

ENTERPRISE PROFIT TAX LAW

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I. TAXPAYER

Article 1

The enterprise profit taxpayer (hereinafter: the taxpayer) shall be any enterprise set up in one of the following forms:

- 1) Stock company;
- 2) Limited liability company;
- 3) General partnership;
- 4) Limited partnership;
- 5) Socially owned enterprise;
- 6) Public enterprise.

A taxpayer shall also be any co-operative that earns income by selling products on the market or providing services for a fee.

A taxpayer under law shall also be some other legal entity that is not set up in any of the forms referred to in paragraphs 1 and 2 of this Article, if it earns income by selling products on the market or providing services for a fee.

Residents and Non-residents

Article 2

Any taxpayer referred to in Article 1 of this Law shall be a resident of the Republic of Serbia (hereinafter: resident taxpayer) who is subject to taxation for any profit it generates in the territory of the Republic of Serbia (hereinafter: the Republic) and outside it.

For the purposes of this Law, any resident taxpayer shall be a legal entity formed or having its head office of actual management and control in the territory of the Republic.

Article 3

Any non-resident of the Republic (hereinafter: non-resident taxpayer) shall be subject to taxation for any profit it generates through a permanent operating unit in the territory of the Republic.

For the purposes of this Law, any non-resident taxpayer shall be a legal entity formed and having its head office of actual management and control outside the territory of the Republic.

Article 4

A permanent operating unit shall be understood to mean any permanent place of business through which a non-resident conducts its business, and it may be the following in particular:

1. Branch;
2. Plant;
3. Representative office;
4. Place of production, factory or workshop;
5. Mine, quarry or other site of exploitation of natural resources.

A permanent operating unit may also comprise a permanent or movable site, construction and mounting works, if they last more than six months, including:

- a) One or several construction or mounting projects executed concurrently, or
- b) Several construction or mounting projects executed one after the other without interruption.

If in representing a non-resident taxpayer, a person has and exercises the authority to conclude contracts on behalf of that taxpayer, it shall be deemed that the non-resident taxpayer has a permanent operating unit with regard to the operations performed by the representative on behalf of the taxpayer.

A permanent operating unit shall be deemed non-existent if the non-resident taxpayer conducts its business through a commissioner, broker or any other person which in the conduct of its own business acts in its own name and for the taxpayer's account.

Neither shall the following make up a permanent operating unit:

1. Keeping stocks of goods or materials belonging to any non-resident taxpayer exclusively for purposes relating to storage, presentation and delivery or using premises intended for such purposes exclusively;
2. Keeping stocks of goods or materials belonging to any non-resident taxpayer exclusively for the purpose of their being processed in another enterprise or by a sole proprietorship;
3. Keeping a permanent place of business exclusively for the purpose of procuring goods or collecting information for the needs of a non-resident taxpayer or for the purpose of engaging in other activities of preparatory or accessory nature for the needs of a non-resident taxpayer.

Article 5

Any non-resident taxpayer shall keep in the permanent operating unit records containing all data relating to income and outlays, as well as other data necessary to determine the profit generated by that unit in the territory of the Republic.

The minister of finance and economy shall prescribe the way of keeping the records referred to in paragraph 1 of this Article.

II. TAX BASE

Taxable Profit

Article 6

The enterprise profit tax base shall be the taxable profit of any taxpayer determined in the tax statement, unless otherwise provided by this Law.

Taxable profit shall be determined by adjusting the taxpayer's profit declared in the income statement in the manner determined by this Law.

Adjustment of Expenditures

Article 7

The expenditures declared in the income statement in conformity with the law dealing with accounting, other than those which are to be declared in a different way pursuant to this Law, shall be recognised in the determination of taxable profit.

Article 8

The cost of materials and the acquisition value of sold merchandise shall be recognised in the amounts calculated by the average price method in conformity with the law dealing with accounting.

If stocks of materials and merchandise are declared in the income statement at accounting prices that are different from the acquisition prices, the difference in the income statement shall be calculated in a way that reduces the cost of materials and the acquisition value of sold merchandise to the amounts resulting from the application of the average price method.

The provisions of Article 61 of this Law shall apply with regard to the acquisition price of materials and the value of the merchandise procured from associated persons.

Article 9

The costs relating to wages and salaries shall be recognised in the amount charged to operating costs.

The receipts of employees and other persons originating from the distribution based on the right to a share in the taxpayer's profits shall not be regarded as expenditures for tax statement purposes.

Article 10

Depreciation of fixed assets shall be recognised as expenditure in the tax statement up to the amount determined by applying the straight-line, per unit or declining balance method.

Article 11

Once a depreciation method is selected, it shall be applied until the ultimate depreciation of an asset or group of assets.

A change of depreciation method is permissible only in case of switching over from the declining balance to the straight-line method. In that case, the remaining value of an asset or group of assets shall be divided into equal depreciation instalments for the remaining service life.

Once depreciated, an asset or group of assets may not be included again in the depreciation calculation for the tax statement purposes.

The remaining net value of the assets that can no longer be used may be depreciated wholly regardless of the prescribed service life. Such depreciation shall be included wholly in the tax statement as expenditure.

Article 12

When the straight-line depreciation method is used, the annual depreciation rates set in the nomenclature of assets for depreciation and the asset service life derived from them shall be applied.

Article 13

When the per unit depreciation method is used, the asset depreciation base shall be divided by the expected volume of units, and depreciation shall be determined by multiplying the obtained quotient by the actual units in the accounting period or accounting year.

When by applying the procedure referred to in paragraph 1 of this Article, the taxpayer's total depreciation is increased by more than 5% of the depreciation calculated by the straight-line method, the calculation of depreciation by the per unit method shall be subject to the approval of the competent tax office.

The amount of depreciation referred to in paragraph 2 of this Article, which is approved by the competent tax office, shall be included as expenditure item in the tax statement.

Article 14

When the declining balance method of depreciation is applied to the existing value of an asset or group of assets, it shall be permissible to apply the depreciation rates referred to in Article 12 of this Law increased by the following coefficients:

Service life	Coefficient
Up to 4 years	1.5
4 to 7 years	2.0
Over 7 years	2.5

In a year in which the depreciation amounts calculated by the declining method fall below the amount that would have been obtained by the straight-line method, depreciation shall be calculated for that and the following year by dividing the remaining value by the remaining number of service life years of the asset or group of assets.

Article 15

Expenditures for health care, cultural, educational, scientific, humanitarian, religious, environmental protection and sport-related purposes, shall be recognised as expenditure amounting to not more than 3.5% of the total revenue.

Expenditures for humanitarian purposes shall be recognised only if they were made through humanitarian organisations registered for such purposes.

Expenditures on investment in the field of culture shall be recognised as expenditure amounting to not more than 1.5% of the total revenue.

Membership fees paid to chambers of commerce and industry, unions and associations shall be recognised as expenditure item in the tax statement up to 0.1% of the total revenue.

Membership fees the amount of which is determined by law shall be recognised as expenditure in the amount determined by law.

Membership fees paid and donations made to political parties shall not be recognised as expenditure in the tax statement.

The costs relating to advertising, publicity and entertainment shall be recognised as expenditure up to 3% of the total revenue.

Only the gifts and other expenses serving towards the improvement of the taxpayer's performance shall be recognised as publicity expenditure in the tax statement.

If publicity involves the giving of gifts to non-documented recipients or recipients who are the associated persons referred to in Article 59 of this Law, such expenditures shall not be recognised in the tax statement.

The minister in charge of cultural affairs shall enact regulations in greater detail as to what the investment in the field of culture should be understood to mean for the purposes of this Law, having obtained the opinion of the minister of finance and economy.

Article 16

The corrections (write-off) of the value of certain receivables done in conformity with the law dealing with accounting shall be recognised as expenditure.

The corrections of the receivables referred to in paragraph 1 of this Article from persons to which payment of debts is also due shall not be recognised.

All written off, corrected and other receivables for which provisions have been made and which are collected subsequently, shall be included at the moment of collection in the revenue taxable under this Law.

The provisions made for the cost of capital maintenance of fixed assets incurred in accordance with the long-term plan of capital maintenance of fixed assets adopted in conformity with the regulations dealing with accounting and which is approved by the competent tax office within 30 days following the expiration of the deadline for filing the annual tax statement, shall be recognised as expenditure in the tax statement.

If costs are not incurred in accordance with a long-term plan, only the actual costs shall be recognised as expenditure in the tax statement, not also the amount of provisions.

The provisions for the coverage of other expenses and risks accounted in conformity with the provisions of the law dealing with accounting shall also be recognised as expenditure in the tax statement.

The minister of finance and economy shall regulate in greater detail the amount and modality of determining expenditures on long-term capital maintenance of fixed assets, which shall be recognised as a provision in the tax statement.

Article 17

In case of any taxpaying bank, the special reserve for insurance against potential losses amounting to 90% of the Category C, D and E percentages set out in the Decision on the Criteria for Classification of the Balance and Off-balance Assets of Banks and other Financial Organisations According to Collectibility Degree (Službeni list SRJ, No. 31/99) recognised as provision in the in the income statement in conformity with the Law on Banks and Other Financial Organisations, shall be recognised as expenditure in the tax statement.

Article 18

The positive revaluation result (revaluation revenues higher than revaluation expenditures), which is credited to reserves under the regulations dealing with accounting, shall be declared in the tax statement in the amount of 1/3 of the annual surplus credited to reserves.

Article 19

The total accounted interest, other than interest charged for untimely payment of taxes, contributions and other public charges, shall be recognised as expenditure in the tax statement.

In case of credits received from associated persons, the accounted interest shall be reduced in the manner determined by Article 62 of this Law.

Article 20

Any interest and related costs based on a loan extended to a permanent operating unit referred to in Article 4 of this Law by its non-resident head office, shall not be recognised as expenditure in that operating unit's tax statement.

Any compensation based on copyrights and industrial property rights (hereinafter: royalties) paid by any permanent operating unit referred to in Article 4 of this Law to its non-resident head office, shall not be recognised as expenditure in the permanent operating unit's tax statement.

Article 21

Any fine and penalty paid by any taxpayer shall not be recognised as expenditure in the tax statement.

Article 22

Any paid property tax, social security contributions payable by the employer, stamp duty and other public charges not dependent on operating results, shall be recognised as expenditure in the tax statement.

Income Adjustment

Article 23

Any operating, financial, non-operating and extra income and non-revalued income declared in the tax statement in conformity with the law dealing with accounting, with the exception of the income which is to be determined in a different way determined by this Law, shall be recognised in the determination of taxable income in the tax statement.

The provisions of Article 62 of this Law shall apply to interest and other income accruing from credits and other loans extended to associated persons.

Article 24

Any income accrued from interest on public loan shall not be included in the tax base.

Article 25

Any income accrued to a taxpayer from dividends and share in the profits of other enterprises shall be taxed as determined by this Law.

Article 26

The production costs shall be included in the value of the stocks of work in progress, intermediates and final products in the determination of taxable profits in conformity with the provisions of the law dealing with accounting.

In case of long production cycles and strong seasonal effect on the volume of activities, it shall be permissible to also include in the value of the stocks referred to in paragraph 1 of this Article, the appropriate part of the general overhead and sales costs and financing costs.

The value of stocks calculated pursuant to paragraphs 1 and 2 of this Article may not be greater than their sale value on the tax statement filing date.

Capital Gains and Losses

Article 27

A capital gain shall be understood to mean any income earned by a taxpayer by selling or transferring in another way against compensation (hereinafter: sale) the following:

- 1) Proprietary rights to real estate;
- 2) Permanent right of use of and right of construction on urban building land;
- 3) Industrial property rights;
- 4) Interests in the assets of legal entities and shares and other securities, with the exception of bonds issued in conformity with the regulations dealing with settlement of commitments of the Republic of Serbia based on the loan towards economic development and the household foreign exchange savings;
- 5) Equipment;
- 6) Other fixed assets.

A capital gain makes up the difference between the sale price of the property referred to in paragraph 1 of this Article (hereinafter: the property) and its acquisition price, adjusted to the provisions of this Law.

If the difference referred to in paragraph 2 of this is negative, a capital loss is involved.

Article 28

For the purposes of this Law, the acquisition price used in the determination of capital gains shall be the price at which a taxpayer has acquired property which is decreased on the basis of depreciation or increased on the basis of revaluation up to the date of sale, in conformity with the regulations dealing with accounting.

If the price at which property was acquired is not declared in the taxpayer's books or is not declared in conformity with paragraph 1 of this Article, the acquisition price to be taken for the purpose of determining the capital gain shall be its market price on the date of acquisition, as determined by the competent tax office in the way set in paragraph 1 of this Article.

In case of sale of real estate under construction, the sale price referred to in paragraph 1 of this Article shall be the construction costs declared up to the date of sale in conformity with the regulations dealing with accounting.

In case of the securities quoted on the stock exchange, the acquisition price shall be the price the taxpayer documents as the actually paid one and if it does not do so, the lowest registered quotation in the course of the year preceding the sale of security.

In case of the securities not quoted on the stock exchange, the acquisition price shall be the price the taxpayer documents as the actually paid one and if he does not do so, their par value.

In case of sale of proprietary rights to real estate, the acquisition prices referred to in paragraph 1 of this Article shall be adjusted by being increased on the basis of:

- 1) Real estate capital maintenance costs;
- 2) Cost of improving the real estate in the form of additional investments made towards increasing its capacity and improvement of its quality or changing its purpose, in which case, such cost shall be recognised to the amount of actual investments revalued up to the date of sale in conformity with the regulations dealing with accounting.

Article 30

Any capital gain shall be included in taxable profit in the amount set in the way referred to in Articles 27 through 29 of this Law.

Any capital loss incurred in the sale of a proprietary right may be offset with the capital gain made in the sale of another proprietary right in the same year.

If a capital loss is declared even after the offsetting referred to in paragraph 1 of this Article, it is permissible for it to be offset with future capital gains in the next 10 years

Article 31

Any take-over, merger or partition of a legal entity shall defer the commencement of tax liability on the basis of capital gains.

The tax liability on the basis of capital gains as referred to in paragraph 1 of this Article shall run from the moment the legal entity that came into being by change of status sells the property taken over on the basis of such change of status.

Any capital gain referred to in paragraph 2 of this Article shall be calculated as the difference between the sale price of property and its acquisition price paid by the legal entity that had brought that property into the legal entity that came into being by the change of status, adjusted in the way referred to in Article 29 of this Law, from the date of acquisition to the date of sale.

The right to the deferment of payment of enterprise profit tax on the capital gains made in the way referred to in paragraph 1 of this Article shall apply, if the owner of the legal entity which had transferred property on the occasion of take-over, merger or partition has received compensation in the form of shares or interest in the legal entity to which the property was transferred, as well as any compensation in cash, the amount of which is not greater than 10% of the par value of the obtained shares or interests.

If the compensation in cash referred to in paragraph 4 of this Article is greater than 10% of the par value of the obtained shares or interests, the tax liability on capital gain runs from the moment the change of status is made and the capital gain shall be calculated as the difference between the price at which the property could have been sold on the market and the acquisition price referred to in Article 29 of this Law.

Tax Treatment of Operating Losses

Article 32

Any losses incurred in the conduct of commercial, financial and non-commercial transactions declared in the tax statement, with the exception of those from which the capital gains and losses determined in conformity with this Law originate, may be transferred to the account of the profit declared in the tax statement in future* accounting periods, but not for longer than 10 years.

Article 33

The utilisation of the tax facility referred to in paragraph 32 of this Article shall not be terminated in the event of change of status based on merger and take-over, or in the event of a socially owned enterprise being set up as a stock company or a limited liability company or in other cases of a taxpayer's organisation.

In the event of partition, the facilities referred to in Article 32 of this Law shall be divided proportionately and the competent tax office shall be notified accordingly.

III. TAX TREATMENT OF A TAXPAYER'S LIQUIDATION AND BANKRUPTCY

Article 34

Any profit determined in the proceedings for the liquidation of any taxpayer shall be taxable.

The profit of a taxpayer shall be determined in the liquidation proceedings as the positive difference between the taxpayer's assets at the beginning and at the end of the liquidation proceedings.

Any taxpayer in relation to which the liquidation proceedings have been instituted shall file with the competent tax office an announcement and a tax statement, as on:

1) The date of institution of liquidation proceedings - within 15 days from the date of instigation of liquidation proceedings;

2) The date of completion of liquidation proceedings - within 15 days from receipt of the decision ending the liquidation proceedings.

The period for which the base referred to in paragraph 2 of this Article is determined shall correspond to the actual duration of liquidation proceedings, but it may not be longer than a year, and if proceedings are carried over to the next year, the taxpayer concerned shall also compile a tax statement as on 31 December of the current year and file it by 15 January of the following year.

Article 35

The assets remaining in the liquidation estate after debts have been paid to creditors (liquidation surplus) over and above the revalued amount of invested capital, shall be regarded as capital gain.

Article 36

If the revalued invested capital is greater than the liquidation surplus, a capital loss is incurred.

Article 37

The provisions of Articles 34 through 36 of this Law shall also apply to bankruptcy proceedings accordingly.

IV. TAX INTEGRATION

Article 38

For the purpose of avoiding double taxation, the shareholding individuals shall be afforded a facility for the dividends paid out, in the manner determined by the law dealing with individual tax.

V. TAX RATE

Article 39

The enterprise profit tax rate shall be proportional and uniform.

The enterprise profit tax rate shall be 14%

Article 40

Any taxpayer shall account and pay withholding tax at the rate of 20% on the following:

1) Dividends and share in the profits of a legal entity;

2) Copyright fees and interest accrued to any non-resident taxpayer.

VI. TAX INCENTIVES

Article 41

Taxpayers shall be granted tax incentives for the purpose of achieving economic policy aims relating to the fostering of economic growth, development of small enterprises, concession-related investment, employment and improvement of the ecological situation.

This Law alone shall determine the tax incentives relating to enterprise profit tax.

Accelerated Depreciation

Article 42

Any taxpayer shall have the right to accelerated depreciation of fixed asset on conditions determined by this Law.

Accelerated depreciation shall be conducted in the manner determined by Articles 10 through 14 of this Law at rates that may be up to 25% higher than the prescribed ones.

Article 43

Any taxpayer shall have the right to accelerated depreciation in relation to the fixed assets serving for the following purposes:

1) Prevention of air, water and soil pollution, noise control, energy saving, afforestation and collection and utilisation of waste as industrial raw materials and fuels;

2) Science research;

3) Education and staff training.

Any taxpayer shall also have the right to accelerated depreciation in relation to hardware.

Tax Exemptions

Article 44

Tax exemption shall apply to any taxpayer referred to in Article 1, paragraph 3, of this Law (hereinafter: non-profit organisation), which declares income that is up to 300,000 dinars higher than its expenditures in the year for which the right to exemption is granted, on the following conditions:

1) That the non-profit organisation does not distribute the thus generated surplus to its founders, members, executives, employees or persons associated with them;

2) That the salaries paid by the non-profit organisation to its employees, executives and persons associated with them are not greater than twice the average salary paid in the branch to which that non-profit organisation belongs;

3) That the non-profit organisation does not distribute assets in favour of its founders, members, executives, employees or persons associated with them.

The right to exemption shall not apply to any non-profit organisation which declares income that is by more than 300,000 dinars higher than its expenditures, as well as to any non-profit organisation that enjoys a monopolistic or dominating position on the market as determined by the law dealing with the curbing of monopolistic or dominating positions.

Any non-profit organisation shall declare in its tax statement particularly the income earned on the market and the expenditures associated with it.

Associated persons shall be understood to mean the persons referred to in Article 59 of this Law.

The minister of finance and economy shall set the contents of the tax statement referred to in paragraph 3 of this Article.

Article 45

In the case of any concession-related investment, the concession-receiving enterprise or concessionaire owning an enterprise registered for engagement in concession-related activities shall be exempt from tax on the profit earned on the basis of the income stemming from the subject matter of concession up to five years from the contracted date of completion of the concession-related investment wholly.

If the concession-related enterprise or concessionaire referred to in paragraph 1 of this Article earns profit prior to completion of the concession-related investment, it shall be exempt from profit tax.

The term referred to in paragraphs 1 and 2 of this Article shall be set by the Government of the Republic of Serbia in the concession deed or concession-granting agreement, depending on the time necessary for the exploitation of the subject matter of concession to be started up.

For the purpose of exercising the right to exemption from profit tax, any concessionaire which is not bound to form a concessionaire enterprise under the law dealing with concessions, shall separately account and determine the profit accrued on the basis of income stemming from the subject matter of concession in conformity with law.

Article 46

Any enterprise engaged in vocational training, professional rehabilitation and employment of disabled persons shall be exempt from enterprise profit tax, in proportion to the share of such persons in the total number of its employees.

Tax Credits

Article 47

Any taxpayer which has generated profit in a newly established operating unit in an underdeveloped region shall be entitled to an enterprise profit tax reduction in the duration of two years, in proportion to the share of such profit in the total enterprise profit.

The condition for utilising the facility in the form of tax reduction (hereinafter: tax credit) referred to in paragraph 1 of this Article shall be the keeping of separate books for that unit.

Article 48

In case of a taxpayer which invests in fixed assets in the scope of its registered business, its accounted enterprise profit tax shall be reduced by 20% of the investments made in that year.

The tax credit referred to in Paragraph 1 of this Article may not be greater than 50% of the accounted tax in the year in which the investment was made.

The non-utilised part of tax credit may be carried over to the profit tax account in future accounting periods to the limit referred to in paragraph 2 of this Article, but not for longer than 10 * years.

In each year of the period referred to in paragraph 3 of this Article, the tax credit relating to the investment made in that year shall be applied first and thereafter, the carried over tax credits shall be applied in the order of investment, up to the limit referred to in paragraph 2 of this Article.

The fixed assets referred to in paragraph 1 of this Article shall not be understood to mean passenger automobiles, other than automobiles intended for taxi service, rent-a-car service, driver schools and special automobiles with built-in appliances for the transport of patients; furniture, other than furniture intended for furnishing hotels, motels, restaurants and youth, children's and workers' holiday camps; carpeting; works of fine and applied arts and interior decoration items; and tools and inventory subject to calculated writing off.

In the event of the fixed assets referred to in paragraph 1 of this Article being transferred prior to the expiration of three years from the date of acquisition, the taxpayer concerned shall forfeit the right to the tax credit referred to in paragraph 1 of this Article and pay the unpaid tax, which shall be indexed by the retail price growth rate, as published by the republic authority in charge of statistics.

In a case referred to in paragraph 6 of this Law, the taxpayer concerned shall report the transfer of fixed assets to the competent tax office within five days from the transfer of such assets.

Article 49

The accounted enterprise profit tax of any taxpayer which employs new workers for an indefinite period of time shall be reduced by an amount that is equal to 100% of the gross wages/salaries paid to such employees plus the corresponding public revenues paid as a charge to the employer.

The tax credit referred to in paragraph 1 of this Article shall be recognised for a period of two years from the date of employment, on condition that the taxpayer concerned did not reduce the number of employees in that period, as well as in the period of 12 months prior to the date of employment.

For the purposes of paragraphs 1 and 2 of this Article, a reduction of the number of employees shall be understood to mean the termination of an employee's employment by the notice served by the employer

For the purposes of paragraphs 1 and 2 of this Article, a reduction of the number of employees shall not be understood to mean the termination of employment by force of law in conformity with the regulations dealing with labour relations, or in case of an employee's death.

In the event of a taxpayer's failure to fulfil the requirement referred to in paragraph 2 of this Law, it shall pay the tax it would have had to pay, had it not used the facility referred to in paragraph 1 of this Article, indexed by the retail price growth rate as published by the republic authority in charge of statistics.

Article 50

In the case of any taxpayer classified as a small enterprise pursuant to the law dealing with accounting, the right to the tax credit referred to in Article 48 of this Law shall be recognised to the amount of 40% of the investment effected.

Investment Incentives

Article 50 a

Any taxpayer that invests 600 million dinars in its fixed assets or such amount is invested in its fixed assets by another person, pursuant to the regulations dealing with incitement to investment in the industries of the Republic, uses such funds in the conduct of its registered business in the Republic and employs during the investment period at least additional 100 persons for an indefinite period of time, shall be exempt from enterprise profit tax for a period of ten years, in proportion to that investment.

Following the fulfilment of the requirements referred to in paragraph 1 of this Article, the tax exemption period runs from the first year in which taxable profit is made.

For the purposes of paragraph 1 of this Article, newly employed persons shall not be understood to mean the ones who have been employed indirectly or directly by a subsidiary of the investor.

Article 50 b

Any taxpayer that pursuant to the regulations dealing with incitement to investment in the industries of the Republic, is conducting a business in a region of particular interest to the Republic, shall be exempt from the enterprise profit tax for five years on following conditions:

- 1) That it or some other person has invested more than six million dinars in its fixed assets;
- 2) That it is using 80% of the value of its fixed assets in the conduct of its registered business in a region of special interest to the Republic;
- 3) That the taxpayer employs at least five persons for an indefinite period during the investment period;
- 4) That at least 80% of employees employed for an indefinite period live in a region of special interest to the Republic.

The tax exemption referred to in paragraph 1 of this Article may be enjoyed in proportion to investment.

The tax exemption applies following the fulfilment of the requirements referred to in paragraph 1 of this Article, as of the first year in which taxable profit is obtained.

An employee employed for an indefinite period by an employer referred to in paragraph 1 of this Article in a region of special interest to the Republic, shall be understood to mean a person who has been employed by that taxpayer and has resided in the region of special interest to the Republic for at least nine months in the calendar year.

For the purposes of paragraph 1, item 3, of this Article, newly employed employees shall not be understood to mean persons who have not been employed indirectly or directly in a subsidiary of the investor.

Article 50 c

If a taxpayer referred to in Articles 50a and 50b of this Law reduces the number of its employees to less than the number set in Article 50a, paragraph 1, and Article 50b, paragraph 1, item (3), or reduces the percentage set in Article 50b, paragraph 1, item 4), it shall forfeit the right to tax exemption for the whole period in which it has been enjoying it and pay tax valorised by applying the retail price growth rate as published by the republic authorities in charge of statistics.

Article 50 d

If before the expiration of the period of exemption from tax, a taxpayer referred to in Articles 50a and 50b of this Law goes out of business, stops using or transfers the assets referred to in Article 50a, paragraph 1, and Article 50b, paragraph 1, and does not invest in new fixed assets a sum that is equal to the market price of transferred assets, it shall pay tax valorised by applying the retail price growth rate as published by the republic authorities in charge of statistics.

Article 50 e

The amount invested in fixed assets pursuant to Articles 50a and 50b of this Law shall not include the value of the equipment that is already in use in the Republic.

Article 50 f

Should a taxpayer referred to in Articles 50a and 50b of this Law acquires property on the basis of merger, joinder or partition, where capital gain is deferred pursuant to Article 31 of this Law, it shall pay tax on the profit accrued in a period of three years preceding the fulfilment of requirements and in the period of tax exemption referred to in Articles 50a and 50b, in proportion to thus acquired property.

Article 50 g

The proportion referred to in Articles 50a, 50b and 50f shall be determined in the way presented in greater detail by the Minister of Finance and Economy.

Article 50 h

The Minister of Finance and Economy shall determine in greater detail the keeping of books on the performance shown by the beneficiaries of tax incentives referred to in Articles 50a and 50b of this Law.

Article 50 i

Once the Government of the Republic of Serbia finds that an investment referred to in Articles 50a and 50b of this Law is of special interest to the Republic's economy, pursuant to the law dealing with incentives to investment in the Republic's economy, the fulfilment of requirements for the enjoyment of the tax incentives referred to in Articles 50a and 50b of this Law shall be established by competent tax authorities.

VII. ELIMINATION OF DOUBLE TAXATION OF PROFITS ACCRUED IN THE OTHER REPUBLIC AND IN OTHER STATES

Profits Accrued to a Resident Taxpayer's Permanent Operating Unit

Article 51

If a resident taxpayer earns profit by conducting business in the other republic or in another state and tax was paid on that profit in the other republic or another state, it shall be granted a tax credit on its enterprise profit tax account determined in conformity with the provisions of this Law, amounting to the tax paid in the other republic or another state.

The tax credit referred to in paragraph 1 of this Article may not be greater than the amount that would be obtained by applying the provisions of this Law on the profit accrued in the other republic or abroad.

Inter-company Dividends

Article 52

The accounted enterprise profit tax of a parent enterprise, which is a resident taxpayer of the Republic, may be reduced by an amount corresponding to the tax its non-resident affiliate would have paid in the other republic or another state on the profit from which the dividends included in the parent enterprise's income were paid and on such paid dividends.

The income from dividends coming from a non-resident affiliate shall be included in the resident enterprise's income plus the paid enterprise profit tax and withholding tax on the dividends referred to in paragraph 1 of this Article.

The tax credit referred to in paragraph 1 of this Article may be used towards reducing the parent enterprise's accounted tax up to the amount of tax that would have been levied on profit and dividends in conformity with the provisions of this Law.

For the purposes of this Law, a parent enterprise shall be understood to mean a legal entity that owns the shares of or interests in other legal entities on conditions determined by this Law.

For the purposes of this Law, an affiliate shall be understood to mean any legal entity in whose capital the parent enterprise has a share on conditions determined by this Law.

Article 53

The right to the tax credit referred to in Article 52 of this Law may be exercised by any parent enterprise that has possessed 25% or more shares or interests of the non-resident affiliate for at least the whole year preceding the presentation of statement.

Any taxpayer referred to in paragraph 1 of this Article shall present to the competent tax office appropriate evidence of the size of its share in the capital of its non-resident affiliate, duration of holding that share and tax paid by the affiliate in the other republic or another state, together with its income statement and tax statement.

The provisions of paragraphs 1 and 2 of this Article shall apply accordingly also when a parent enterprise is exercising direct control over its non-resident affiliate on the basis of owning 25% or more shares of or interests in the non-resident affiliate concerned.

Article 54

The minister of finance and economy shall regulate in greater detail the modality of exercising the right to the tax credit referred to in Articles 52 and 53.

VIII. GROUP TAXATION AND TRANSFER PRICES

Tax Consolidation

Article 55

For the purposes of this Law, any parent enterprise and its affiliates make up a group of associated enterprises, if direct or indirect control over at least 75% of shares or interests exists among them.

Associated enterprises shall have the right to apply for tax consolidation on condition that all of them are residents of the Republic.

The parent enterprise concerned may file the application for tax consolidation with the competent tax office.

Article 56

Each member of a group of associated enterprises shall file its own tax statement and the parent enterprise shall file the consolidated tax statement for the group of associated enterprises.

The losses of one or several associated enterprises may be offset in the consolidated tax statement at the expense of other associated enterprises in the group.

Each member of a group of associated enterprises shall be a payer of the tax accounted in the consolidated tax statement, in proportion to the taxable profit declared in individual tax statements.

The minister of finance and economy shall regulate in greater detail the modality of avoiding double exemption or double taxation of items in the consolidated tax statement.

Article 57

Once approved, any tax consolidation shall be applied for at least five years.

If prior to the expiration of the term referred to in paragraph 1 of this Article, the conditions referred to in Article 55, paragraph 1 and 2, of this Law change or if one enterprise, several associated enterprises or all associated enterprises in a group subsequently opt for individual taxation prior to the expiration of the term referred to in paragraph 1 of this Article, all associated enterprises shall pay proportionally the balance of the privilege they had used.

Avoidance of Double Taxation of the Dividends Accrued from a Share in the Capital of Another Taxpayer

Article 58

The income accrued from dividends of an affiliate which is a resident of the Republic, plus the paid enterprise profit tax and the withholding tax on dividends, shall be included in the income of its parent enterprise which is a resident of the Republic.

The paid enterprise profit tax and withholding tax on dividends shall be recognised as tax credit for the reduction of the accounted enterprise profit tax.

The tax credit referred to in paragraph 2 of this Law may be used towards reducing the accounted tax of the parent enterprise up to the amount of tax that would be levied on profit or dividend in conformity with this Law.

The minister of finance and economy shall regulate in greater detail the modality of increasing the dividends for the paid taxes referred to in paragraph 1 of this Article and the modality of exercising the right to the tax credit referred to in paragraph 2 of this Article.

Transfer Prices

Article 59

A transfer price shall be understood to mean the price that comes into being in connection with transactions involving assets or making commitments among associated persons.

A person associated with a taxpayer shall be understood to mean an individual or legal entity in whose relations with the taxpayer, there is a possibility of exercising control over or exerting considerable influence on business decisions.

The possession of more than 50% or the largest single portion of shares or interests shall mean that control over the taxpayer is possible.

Besides the case referred to in paragraph 3 of this Article, influence on a taxpayer's business decisions also exists when a person associated with a taxpayer has more than 50% or the largest number of votes individually in the taxpayer's controlling bodies.

A person associated with a taxpayer shall also be understood to mean a legal person in which, like in the taxpayer, the same legal entities participate in control, supervision or capital in the way determined in paragraphs 3 and 4 of this Article.

Article 60

Any taxpayer shall declare in its tax statement the transactions referred to in Article 59, paragraph 1, of this Law separately.

Any taxpayer shall declare in its tax statement separately, together with the transactions referred to in Article 59, paragraph 1, of this Law, the value of such transactions at prices that would have been fetched on the market for such or similar transactions, had an associated person not been involved (the "arm's length" principle).

The duties referred to in paragraphs 1 and 2 of this Article shall also apply to transactions between any operating unit referred to in Article 4 of this Law and its non-resident head office.

Article 61

The difference between the price determined by the "arm's length" principle and the taxpayer's transfer price shall be included in the tax base.

Comparative market prices shall be used in the determination of the transaction price by the "arm's length" principle and when that is not possible, by the cost plus the usual profit margin method or the resale price method.

The minister of finance and economy shall regulate in greater detail the application of the methods referred to in paragraph 2 of this Article.

"Arm's Reach" Interest and Prevention of Thinned Capitalisation

Article 62

In case of a debt to a creditor having the status of an associated person referred to in Article 59 of this Law, the interest and related costs greater than four times the value of the taxpayer's own capital shall not be recognised as expenditure of any taxpayer other than a bank or other financial organisation and,

1) in case of a loan denominated in dinars, 110% of the interest rate charged by the National Bank of Yugoslavia on the loans it extended to commercial banks as on 31 December of the previous year; and

2) in case of a loan in foreign exchange, 110% of the interest rate charged by the central bank of the country whose currency is involved on the loans it extended to commercial banks as on 31 December of the previous year.

For the purposes of this Law, the taxpayers own capital shall be understood to mean the difference between the assets on the basis of which a taxpayer earns income, which is included in the total income, and the debts associated with it, where assets and debts are declared in their average amount as on 1 January and 31 December of the current year.

Interest and related costs in excess of the amount referred to in paragraph 1 of this Article may be included as expenditure in the tax statement for the following year.

In case of banks and other financial organisations, the limit referred to in paragraph 1 of this Article shall be equal to the result of ten times the value of own capital and the interest rate referred to in item 1) and item 2) of the mentioned Article.

The minister of finance and economy shall regulate in greater detail the application of the "arm's reach" interest and the modality of preventing thinned capitalisation.

IX. DETERMINATION AND COLLECTION OF ENTERPRISE PROFIT TAX

Tax Declaration Filing

Article 63

Any payer of enterprise profit tax shall file the tax declaration and tax account containing accurate data with competent tax office within eight days from the expiration of the term set for filing the annual statements of accounts.

Besides the tax declaration and tax account, any taxpayer shall also present to the competent tax office particulars of importance for the determination of capital gains and losses, as well as other documents determined by this Law.

The contents of the tax declaration referred to in paragraph 1 of this Article shall be prescribed by the director of the Republic Public Revenue Authority.

The contents of the tax account referred to in paragraph 1 of this Article shall be prescribed by the minister of finance and economy.

Article 64

Any newly formed legal entity shall file its tax declaration containing its estimated income and expenditure until the end of the year, within fifteen days from the date of its court registration.

Article 65

Any taxpayer whose right to tax exemption expires in the first half of the financial year, shall file with the competent tax office its tax declaration and periodical tax account within eight days from the expiration of the term set for filing the half-yearly statements of account.

Any taxpayer whose right to tax exemption expires in the latter half of the financial year, shall file with the competent tax office an annual tax account within the term set for filing the annual statements of accounts.

Determination of Tax

Article 66

The enterprise profit tax shall be determined by a ruling rendered by the competent tax office.

The ruling referred to in paragraph 1 of this Article shall be rendered on the basis of the data entered in the taxpayer's tax declaration and tax account and the data found by the competent tax office in the course of auditing or in other ways.

Article 67

The competent tax office shall render a ruling determining the tax liability within 30 days from receipt of the tax declaration and tax account.

Should the competent tax office find that for the purpose of determining the tax liability, it is also necessary to collect other evidence in addition to that at its disposal, it may extend the term referred to in paragraph 1 of this Article to not later than 31 May of the year in which tax is being determined, but in that case, it shall render a special ruling to that effect before the expiration of the term referred to in paragraph 1 of this Article.

Article 68

In case of any newly formed legal entity, the competent tax office shall render a ruling setting its tax advance, within 30 days upon receipt of its tax declaration.

In a case referred to in Article 65 of this Law, the competent tax office shall render a ruling setting the tax advance and the annual tax liability determined in proportion to the number of days for which the taxpayer is without tax exemption.

Article 69

Any taxpayers' duties in the enterprise tax declaration and determination procedure shall not defer the taxpayer's right to distribute profit in accordance with the annual income statement, in which case the taxpayer shall make a tax provision from profit for the accounted tax.

Article 70

In the event of institution of liquidation or bankruptcy proceedings, the liquidator or receiver shall secure, within 15 days from the date of institution of proceedings, an account of the outstanding debts to be paid from the liquidation assets or bankrupt's estate and notify the competent tax office accordingly.

The competent tax office shall render a ruling determining the tax liability within 30 days from receipt of the tax declaration referred to in Article 34, paragraph 3, of this Law.

Withholding Tax

Article 71

Any taxpayer shall account, withhold and pay in the prescribed accounts at the moment of payment of income the withholding tax on the income referred to in Article 40 of this Law for each taxpayer and each paid income individually.

Complaint

Article 72

A complaint may be filed against a first-instance ruling rendered pursuant to this Law, within eight days from presentation of that ruling.

Any complaint shall be dealt with by the competent second-instance tax authority determined by the law dealing with public revenue auditing, determination and collection.

No complaint may stay the execution of a first-instance ruling.

Re-institution of Proceedings

Article 73

Any proceedings brought to an end by a tax-determining ruling shall be re-instituted ex officio or at the taxpayer's request in the event of subsequent establishment of facts which, if disclosed in the earlier proceedings, could have been conducive to a different ruling being rendered.

The proceedings referred to in paragraph 1 of this Article may be re-instituted within five years from the date of their termination.

Tax Collection

Article 74

Any taxpayer shall pay the enterprise profit tax in the course of the year on the basis of a ruling determining its tax liability.

Pending the rendering of a ruling determining the total annual tax liability, any taxpayer shall pay monthly tax advances, the amount of which corresponds to the monthly advances in the previous period.

Any taxpayer shall raise the monthly advances referred to in paragraphs 1 and 2 of this Article by the latest monthly retail price growth rate published by the republic authority in charge of statistics.

The monthly advance shall be paid within 15 days from the end of each month.

Article 75

The monthly advance may be altered at a taxpayer's request or at the tax office's initiative because of substantial changes in the amount of profit made, change of tax instruments or other circumstances that substantially affect the tax liability, in which case the taxpayer shall make and present the tax account, not later than within 30 days upon the expiration of the period for which the interim tax account is made.

At the taxpayer's request, the advances may also be paid in accordance with interim tax accounts.

In response to any taxpayers' request referred to in paragraphs 1 and 2 of this Article, the competent tax office shall render a ruling within 30 days from the request filing date.

Should the competent tax office fail to render a ruling on any request within the term referred to in paragraph 3 of this Article, the taxpayer concerned may carry on paying the advances in the amount set in accordance with interim tax account.

Article 76

If the amount of tax declared in the tax account as per final statement for the year for which tax is determined is higher than the tax paid in the form of monthly advances, the taxpayer concerned shall pay that amount of tax concurrently with filing the tax declaration and tax account.

The taxpayer shall pay the difference between the tax paid and the tax set out in the tax office ruling within eight days from the date of presentation of the ruling.

Forced Collection

Article 77

Should a taxpayer fail to pay tax within the prescribed term, the competent tax office shall render a forced-collection ruling involving the transfer of funds from the taxpayer's account to the relevant tax collection account.

Should it not be possible to cover the tax liability fully in the way referred to in paragraph 1 of this Article, the competent tax office shall render a ruling involving forced collection from other assets of the taxpayer.

Forced-collection Ruling

Article 78

Any forced-collection ruling shall include the following in particular:

- 1) Reference to the effective ruling determining the tax liability that is the subject matter of forced collection, amount of debt by time of maturity for collection, interest and fines for tax offences;
- 2) Order for the tax debtor to pay the outstanding debts within eight days from the presentation of ruling and warning that otherwise, it shall be resorted to forced collection;
- 3) Note that the forced collection costs shall be charged to the tax debtor;
- 4) Reference to the subject matter and means of forced execution.

Forced-collection Costs

Article 79

The forced-collection costs shall be charged to the tax debtor concerned.
The Government of the Republic of Serbia shall set the forced-collection costs.

Subject Matter and Means of Execution

Article 80

Forced collection shall apply to the following:

- 1) Funds in an account - by transferring funds from the tax debtor's account to the prescribed account;
- 2) Cash, loan bonds and other securities - by listing and seizure;
- 3) Chattels - by listing and evaluating things, seizure and sale of things;
- 4) Tax debtor's pecuniary claims - by placing a ban on and transferring claims;
- 5) Tax debtor's non-pecuniary claims - by placing a ban on and transferring claims.

Presentation of Rulings

Article 81

Prior to proceeding with forced collection of tax, the tax office concerned shall present to the tax debtor a ruling setting the forced collection.

The ruling on forced collection from funds in the tax debtor's account and from the debtor's pecuniary claim from its own debtors in relation to its funds with the agent of payment transactions, shall also be presented to the agent of payment transactions and the ruling ordering execution in connection with pecuniary and other claims shall also be presented to the debtor's debtor.

Priority in Settlement

Article 82

Forced collection of tax, interest, forced collection costs and fines for tax offences shall have priority over the taxpayer's debts and claims of other persons.

The priority referred to in paragraph 1 of this Article applies also in case of a taxpayer's bankruptcy or liquidation, if prior to the settlement of debts to creditors in private law from the residual assets, the amount constituting the subject matter of forced collection is set aside, together with the amount necessary to pay for the bankruptcy or liquidation proceedings.

Decision on the Object and Instruments of Execution

Article 83

The tax office shall determine the instruments of execution, making sure that the selected instrument provides for the settlement of tax liability and endangers the tax debtor's business as little as possible.

At the tax debtor's proposal, the tax office may determine some other instrument or object of execution, if they are adequate for the settlement of tax liability.

Collection against Real Estate

Article 84

Forced collection by listing and selling a debtor's real estate may be resorted to only if it was not possible to collect from other objects of execution.

The procedure of forced collection against the real estate of a tax debtor shall be conducted by a court at the proposal of the tax office.

The forced collection procedure referred to in paragraph 2 of this Article shall be an emergency one.

Exemption from Forced Collection

Article 85

The objects of forced collection may not be things out of circulation, or ores and other natural resources.

The objects of forced collection may not be structures, armaments and equipment serving for defence and state and public security purposes, as well as funds raised for such purposes.

The structures referred to in paragraph 2 of this Article shall be understood to mean buildings, underground and ground-level structures with appurtenant infrastructure, installations for the production of armaments and military equipment and other structures serving for defence and state and public security purposes.

Forced Collection from Funds in the Tax Debtor's Account

Article 86

A ruling setting forced collection from the funds kept in a tax debtor's operating account, foreign exchange account or some other account with an agent of payment transactions is an order for an agent of payment transactions to transfer the amount subject to forced collection from the tax debtor's account to the appropriate account for the purpose of settling the tax debt.

Any ruling referred to in paragraph 1 of this Article shall have the effect of a ban and the effect of transfer for collection purposes.

Should an agent of payment transactions fail to act in the manner set out in paragraph 1 of this Article and there are funds in the debtor's account, collection shall be made from the agent of payment transactions directly.

Article 87

The transfer of the dinar equivalent of funds from a tax debtor's foreign exchange account to the paying-in account against a tax office ruling, shall be carried out by a bank or some other agent of payment transactions or organisation with which the foreign exchange account is kept.

Forced Collection against a Tax Debtor's Chattels

Article 88

A duly authorised person from the tax office (hereinafter: the tax executor) shall make a list of, evaluate, seize and sell the chattels on the basis of a ruling setting forced collection.

Prior to making the list, the tax executor shall call the tax debtor to pay the amount for which forced collection was set plus interest and costs.

Listing and Evaluation

Article 89

The list of the chattels of a tax debtor having the status of a legal entity shall be made in the presence of a person named by it; if the legal entity concerned fails to name such person after being repeatedly requested to do so, the list shall be made in the absence of such person.

If a tax debtor does not make it possible for the tax executor to enter its business premises for the purpose of listing and making an evaluation, the tax executor shall open the business premises in the presence of two adult citizens as witnesses.

Article 90

While making the list of chattels, the tax executor shall also make an evaluation of them and if necessary, also call in a special evaluator.

At the request of the tax debtor, the tax executor shall call in an evaluator, but he shall not be bound to accept the actual person suggested.

A list shall be made of as many things as it takes to settle the tax debt and execution costs.

A list may be made of things in the tax debtor's possession, as well as its things in possession of a third party, with that party's consent.

A list shall be made in the first place of the things in connection with which the existence of rights that would prevent the execution is not claimed and the things that can be converted into money most easily.

Article 91

A record shall be made of the listing and evaluation of chattels and it shall include the following in particular:

1) Name and registered office of the tax debtor, as well as particulars about the persons taking part in the listing and evaluation;

2) Statement that the ruling setting forced collection has been served to the tax debtor;

3) Statement that the tax debtor was called to pay the outstanding debt prior to listing and that it failed to do so;

4) Place and date of listing;

5) Amount of debt, interest and costs for which the list is made;

6) Each individual chattel (name and description) and its estimated value;

7) Statements of the tax debtor and parties to the procedure, as well as of the attending parties, concerning the existence of rights preventing the execution from being carried out;

8) Statement of the tax debtor or another person as to the owner of a thing included in the list, when it is claimed that a third party owns that thing.

9) Tax debtor's remarks concerning the conduct of the listing and evaluation procedure.

The minutes shall be signed by the tax executor, a duly authorised person from the tax-owing legal entity, evaluator and witnesses if any.

Article 92

The minutes of listing shall be made in three copies, of which one shall be handed over to the duly authorised person or attending employee of the tax-owing legal entity.

An objection to the evaluation of things included in the list and contents of the minutes may be filed within three days from the hand-over of minutes.

Any objection shall be decided on by the tax office that has rendered the forced collection ruling.

The forced collection procedure shall be discontinued until a decision is rendered on the objection.

Third Party Action

Article 93

Any tax executor shall notify all parties said to be the owners of assets included in the list and advise them that they may file with the competent court a third party action, within eight days from receipt of notification.

The tax executor may convey verbally the notification referred to in paragraph 1 of this Article, if such parties are attending the listing and make a statement to that effect in the minutes of listing and evaluation of chattels, or do so in writing in case of non-attending parties.

Should the parties which were notified pursuant to paragraph 2 of this Article present evidence of having filed third party action with a court within eight days from receipt of notification, the forced collection procedure shall be discontinued in relation to the things covered by the third party action.

Article 94

A timely filed third party action with a court shall defer the seizure and sale of the chattels included in the list to which the action relates, pending the termination of dispute, and such chattels shall be left for safekeeping to the tax debtor.

The tax debtor concerned shall keep the chattels referred to in paragraph 1 of this Article in unaltered state pending the outcome of third party action.

The seizure and sale shall not be deferred if the chattels are perishable and the proceeds of the sale shall be deposited with a court, pending the outcome of third party action.

Article 95

Should it be found in the proceedings conducted in connection with third party action that the party which has filed the third party action is not the owner of or if the tax debtor disposes of, destroys or damages a chattel included in the list, an application for the institution of criminal charges shall be filed with the competent public prosecutor's office.

For the purpose of ensuring the collection of the tax debt, a new list and new evaluation of the chattels shall be made and the debt shall be collected by other means of execution, without any delay and without presenting a separate ruling setting the forced collection.

Seizure of Listed Chattels and their Sale

Article 96

Any listed chattels shall be seized from the tax debtor concerned once it is put on the list.

Notwithstanding the provision of paragraph 1 of this Article, a listed chattel may be left to the tax debtor for safekeeping; any listed chattel left to the debtor for safekeeping shall be visibly marked as listed.

On making the list, the Republic of Serbia shall acquire a lien on the listed chattels.

Article 97

The sale of listed chattels may be carried out only after the ruling setting the forced collection becomes enforceable, unless the debtor agrees to the sale being carried out earlier, or if perishable things are involved or if there is a danger of the price of listed things falling substantially.

At least eight days shall elapse between the date of listing and the date of sale.

Sale may be carried also before the expiration of the period referred to in paragraph 2 of this Article for reasons referred to in paragraph 1 of this Article.

Article 98

Chattels shall be sold by verbal public auction or direct arrangement between the buyer, on the one side, and the tax office or a commission sale organisation duly authorised by the tax office, on the other, on conditions determined by this Law.

Sale by auction shall be announced in the manner set by the tax office.

The announcement shall include the following in particular: name of the tax-owing legal entity, amount of debt, interest, costs and fine for tax offence, list of chattels and their estimated value and time and place of auction.

The tax debtor and the tax office employees and members of their family, brothers and sisters, their spouses' parents and their stepchildren may not be buyers either on the basis of public auction or direct arrangement.

The listed chattels may not be sold below their estimated value at first auction.

If the price corresponding to the estimated value is not fetched at first auction, a second auction may be scheduled within at least eight days, at which the chattels may be sold for a price below their estimated value, but not below a third of that value.

If it was not possible to sell the listed chattels even at the second auction, they may be sold to a legal entity or individual by direct arrangement.

Perishable things shall be sold without any delay by direct arrangement.

Article 99

The sale of listed and seized chattels shall be discontinued once the amount fetched reaches the amount of outstanding debt plus interest, forced collection costs and fine, while the remaining chattels shall be handed over to the tax debtor.

If the proceeds of the sale of listed chattels are higher than the amount of tax debt, forced collection costs and fine, the difference shall be credited to the tax debtor.

Forced Collection against Tax Debtor's Claims

Article 100

For the purpose of collecting outstanding tax, the competent tax office may render a ruling placing a ban on the tax debtor's pecuniary claims, whereby the tax debtor's debtors are instructed to pay the its claims in an appropriate paying-in account for the purpose of settling the tax debt (seizure of claims).

A ruling referred to in paragraph 1 of this Article shall produce concurrently the effect of a ban and the effect of a transfer for collection purposes.

By the act of seizing the claims referred to in paragraph 1 of this Article, the tax office concerned acquires lien on the seized claim.

Article 101

When forced collection against a tax debtor's pecuniary claim from his own debtor against the latter's funds in its account with an agent of payment transactions, the debtor's debtor shall be requested by a ruling to instruct the agent of payment transactions with which its account is kept to transfer the amount for which the forced collection was set to appropriate paying-in account of the tax office in settlement of its creditor's tax debt (tax debtor), within three days from the expiration of the term for filing an objection or from the date of presentation of the ruling on the objection filed.

The ruling referred to in paragraph 1 of this Article shall also mean an instruction to the agent of payment transactions that if the debtor's debtor fails to comply with paragraph 1 of this Article, it shall transfer the amount for which the forced collection was set from the account of the debtor's debtor to the appropriate paying-in account for the purpose of settling the tax debt.

If a debtor's claim from its own debtor has not become due, the tax office shall request that payment be made pursuant to paragraphs 1 and 2 of this Article in the order of claim maturity.

Forced Collection against a Tax Debtor's Non-pecuniary Claims

Article 102

For the purpose of collecting outstanding tax, the tax office may seize the tax debtor's non-pecuniary claims.

The tax office shall render a ruling on the seizure of the claim referred to in paragraph 1 of this Article in conformity with Article 100 of this Law.

If the seized claim relates to the hand-over of chattels, the tax office shall list such chattels and evaluate, seize and sell them in accordance with the rules determined by this Law for forced collection against chattels.

If the debtor's claim against chattels is still not due, the tax office shall issue instructions for such chattels to be handed over to it on maturity.

If a seized claim relates to the hand-over of chattels, forced collection shall be carried out through a court by the emergency procedure.

Legal Remedies in the Forced Collection Procedure

Article 103

A tax debtor may file an objection against a first-instance forced collection ruling within three days from presentation of such ruling.

The objection shall be dealt with by the tax office that had rendered the first-instance forced collection ruling.

The objection referred to in paragraph 1 of this Article shall defer the forced collection until presentation of a ruling on the objection to the tax debtor.

The tax debtor concerned may file with the competent second-instance tax office a complaint against a ruling on the filed objection, within eight days from the date of presentation of such ruling.

If a tax debtor has failed to file an objection to a ruling setting the forced collection within the term referred to in paragraph 1 of this Article, it shall have the right to file a complaint with the competent second-instance tax office within eight days from presentation of the ruling setting the forced collection.

A complaint shall not defer the forced settlement, unless otherwise provided by this Law.

Article 104

The debtor's debtor may also file an objection to a ruling setting forced collection from the debtor's claims, within the term set in Article 103, paragraph 1, of this Law.

The objection referred to in paragraph 1 of this Article may be made only in relation to the circumstances, which could be objected to in relation to the tax debtor.

Any objection filed shall stay the forced collection pending the issuance of a decision on the objection.

The debtor's debtor shall not have the right to file a complaint against a ruling on the seizure of the tax debtor's claims.

An administrative suit may not be conducted against a ruling rendered in response to an objection filed by the debtor's debtor.

Collection Securing

Article 105

If there is a hazard of the tax debtor thwarting or rendering impossible the collection of the unpaid tax, the competent tax office may render a ruling setting the measures for securing the collection.

The collection securing measures shall be as follows:

- 1) Listing and seizure of the debtor's chattel;
- 2) Prohibiting the tax debtor's debtor from paying debts to the tax debtor or handing chattel over to it, as well as prohibiting the tax debtor from collecting claims or receiving chattels and disposing of them;
- 3) Prohibiting the agent of payment transactions from paying to the tax debtor or a third party, at the debtor's instructions, from its account the sum of money for which the security measure was applied;
- 4) Filing a request with a court for prohibiting the tax debtor from transferring or encumbering its real estate or proprietary rights in relation to the real estate registered in its favour, including the entry of such prohibition in the land register.

The tax debtor may file a complaint against the ruling referred to in paragraph 1 of this Article with the second-instance office within eight days from the date of service of such ruling.

A complaint shall not stay the execution of the ruling.

The provisions of this Law governing the forced collection procedure shall also apply to collection securing accordingly.

Order of Settlement in Forced Collection

Article 106

The forcibly collected debts shall be settled in the following order:

- 1) Forced collection costs;
- 2) Interest;
- 3) Fines;
- 4) Outstanding tax.

The forced collection procedure shall be applied to the objects and means of execution until the debt referred to in paragraph 1 of this Article is settled fully.

Should the forcibly collected funds be greater than the debt referred to in paragraph 1 of this Article, the surplus shall be returned to the tax debtor.

Interest

Article 107

Interest shall be paid in accordance with the federal regulations setting the default interest rates on any tax a taxpayer and/or some other tax debtor (guarantor, payer of income, etc.) has not paid within the prescribed term.

Tax Refund and Right to Interest

Article 108

Any payer shall have the right to be refunded any tax, interest and forced collection costs paid in excess of the required amount or wrongly.

Any payer shall have the right to interest:

- 1) If the refund referred to in paragraph 1 of this Article is not made to him within eight days from the day on which a request therefor was filed with the competent tax office;
- 2) On the amount by which the tax was reduced under a ruling rendered in response to the taxpayer's complaint and which the competent tax office did not pay back to the taxpayer within 15 days from presentation of the second-instance ruling.

Interest shall be charged in the manner and at the rate referred to in Article 107 of this Law, from the request filing date and/or from the expiration of 15 days from presentation of the second-instance ruling.

The request filing date shall be understood to mean the date on which the required documents were filed together with the request.

Unenforceability

Article 109

The right to determine and collect tax, interest, forced collection costs and fines levied in conformity with the provisions of this Law shall become unenforceable five years from the end of the year for which the tax, interest, collection costs and fines should have been determined and paid.

Official Secret

Article 110

Any data arrived at in the enterprise profit tax determination procedure shall be deemed an official secret and may not be divulged to other taxpayers or unauthorised individuals or authorities.

Any taxpayer shall be allowed to inspect all data of importance for the determination of enterprise profit tax, at its own request.

Guarantee

Article 111

The payer of income shall guarantee the payment of withholding tax.

All partners in a legal entity set up as a general partnership shall be jointly and severally liable for that general partnership's outstanding tax debts to the extent of their assets.

The general partner in a legal entity set up as a limited partnership shall be jointly and severally liable for outstanding debts of that partnership.

Any shareholder owning more than 75% of shares of a subsidiary company shall be jointly and severally liable for the outstanding tax debts of that subsidiary company.

The tax debts referred to in paragraphs 2 through 4 of this Article shall also include the forced collection costs, interest and fines.

X. PENAL PROVISIONS

Article 112

Any taxpayer shall be fined 2,000 to 200,000 dinars for breach of regulations in the following cases:

1) If it fails to charge and pay in the withholding tax on dividends and interests, royalties and interest (Article 40);

2) If it fails to notify the tax office of the transfer of fixed assets within the prescribed term (Article 48, paragraph 7);

3) If it fails to declare separately in the tax account the value of the transactions conducted with associated persons in accordance with the "arm's reach" principle (Article 60);

4) If it fails to present to the tax office all data of importance for the determination of capital gains (Article 63, paragraph 2);

5) If it fails to present the tax declaration and tax account within the prescribed term or if it presents incorrect data in the tax declaration and/or tax account, which could bring about a reduction of the tax base or unfounded exercise of the right to tax incentives or if it fails to attach other documents to the tax declaration (Article 34, 63, 64 and 70);

6) If upon starting up its business, it fails to present the tax declaration and the estimate of income for the business year within the prescribed term (Article 64);

7) If it fails to increase the monthly advance or pay in the monthly advance within the prescribed term (Article 74, paragraphs 3 and 4);

8) If it fails to pay in within the prescribed term the tax based on the tax account or the difference between the tax paid in and the tax determined by the tax office ruling (Article 76).

Any taxpayer shall be fined for breach of regulations two to ten times the amount of owed tax, but not less than 25,000 dinars, for avoiding paying tax by committing a breach referred to in paragraph 1 of this Article.

The responsible person in a legal entity for any act referred to in paragraph 1 of this Article shall also be fined 500 to 10,000 dinars for breach of regulations.

The responsible person in a competent tax office shall be fined 500 to 10,000 dinars for breach of regulations if he fails to determine the tax liability within the terms referred to in Articles 67, 68 and 75, paragraph 3, of this Law.

Article 113

Any taxpayer which/who fails to file the tax declaration and tax account or presents inaccurate data in the tax declaration and tax statement, which could have resulted in a reduction of the tax base or unfounded exercise of the right to tax facilities, or fails to enclose with the tax declaration other documents pursuant to Articles 34, 63, 64 and 70 of this Law, may be subjected to a protective measure prohibiting it/him from conducting certain business in the duration of three months to a year.

Article 114

The procedure for levying the fines for breach of regulations pursuant to the provisions of this Law shall be conducted by the Republic Tax Authority in accordance with regulations dealing with breaches of regulations, unless otherwise provided by this Law.

When requirements for the protective measure referred to in Article 113 of this Law have been fulfilled, the Republic Tax Authority shall not levy a fine, but apply to the authorities dealing with breaches of regulations for the institution of breach of regulations proceedings.

XI. TRANSITIONAL AND CONCLUDING PROVISIONS

Article 115

Any taxpayer who acquired the right to the tax exemptions and facilities referred to in Article 42 and 46 of the Enterprise Profit Tax Law ("Službeni glasnik RS", Nos. 43/94, 53/95, 52/96, 54/96, 42/98, 48/99 and 54/99) shall have the right to utilise such exemption until the end of the term it has been set for.

Article 116

Any procedure for the determination and collection of the enterprise profit tax for the year 2001, commenced with pursuant to Articles 43 and 60a of the Enterprise Profit Tax Law ("Službeni glasnik RS", Nos. 43/94, 53/95, 52/96, 54/96, 42/98, 48/99 and 54/99) shall be finalised in conformity with that law.

Article 117

The tax account for the 1 January to 30 June 2001 period shall be compiled in conformity with the regulations valid until the effective date of this Law.

The tax account referred to in paragraph 1 of this Article shall be filed within eight days from the end of the term set for filing the half-yearly statement of accounts.

Article 118

This Law shall supersede on its effective date the Enterprise Profit Tax Law ("Službeni glasnik RS", Nos. 43/94, 53/95, 52/96, 54/96, 42/98, 48/99 and 54/99).

Pending the adoption of regulations pursuant to the provisions of this Law, the provisions of the regulations adopted pursuant to the law referred to in paragraph 1 of this Article shall apply.