value of which exceeds 50% of their tax base in the current tax year.

## **CORPORATE INCOME TAX LAW**

( "Official Gazette of RS" No 95/15)

### CHAPTER I

#### GENERAL PROVISIONS

##### Article 1

This Law regulates the taxation of corporate income of legal persons in the Republic of Srpska and foreign legal persons generating income in the Republic of Srpska.

##### Article 2

The terms used in this Law have the following meaning:

- 1) a legal person is a person registered to independently perform the activities for the purpose of making a profit in accordance with the Republic of Srpska laws,
- 2) a foreign legal person is a legal person with principal place of business abroad,
- 3) a business unit of a foreign legal person (hereinafter 'permanent place of business') is a permanent place of business of a foreign legal person where business operations are performed in whole or in part,
- 4) interest is any amount required to be paid in money or in kind for the use of money, whether payable under a debt obligation, or with respect to a deposit, or in accordance with a leasing contract, instalment sale or other deferred payment sale,
- 5) Basis of asset is the cost price or purchase price of an asset and is used to calculate the profit or loss from the sale or transfer of an asset for the purpose of depreciation,
- 6) Adjusted basis of asset is a basis reduced by depreciation and increased by the cost of investments and other non-deductible expenditures that increase the value of the asset,
- 7) investment assets are all assets owned by the taxpayer and not used for performance of taxpayer's business activity and 8) financial institutions include banks, insurance companies, reinsurance companies, leasing companies, microcredit companies, stock exchanges, voluntary pension funds, investment fund management companies, investment funds, brokerage and dealer companies.

### CHAPTER II

#### TAXPAYER

##### Article 3

In accordance with the provisions of this Law, a taxpayer is:

- 1) legal person from the Republic of Srpska, for profit obtained from any source in the Republic of Srpska, the Federation of Bosnia and Herzegovina, the Brčko District of BiH or abroad,

- 2) business unit of a legal person with permanent place of business in the Federation of Bosnia and Herzegovina or Brčko District of BiH, for profit obtained in the territory of the Republic of Srpska,
- 3) Foreign legal person performing business activity and having a permanent place of business in the Republic of Srpska, for profit relating to the permanent place of business,
- 4) Foreign legal person obtaining income from immovable property located in the Republic of Srpska, for profit relating to such immovable property,
- 5) foreign legal person obtaining income in the Republic of Srpska, not covered by points 3) and 4) of this Article, shall be taxable by withholding tax in accordance with Chapter VI of this Law and
- 6) Legal person referred to in points 1), 2) and 3) of this Article even in case of loss from its business in the fiscal year.

#### Article 4

(1) Corporate income tax shall not be paid by the following persons:

- 1) Central Bank of Bosnia and Herzegovina,
- 2) Bodies and institutions of the Republic of Srpska and local self-government units,
- 3) Companies established in accordance with the regulations on employment of disabled persons,
- 4) public institutions, authorized regulatory and supervisory bodies of financial sector, institutes, religious communities, political parties, trade unions, chambers, associations, voluntary fire brigades, communities, unions, societies, endowments, foundations and other legal persons registered for the performance of non-profit activities and which generate incomes from: the budget or public funds, sponsorship or donations in cash or in kind, membership fees, and income from the sale or transfer of goods, except for the goods that are used or have been used to carry out activities on a market basis. (2) If the persons referred to in paragraph 1, point 4) of this Article also perform activities on a market basis and generate incomes from commercial sources, they shall be liable to income tax for profit generated by the performance of such activities.

### CHAPTER III

#### TAX BASE

#### Article 5

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

(2) In determining the tax base, the profit of a business unit of a legal person with the seat in the other Entity or Brčko District of BiH corresponds to the profit the business unit would have earned if it had been an autonomous and independent legal person carrying out the same activities under the same or similar terms as the legal person whose business unit it is. 1. Adjustment of Income

#### Article 6

For the purpose of calculating the tax base, taxable income shall include the total income reported in the income statement, in accordance with the regulations governing accounting and auditing, except for incomes treated differently in accordance with this Law.

#### Article 7

The following incomes shall not be included in the calculation of the tax base: 1) dividends and shares in profit in another legal person based in the Republic of Srpska, if they are paid out of profits on which corporate income tax is calculated and paid,

2) Income in the form of a nominal or contractual interest on debt securities issued by the Republic of Srpska and its local self-government units,

3) Interest on deposits in a bank,

4) Gains recognized directly in equity,

5) Income from the reversal of provisions,

6) Income from adjustments of value of assets which are subject to depreciation in accordance with this Law and

7) Income based on value adjustment of stocks.

2. Adjustment of Expenditures

#### Article 8

The expenditures recognized in income statement in accordance with the regulations governing accounting and auditing, except for expenditures treated differently in accordance with this Law, shall be recognized for the purpose of calculating the tax base.

#### Article 9

The following expenditures shall not be recognized in determining the tax base: 1) expenditures that cannot be proved by credible accounting documents,

2) Interest due to untimely paid obligations,

3) Fines, liquidated damages and penalties,

4) Expenditures of enforced collection of public revenues,

5) Expenditures relating to non-taxable income referred to in Article 7 of this Law,

6) Losses on stocks due to expiry of stocks, as well as expenditures in connection with the destruction of these stocks,

7) Value adjustment of individual claims from persons towards which there is debt at the same time,

8) Gifts and contributions to political parties and organizations,

- 9) Withholding tax under Chapter VI of this Law, which is calculated and paid at the expenditure of payer,
- 10) Losses recognized directly in equity,
- 11) Expenditures from adjustments of value of assets which are subject to depreciation in accordance with this Law,
- 12) Expenditures not related to the activities the taxpayer performs, unless such expenditures may lead to generation of incomes on the same basis and 13) expenditures based on adjustment of value of stocks.

#### Article 10

- (1) Cost of materials and cost of goods sold shall be recognized in the amounts calculated using the weighted average cost or FIFO (first input - first output) method, in accordance with the regulations governing accounting.
- (2) Purchase values of stocks at the beginning and at the end of the tax year shall be expressed using the same method of determining the purchase value of stocks.

#### Article 11

- (1) Losses on stocks shall be losses incurred during storage, manipulation, as a result of natural influences, technological process or as a result of taking the necessary actions in the storage, production and trade in stocks.
- (2) Losses on stocks based on ullage, spillage, breakage and defect shall be recognized as tax allowable expenditure up to the amount prescribed by norms of expenditure of the amount of goods purchased, processed, manufactured or sold in a given period.
- (3) Inventory commission of the taxpayer shall determine losses on stocks and prepare a report and an inventory list about the conducted inventory, to be considered accounting document, without which the loss of stocks may not be recognized.
- (4) Relevant norms of the Chamber of Commerce of the Republic of Srpska shall apply to the determination of loss on stocks of taxpayers to which the norm referred to in paragraph 2 of this Article may not be applied.
- (5) The shortage of stock which can be justified by force majeure is tax deductible expenditure, up to the amount recorded in the books of the taxpayer, and the shortage shall be established by inventory of the inventory commission of the competent authority, and presented in the report and inventory list. For the purpose of this Law, force majeure shall mean natural disasters (flood, fire, earthquake, etc.) declared by document of the competent authority.
- (6) The Minister of Finance (hereinafter 'the Minister') shall issue a rulebook prescribing the norms referred to in paragraph 2 of this Article.

#### Article 12

- (1) Depreciation of fixed assets shall be recognized as expenditure in the amount calculated on the purchase value under the straight line method by applying annual depreciation rates.
- (2) Fixed assets shall include intangible assets other than goodwill and tangible assets (immovable property, plant, equipment and biological assets), the useful life of which is longer than 12 months.
- (3) Land, forests and similar renewable natural resources, investment assets, cultural monuments and works of art shall not be subject to depreciation.
- (4) Depreciation of fixed assets shall be recognized as expenditure from the first day of the month following the month in which these assets were put to use.
- (5) Depreciation expenditures shall not be recognized for the assets not used for the performance of taxpayer's activity.
- (6) Depreciation calculated on a written-off basis of asset shall not be recognized as tax expenditure.
- (7) Depreciation shall be tax deductible expenditure only for the assets owned by the taxpayer.
- (8) Notwithstanding paragraph 7 of this Article, depreciation shall be tax deductible expenditure for the lessee of assets acquired by financial leasing.
- (9) If the lessee improves the leased property, deduction for depreciation in the amount of depreciation calculated on the value of improvements shall be allowed to the lessee, and in the event that the lease expires before the end of depreciation and there is no extension of the lease, the lessee shall be entitled to deduction only up to the amount not depreciated at the time of termination of the lease.
- (10) Carrying value of the fixed assets destroyed by natural disasters (flood, fire, earthquake, etc.) declared by an act of the competent authority, which may not be used to perform the activity shall be a tax deductible expenditure. (11) Inventory commission of the competent authority shall determine the assets destroyed by natural disasters by inventory, and prepare the report and the inventory list about the conducted inventory.
- (12) The Minister shall issue a rulebook prescribing guidelines for the application of annual depreciation rates and normal period of operation.

#### Article 13

- (1) For the purpose of reducing the tax base, the expenditures based on the following provisions may be deducted:
- 1) For costs during warranty period,
  - 2) For costs of restoration of natural resources, if not previously included in the purchase value of natural resources,
  - 3) For down payments and deposits kept, and
  - 4) For wages and benefits of employees.

(2) The expenditures based on provisions referred to in paragraph 1 of this Article shall be recognized in the period when they are used, i.e. when the obligation is settled and there is an outflow of resources based on a given provision, provided that they were previously recognized in the income statement.

(3) If the amount of actual expenditure based on provisions is higher than previously formed provisions, the difference shall be recognized as tax allowable expenditure in the tax period in which it arises.

#### Article 14

(1) Accrued interest and related costs on loans shall be recognized as expenditures only if the amount of interest and related costs deductible is the obligation of the tax year in which the deduction is done.

(2) If the parent legal person does not exercise the right to deduct interest based on loan, such right may be exercised by dependent legal persons in proportion to the amount of used loan.

#### Article 15

Entertainment expenditures related to the business activity of the taxpayer shall be recognized in the amount of 30% of entertainment expenditures (costs for paying bills of business partners in restaurants, at sporting events, in theatres, recreation costs, etc.), provided that they are incurred in order to improve business, and that they are documented and their recipient is not a related person.

#### Article 16

Donations for humanitarian, social, cultural and sporting purposes are tax deductible expenditures in the amount of up to 3% of total income in the fiscal year.

#### Article 17

Expenditures based on sponsorships are tax deductible expenditures in the amount of up to 2% of total income in the fiscal year.

#### Article 18

Expenditures based on returns of products and services shall be recognized when determining the tax base up to a maximum of 3% of operating income in the fiscal year.

#### Article 19

Subsequently approved discounts shall be recognized in the determination of the tax base to the giver of the discount, provided that the discount relates to the current tax year, that it has been agreed in advance and that it is proven by credible bookkeeping documents.

#### Article 20

Expenditures based on scholarships given to pupils and students who are full-time students up to the amount on which personal income tax is not paid, shall be recognized to taxpayer.

#### Article 21

(1) The impairment of doubtful debts which arise in connection with the sale of goods or services, but only if the proceeds from the sale were previously included in the tax base of the taxpayer, shall be recognized as expenditure to taxpayers, except for financial institutions.

(2) The debts referred to in paragraph 1 of this Article shall be considered doubtful if not collected within the period of 12 months from the due date for payment of debts and if the taxpayer has taken at least one of the following measures for the collection of the claim:

- 1) submitted a lawsuit for the debt,
- 2) submitted a request for the execution at the competent court,
- 3) started the procedure of enforced collection,
- 4) Reported the debt in the bankruptcy proceedings against the debtor, or
- 5) Reached an agreement with the debtor in the process of liquidation or bankruptcy.

(3) Doubtful debts recognized as expenditure, which are later collected, shall be included in the tax base for the tax year of collection.

#### Article 22

(1) Expenditures based on indirect write-off of placement which are, in accordance with the internal regulations of financial institutions, reported in the income statement in the accounting period, up to the amount prescribed by the Banking Agency of the Republic of Srpska for B, C, D and E loan categories shall be recognized to financial institutions other than insurance companies.

(2) Expenditures of mathematical reserves, which the insurance and reinsurance companies must form under the regulations of the Insurance Agency of the Republic of Srpska, provided that the reserve is included in the income statement, shall be recognized to the insurance and reinsurance companies.

(3) Expenditures based on technical reserves of insurance companies, except mathematical reserves, shall be recognized when tax base is reduced up to 20% of the formed reserve, under the regulations of the Insurance Agency of the Republic of Srpska, provided that the reserve is included in the income statement.

(4) All written-off, impaired and other receivables for which the provisions were made, and which are collected later, shall be included in the income that is taxed in accordance with this Law at the time of collection.

#### Article 23

Business unit of a legal person based in the other Entity or Brčko District of BiH shall be recognized the general and administrative expenditures of such legal person which are in connection with the



income of the business unit, and up to the amount of participation of income of such business unit in the total income of such legal person. 3. Capital Gains and Losses and Tax Loss

#### Article 24

(1) Capital gains or losses are the difference between the sales price and the adjusted bases of assets realized by sale or any other transfer of fixed assets and investment property.

(2) The sales price referred to in paragraph 1 of this Article is the contracted price or the market price determined by the Tax Administration of the Republic of Srpska (hereinafter 'the Tax Administration') if it finds that the contracted price is lower than the market price.

(3) Capital gains or losses arising during a tax year shall be recognized when determining the tax base.

#### Article 25

(1) Tax loss is the negative difference between incomes and expenditures in the procedure of determining the tax base.

(2) The tax loss referred to in paragraph 1 of this Article shall be carried forward and reimbursed by reducing the tax base over the next five years.

(3) If a taxpayer has recorded a loss in several past tax years, the tax loss from the earlier fiscal year shall be reimbursed before the tax loss from a later fiscal year, while the period of five years for carrying forward and deduction of tax loss from the tax base shall run separately for each tax loss.

(4) Concerning foreign legal persons performing economic activity through a permanent place of business in the Republic of Srpska, only the taxable income and deductible expenditures related to that permanent place of business shall be taken into account.

(5) When a legal person from the Republic of Srpska records a tax loss relating to a business unit in the Federation of Bosnia and Herzegovina or Brčko District of BiH, such loss may not be deducted from the tax base of that legal person in the Republic of Srpska, nor may the tax base of corporate income tax of a business unit in the Republic of Srpska of a legal person from the Federation of Bosnia and Herzegovina or Brčko District of BiH be reduced for the loss of such legal person from the Federation of BiH or Brčko District of BiH.

(6) When a legal person from the Republic of Srpska records a loss relating to a permanent place of business abroad, such loss may not be deducted from the tax base of that legal person in the Republic of Srpska.

(7) The Minister shall prescribe the content and structure of the form showing the incurred, used and unused tax losses. 4. Tax Base Reduction for Investment in Production and Employment

#### Article 26

(1) A taxpayer which invests in property, plant and equipment in the territory of the Republic of Srpska for performance of a registered manufacturing activity, shall be entitled to a tax base

reduction by the value of the investment. (2) The Minister shall issue a decision establishing a list of activities considered to be the manufacturing activities referred to in paragraph 1 of this Article.

(3) The plant and equipment referred to in paragraph 1 of this Article is the plant and equipment directly used in the process of production or processing. (4) The property referred to in paragraph 1 of this Article are new buildings and the land beneath them, directly used for carrying out the activities referred to in paragraph 2 of this Article.

(5) The tax base shall be reduced in the tax period in which the property, plant or equipment referred to in paragraph 1 of this Article was put into use.

(6) A taxpayer may not exercise the right to tax base reduction for the property, plant or equipment acquired as a gift.

(7) In the event that the property, plant or equipment referred to in paragraph 1 of this Article have been acquired by financial lease, the tax base shall be reduced by the value of the repaid lease principal in the tax period.

(8) If property, plant or equipment are disposed of or given for use by taxpayer before the expiration of period of three years from the moment when they were put into use, the taxpayer shall lose the right referred to in paragraph 1 of this Article and shall calculate and pay the tax that would have been paid if the taxpayer had not used the right to tax base reduction together with the accrued interest in accordance with the law.

#### Article 27

(1) A taxpayer which employs at least 30 new workers for an indefinite period of time in a calendar year shall be entitled to a tax base reduction by the amount of income tax and contributions paid for those workers.

(2) A taxpayer may exercise the right to tax base reduction under paragraph 1 of this Article for employing persons registered with the Employment Institute of the Republic of Srpska.

(3) The right to tax base reduction referred to in paragraph 1 of this Article shall be exercised at the end of a tax period, in the year of employment, and after the Tax Administration determines that the records of the Unified System for Registration, Control and Collection of Contributions show 30 employees more with the taxpayer than at the end of the previous tax period.

(4) The newly employed referred to in paragraph 1 of this Article shall be considered an employee who concluded an employment contract for an indefinite period, in accordance with regulations governing labor relations.

(5) The newly employed referred to in paragraph 1 of this Article shall not include persons who were employed in a dependent or parent legal person of the taxpayer.

(6) If number of employees on the basis of which a taxpayer acquired the right to tax base reduction is not maintained for at least three years, excluding the year in which they were employed, the taxpayer shall lose the right referred to in paragraph 1 of this Article and calculate and pay the tax which would have been paid if the taxpayer had not exercised the right to tax base reduction along

with the accrued interest in accordance with the law. 5. Tax Treatment of Status Changes and Liquidation

#### Article 28

(1) In the case of liquidation of a taxpayer, profit or loss shall be determined during the liquidation procedure and continued on the last tax period.

(2) The opening balance for the period of liquidation shall be identical to the balance at the end of the previous tax period, and if such balance does not exist, the value of assets and liabilities shall be estimated.

(3) The closing balance of the period of liquidation shall show the assets to be distributed to liquidation profit or liquidation loss.

(4) The assets shall be estimated at market value at the end of the liquidation period.

(5) The provisions of paragraphs 1 to 4 of this Article shall apply in the event of bankruptcy.

#### Article 29

(1) Merger, acquisition and division are those status changes made in accordance with the law governing the area of companies.

(2) The rights and obligations of merged, acquired or divided taxpayers shall be assumed by the legal successor.

(3) Taxpayers which are being merged, acquired or divided shall deliver financial statements and tax returns to the Tax Administration, counting from the day preceding the date of merger, acquisition or division.

#### Article 30

If there is continuity in taxation during the merger, acquisition or division referred to in

#### Article 29

(1) of this Law, the taxpayer shall be considered to have continued the activity, without any effect on taxation.

(2) For the purpose of paragraph 1 of this Article, the continuity in taxation exists if there are no changes in the valuation of assets and liabilities during transfer to another legal person.

(3) If the accounting values of taken assets and liabilities are not kept the same during a merger, acquisition or division, the difference of capital resulting from the change shall be considered taxable profit.

(4) Paragraphs 1 and 2 of this Article shall apply irrespective of whether there are one or more persons performing the transfer, or persons being created. 6. Transactions between Related Persons (Rules on Transfer Pricing)

## Article 31

(1) Transfer price is the price created in connection with transactions of assets and creation of obligations between related persons.

(2) A person is related to another person when such person participates directly or indirectly in the management, control or capital of that another person, or when the same person or same persons participate directly or indirectly in the management, control or capital of both persons.

(3) A person participates directly or indirectly in the management, control or capital of another person when such person holds directly or indirectly at least 25% of shares or stakes in another legal person or when such person has a de facto possibility to control the business decisions of another person.

(4) A person has the de facto possibility to control the business decisions of another person when it:

- 1) Has or controls 25% or more of the voting rights in another legal person,
- 2) Has control over the composition of board of directors of another legal person,
- 3) Has the right to a share in profits of another person of 25% or more,
- 4) Is a family member or a related person of a family member or
- 5) Otherwise has de facto control over the business decisions of another person.

(5) Family members referred to in paragraph 4, point 4) of this Article shall include: spouses and common-law spouses, children and adopted children, parents and adoptive parents, siblings or relatives in a straight line regardless of the degree, in a collateral line to the third degree as well as in-laws up to the second degree.

## Article 32

(1) A taxpayer who has one or more transactions with related persons shall determine its taxable profit in a manner compliant with the arm's length principle.

(2) The tax base of a taxpayer which has one or more transactions with related persons is in compliance with the arm's length principle if the conditions under which the transactions with related persons are carried out do not differ from those which would have existed between unrelated persons in comparable transactions concluded under comparable circumstances.

(3) A transaction between unrelated persons referred to in paragraph 2 of this Article is comparable to a transaction between related persons:

- 1) when there are no significant differences between transactions that could materially affect the financial indicator tested in accordance with the suitable method for checking of transfer prices, or
- 2) When, despite of the existence of significant differences referred to in point 1) of this paragraph, the effect of such differences is eliminated by adjustments of the relevant financial indicator.

(4) If the conditions of a transaction with a related person are not in compliance with the arm's length principle, the Tax Administration shall increase the tax base of the taxpayer by increasing or decreasing the taxable income or decreasing the recognized costs in order to achieve compliance with the arm's length principle.

#### Article 33

(1) One of the following methods shall be used to determine the compliance of transactions between related persons with the arm's length principle: 1) comparable uncontrolled price method, 2) cost plus method, 3) resale price method, 4) transactional net margin method, 5) profit split method, 6) any other method by which it is possible to determine the price of the transaction based on the arm's length principle, provided that the application of the methods specified in points 1) to 5) of this paragraph is not possible.

(2) Notwithstanding paragraph 1 of this Article, a combination of several methods may be used in determining the price of the transaction based on the arm's length principle, when necessary.

#### Article 34

(1) At the time of filing the tax return for corporate income tax, the taxpayer which has transactions with related persons shall have the documentation on transfer pricing which provides sufficient information and analysis to confirm the compliance of conditions of transactions with related persons with the arm's length principle.

(2) The taxpayer shall deliver the documentation and analysis on transfer pricing referred to in paragraph 1 of this Article to the Tax Administration within 30 days from the receipt of the request of the Tax Administration for its delivery.

(3) A taxpayer who has transactions with a related person in the amount above the threshold prescribed by the Minister shall submit an annual declaration of controlled transactions.

#### Article 35

The Minister shall issue a rulebook on the application of the rules on transfer pricing referred to in Articles 31, 32, 33 and 34 of this Law.

### CHAPTER IV

#### TAX RATE, TAX YEAR, RETURN AND ADVANCE PAYMENTS

#### Article 36

(1) The corporate income tax shall be paid at the rate of 10% on the tax base for such fiscal year.

(2) The withholding tax shall be determined at the rate and in the manner prescribed by the provisions in Chapter VI of this Law.

#### Article 37

(1) Tax year for legal persons is the calendar year.

(2) If a legal person becomes a taxpayer during a tax year or ceases to be a taxpayer during a tax year, the tax year shall be the period in the calendar year when that legal person was the taxpayer.

(3) If a foreign legal person performs economic activity through a permanent place of business in the Republic of Srpska, then the tax year of a foreign legal person may be used to determine the profit relating to the permanent place of business in the Republic of Srpska in accordance with a special act of the Ministry of Finance.

#### Article 38

(1) Tax return for a tax year shall be submitted to the Tax Administration no later than 90 days after the end of the tax year, and in the case of a calendar tax year, no later than 31 March of the current year for the previous year.

(2) The taxpayer shall pay the corporate income tax under the final return within the deadline referred to in paragraph 1 of this Article.

#### Article 39

(1) Corporate income tax shall be paid in advance, monthly, by the tenth of the month for the previous month, based on data from the annual tax return for the previous tax year.

(2) If a taxpayer is planning to earn a higher or lower income in the current year, such taxpayer can apply for the determination of advance corporate income tax in accordance with the plan.

(3) A legal person registered for the first time as a taxpayer shall file a tax return with estimated profit until the end of the fiscal year within 30 days from the start of economic activity.

(4) The Minister shall issue a rulebook determining the content and shape of the forms referred to in this Article and Article 38 of this Law.

### CHAPTER V

#### TAXATION OF FOREIGN LEGAL PERSONS FOR INCOME EARNED IN THE REPUBLIC OF SRPSKA

#### Article 40

(1) A foreign legal person performing economic activity through a permanent place of business in the Republic of Srpska shall pay corporate income tax on the tax base which relates to such permanent place of business.

(2) The tax base referred to in paragraph 1 of this Article shall be determined in accordance with the provisions specified in Chapter III of this Law, so that: 1) only income relating to the permanent place of business is included in the determination of the tax base and 2) only expenditures related to the income of that permanent place of business are included in the expenditures that are deducted.

(3) Interests and related costs based on loans, approved by a foreign legal person to its permanent place of business shall not be recognized as expenditure of the permanent place of business.

(4) Expenditures of the permanent place of business towards its seat based on copyright and related rights and industrial property rights shall not be recognized.

(5) General and administrative expenditures of a foreign legal person which are in connection with the income of a permanent place of business shall be recognized to the permanent place of business in the Republic of Srpska, up to the amount of participation of income of the permanent place of business in the total income of the foreign legal person.

(6) The costs referred to in paragraph 5 of this Article shall be proved by a document of the foreign legal person about the criteria and methods of allocation, as well as other proofs proving that given costs are connected with the generation of income of the permanent place of business in the Republic of Srpska.

#### Article 41

(1) A permanent place of business of a foreign legal person is a place in the Republic of Srpska where the foreign legal person performs its activity in the Republic of Srpska in whole or in part, and includes in particular: 1) a place of management, branch office, office, factory, store, workshop, mine, source of oil or gas, quarry or any other place of exploitation of natural resources in the territory of the Republic of Srpska and 2) a place of performance of construction, installation or assembly works in the Republic of Srpska, as well as a place of installations or structure used for the exploration or exploitation of natural resources, or supervisory activity in connection with these activities. (2) A place where another natural person or legal person operates on behalf of a foreign legal person and has the authority to conclude contracts on behalf of such foreign legal person shall be considered a permanent place of business of the foreign legal person.

(3) A place where a domestic natural or legal person operates on behalf of a foreign legal person by holding stocks of products or merchandise wherefrom such person performs regular deliveries on behalf of the foreign legal person, without the authority to conclude contracts on behalf of the foreign legal person, shall be considered a permanent place of business of the foreign legal person.

(4) The permanent place of business shall not include: 1) use of any space by the legal person only for the purpose of storage or display of products or goods belonging to such legal person, 2) maintenance of a stock of products or goods belonging to the legal person only for the purpose of storage and display, 3) maintenance of a stock of products or goods belonging to the legal person only for the purpose of processing and finishing by another legal person, 4) sale of products or goods belonging to the legal person, which were exhibited during a fair or exhibition, if those products or goods are sold at the latest within a month of the closing date of the fair or exhibition, 5) place of activity performance for the purpose of purchasing products or goods or collecting information for the legal person, 6) place of activity performance for the purpose of execution of any preparatory or auxiliary activity for the legal person and 7) place of activity performance for any combination of the activities in the above cases, provided that the overall activity that takes place in such place of business is of a preparatory or auxiliary nature.

(5) A foreign legal person has no permanent place of business in the Republic of Srpska if it carries out economic activity in the Republic of Srpska through a broker, general consignment agent or any other agent of an independent status, provided that such activity of the agent is its regular economic activity. (6) A foreign legal person has no permanent place of business in the Republic of Srpska if it is under business control of a legal person from the Republic of Srpska or a person performing

economic activity in the Republic of Srpska, either through its permanent place of business or otherwise.

(7) Notwithstanding the manner of determination of a permanent place of business referred to in paragraphs 1 to 6 of this Article, if a double taxation avoidance agreement regulates the permanent place of business in a manner different from the provisions of this Law, the provisions of such agreement shall apply.

#### Article 42

After concluding a contract for performance of works with a foreign legal person which performs such works through a permanent place of business, the taxpayer referred to in Article 3 points 1, 2 and 3 of this Law shall notify the Tax Administration of the conclusion and essential elements of such contract within five days from the date of its conclusion.

#### Article 43

(1) A foreign legal person earning income from immovable property located in the Republic of Srpska shall pay corporate income tax relating to such income. (2) Income from immovable property located in the Republic of Srpska shall include the following: 1) income from renting or other rights to use immovable property located in the Republic of Srpska, 2) gain from the transfer of property rights or other right in connection with immovable property located in the Republic of Srpska, 3) gain from the transfer of shares of a foreign legal person, if the majority of the value of assets of that person is immovable property located in the Republic of Srpska and 4) income obtained from the exploitation of natural resources located in the Republic of Srpska, including gain from the transfer of any rights pertaining to these natural resources.

(3) The tax base for immovable property located in the Republic of Srpska shall be determined in accordance with the provisions of Chapter III of this Law and annual tax return shall be submitted.

### CHAPTER VI

#### WITHHOLDING TAX FROM THE INCOME EARNED BY A FOREIGN LEGAL PERSON IN THE REPUBLIC OF SRPSKA

#### Article 44

(1) Withholding tax shall be calculated and paid while paying income to a foreign legal person, at the rate of 10% of the amount of income of the foreign legal person, unless a double taxation avoidance agreement provides otherwise.

(2) Notwithstanding paragraph 1 of this Article, withholding tax shall be calculated and paid while paying the income from dividends and share in profits of the foreign legal person, at the rate of 5% of the amount of such income, unless a double taxation avoidance agreement provides otherwise.

#### Article 45

Withholding tax shall be paid on the following payments of income to a foreign legal person: 1) dividends and shares in profit, 2) interest, 3) fees based on copyright and related rights and intellectual property rights (right to reproduce literary, artistic, scientific and cinematographic works,



patents, licenses, rights to use the name, design, model, trademark, draft, plan and other similar rights), 4) for performing show business, entertainment, art or sports programs in the Republic of Srpska, 5) for market research, advertising and promotion, management, consulting, tax and business consulting, auditing, accounting and legal services, 6) for insurance premiums for insurance and reinsurance of risks in the Republic of Srpska, 7) for telecommunication services between the Republic of Srpska and foreign countries and 8) for lease of movable property.

#### Article 46

Withholding tax shall not be paid on: 1) profit returned to the foreign legal person's country which relates to its permanent place of business in the Republic of Srpska, provided that the profit returned to the country is the foreign legal person's profit remaining after paying corporate tax in the Republic of Srpska, 2) interests on credits and loans used by the legal person from the Republic of Srpska and permanent place of business of a foreign legal person in the Republic of Srpska for investment in property, plant and equipment in terms of Article 26 of this Law and 3) income in the form of a nominal or contractual interest on debt securities issued by the Republic of Srpska and its local self-government units.

#### Article 47

(1) A taxpayer from the Republic of Srpska (hereinafter 'the payer') paying the income referred to in Article 45 of this Law to a foreign legal person, shall withhold the tax from the amount of income of the foreign legal person and pay the withheld tax to the Republic of Srpska public revenues account.

(2) The withholding tax paid in accordance with this Article is the final tax in respect of such income of a foreign legal person.

(3) If the payer fails to deduct the withholding tax from such income when paying the income referred to in Article 45 of this Law, the payer shall calculate and pay the tax on the amount paid at the rate referred to in Article 44 of this Law.

#### Article 48

(1) The payer shall submit an annual tax return to the Tax Administration within the deadline referred to in Article 38 of this Law.

(2) The annual withholding tax return shall include the following information for each foreign legal person on whose behalf the tax has been withheld for that year: 1) name of the foreign legal person and country of its place of business, 2) type and total amount of income, 3) amount of the calculated tax and 4) amount of tax withheld.

#### Article 49

At the request of a foreign legal person, the Tax Administration shall issue a certificate of withholding tax paid in the Republic of Srpska, if the tax was withheld from the income of the foreign legal person.

### CHAPTER VII

#### ELIMINATION OF DOUBLE TAXATION

#### Article 50

(1) If a taxpayer earns income in a foreign country, and the income is taxed both in the Republic of Srpska and in the foreign country, then the tax paid to the foreign country, regardless of whether it is paid directly or as withholding tax by another person, shall be deducted from the corporate income tax in the Republic of Srpska, unless such legal person from the Republic of Srpska has chosen that the tax abroad be treated as expenditure to be deducted when determining the tax base for the tax year.

(2) Reduction in corporate income tax for the tax paid abroad for a tax year may not be higher than the amount of corporate income tax determined at the rate of corporate income tax of the above legal person for the tax year in the Republic of Srpska.

(3) A taxpayer may reduce the corporate income tax by the tax paid abroad, if the taxpayer provides adequate documentation certified by the tax authorities of the foreign country confirming that the tax was paid in the foreign country.

#### Article 51

(1) If a taxpayer generates profits from the other Entity or Brčko District of BiH, the corporate income tax that the taxpayer has to pay in respect of that profit shall be reduced by the amount of tax paid or payable on that income in the other Entity or Brčko District of BiH.

(2) Reduction in corporate income tax referred to in paragraph 1 of this Article shall not exceed the amount of tax that would otherwise be paid for that amount of profit in the Republic of Srpska.

(3) The taxpayer referred to in paragraph 1 of this Article shall submit proof to the Tax Administration of the amount of profit and the amount of corporate income tax its business unit is obliged pay in the other Entity or Brčko District of BiH.

#### Article 52

(1) If a foreign legal person - user of income subject to withholding tax, is a resident of a country which concluded a double taxation avoidance agreement with BiH, then the tax rate referred to in Article 44 of this Law applicable to each such source of income may not exceed the tax rate given in such agreement, provided that the agreement has been ratified and accepted by Bosnia and Herzegovina.

(2) Exemption from taxes or lower tax rate shall apply to income subject to withholding tax only if a foreign legal person - user of income provides to the income payer, at the moment of payment, the proof of eligibility for exemption or application of lower tax rate based on international agreement.

(3) If the income payer and foreign legal person - user of income subject to withholding tax, have agreed on continuous rendering of services or payment of these services during a year, in that case the foreign legal person - a resident of the country which concluded a double taxation avoidance agreement with BiH, shall not be obliged to deliver the necessary evidence for the purpose of application of such agreement with every payment of income, but once a year before the first payment of income.

(4) The Minister shall issue a rulebook on conditions and manner of acquisition of rights to exemption under paragraph 2 of this Article.

## CHAPTER VIII

### SUPERVISION AND OTHER PROVISIONS

#### Article 53

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

#### Article 54

A taxpayer may not perform the payment of dividend and share in profits, if it has outstanding tax liabilities on the date of payment.

#### Article 55

The Tax Administration shall cooperate with tax authorities in Bosnia and Herzegovina in order to prevent failure to fulfil tax obligations.

#### Article 56

(1) For the purpose of determining the tax base, the taxpayers shall provide collecting and compiling of accounting documents, bookkeeping and drawing up financial statements in accordance with regulations governing accounting and auditing.

(2) Taxpayers shall keep other records and business books, in accordance with the law.

#### Article 57

The law regulating tax procedure shall apply to control, determination, collection and statute of limitations for corporate income tax.

## CHAPTER IX

### PENALTY PROVISIONS

#### Article 58

(1) A fine of BAM 20,000 to BAM 60,000 shall be imposed for a minor offence on a legal person for: 1) failure to have the documentation on transfer pricing which provides sufficient information and analysis to confirm the compliance of transactions conditions with the arm's length principle (Article 34, paragraph 1), 2) failure to deliver the documentation referred to in point 1) of this Article at the request of the Tax Administration within 30 days (Article 34, paragraph 2), 3) failure to submit the annual declaration of controlled transactions with related persons (Article 34, paragraph 3) and 4) making payments of dividends and share in profits, while having outstanding tax liabilities (Article 54).

(2) A fine of BAM 5,000 to BAM 15,000 shall be imposed on the responsible person in a legal person for a minor offence referred to in paragraph 1 of this Article.

#### Article 59

(1) A fine of BAM 5,000 to BAM 15,000 shall be imposed for a minor offence on a legal person for failure to notify the Tax Administration of the conclusion and essential elements of the contract for performance of works with a foreign legal person which performs such works through a permanent place of business, within five days from the date of its conclusion (Article 42).

(2) A fine of BAM 1,500 to 4,500 shall be imposed on the responsible person in a legal person for the minor offence referred to in paragraph 1 of this Article.

#### Article 60

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

### CHAPTER X

#### TRANSITIONAL AND FINAL PROVISIONS

#### Article 61

Within 90 days from the date of entry into force of this Law, the Minister shall issue: 1) Rulebook on the application of norms of expenditures for establishing ullage, spillage, breakage and defect (Article 11, paragraph 6), 2) Rulebook on the application of annual depreciation rate (Article 12, paragraph 12), 3) Rulebook on the form and contents of forms and tax returns for corporate income tax (Article 25, paragraph 7, Article 39, paragraph 4), 4) Rulebook on transfer pricing and methods for its identification (Article 35) and 5) Rulebook on conditions and manner of acquisition of rights to exemption from tax payment (Article 52, paragraph 4).

#### Article 62

Determination of the tax base, return and payment of the income tax for 2015 shall be carried out in accordance with the provisions of the Law on Corporate Income Tax (Official Gazette of the Republic of Srpska 91/06 and 57/12).

#### Article 63

Upon entry into force of this Law, the Law on Corporate Income Tax (Official Gazette of the Republic of Srpska 91/06 and 57/12) shall cease to have effect.

#### Article 64

This Law shall be published in the Official Gazette of the Republic of Srpska, and enter into force on 1 January 2016. No: 02/1-021-1317/15 29 October 2015 Banja Luka President of the National Assembly Nedeljko Čubrilović, m.p.