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LAW
No. 8438, date 28.12.1998

ON INCOME TAX

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

PARLIAMENT
OF THE REPUBLIC OF ALBANIA

D E C I D E D:

CHAPTER I - GENERAL PROVISIONS

Article 1 - Scope of law

This law establishes relationships regarding personal income tax, profit tax, and tax withholding on income.

Article 2* - Definitions

1. For purposes of this law:

a) the term “taxpayer” means any person subject to any tax imposed by this law.

b) the term “person” means:

i) an “individual” (physical person, non-commercial according to the Civil Code);

ii) a “physical person” (physical person, commercial);

iii) a “legal entity” (a commercial company, established pursuant to law no. 7638, date 19.11.1992 “For commercial companies”, as well as other legal entities, established pursuant to the Civil Code, which carry out profitable business in the Republic of Albania, as well as other legal entities established or recognized as such by specific laws.

iv) a “partnership” as a group of physical persons or legal entities joined to carry on a temporary, common and profitable activity, which group is not established as a separate legal entity in forms provided by law no. 7638, date 19.11.1992 “For commercial companies”, the Civil Code or other specific laws.

c) two persons are considered as “related persons” if one of them acts or may act in compliance with directions, requests, recommendations or wishes of the other person, or both act or may act in compliance with directions, requests, recommendations or wishes of a third party, regardless if such directions, requests, recommendations or wishes have been communicated (declared). Specifically, the following persons will be considered as related persons:

i) spouses, parents or children;

ii) a commercial company or any person who directly or indirectly owns 50% or more, in value or in number, of shares or rights to vote of another company;

iii) two or more companies, if a third party directly or indirectly owns 50% or more, in value or number, of shares or rights to vote in each company;

2. a) The term “permanent headquarters” means a certain business location where the business of a person is partially or totally performed.

b) Shall be considered as permanent headquarters: an administrative office, a branch office, plant, workshop, mine or any other location for exploiting natural resources, a construction, reconstruction, installation or assemble site.

c) A person shall be considered as not having a permanent headquarters if he:

i) uses premises only for purposes of storing or exhibiting goods under his possession;

ii) maintains goods under his possession only for purposes of storing or exhibiting;

iii) keeps a certain quantity of goods under his possession only for the purpose of processing by another person;

iv) keeps a certain business location only for purposes of purchasing goods or for collecting data related to his business;

v) keeps a certain business location only for carrying out preparatory or supporting activities for his business.

ç) regardless of the above mentioned provisions of items “a” and “b”, when an agent, not an independent agent, subject to item “d” mentioned below, acts on behalf of a person, such an agent is vested and may exercise authority to execute contracts on behalf of that person. That person shall be treated equally as if he had a permanent headquarters in each of the locations where such activities are carried out by the agent on behalf of that person, except when activities of the agent fall only under item “c” mentioned above, which even when such activities are carried out in a certain business location, should not make that certain business location a permanent headquarters.

d) A person shall be considered as not having a permanent headquarters when he carries out his business through an intermediary, general commissioner agent, or any other agent with an independent status, provided that these agents act in the course of their usual business.

dh) The fact that a company controls, or is controlled by another company, does not constitute grounds to consider each company as a permanent headquarters of the other.

3) For purposes of Chapter III A of this law:

a) “business” means any economic activity that intends to generate profit;

b) “business location” means any shop, separate unit or other fixed places, where business is carried out;

c) “turnover” means total revenues generated by selling goods and providing services;

ç) “ambulant” means a physical person, engaged in selling goods or providing services, who does not have a fixed location of his business;

d) “individual transport” means:

i. a physical person that carries out transport of goods or passengers, using not more than one vehicle;

ii. a physical person, that carries out transport of goods or passengers in inland sea waters or inland rivers and lakes, using not more than a vessel.

Article 3* - Residence

The following persons are residents in the Republic of Albania:

1) An individual, in case that:

- he has a permanent house available in the territory of the Republic of Albania, pursuant to Article 12 of the Civil Code;

- he is an Albanian citizen and a consul, diplomat, or similar officer, of the Republic of Albania outside Albania.

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

3) A legal entity, which,

has its permanent headquarters located in the Republic of Albania;

the effective management of its business is located in the Republic of Albania

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

Article 4* - Sources of income

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

a) income from labor relationships carried out in the Republic of Albania;

b) income from cultural or athletic performance, as well as other personal activities in the Republic of Albania;

c) income from a business conducted by a non-resident in Albania through a person with its permanent headquarters in the Republic of Albania;

d) income from the sale of immovable property attributable to a person with its permanent headquarters in the Republic of Albania;

dh) income from immovable property, its accessories and civil fruits, and income from other rights deriving from immovable property if this property is located in the Republic of Albania;

e) income from the sale of property mentioned in item dh) of this Article;

ë) income from dividends distributed by a resident legal entity;

f) income from gains paid by a resident partnership;

g) income from interest paid by the Government in national or local level, or by a resident in the Republic of Albania, or paid by a non-resident through a person who has a permanent headquarters in the Republic of Albania;

gj) income from copyright, royalty, leasing and emphyteusis;

h) other income, benefits received by a non-resident through a person with a permanent headquarters in the Republic of Albania.

i) other income not identified in forms provided in this article.

Article 5 - Taxable period

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

year.

CHAPTER II - PERSONAL INCOME TAX

Article 6 - Scope of personal income tax

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

Article 7 - Tax imposed

1. Resident individuals are subject to tax on personal income generated during a taxable period from all sources of income, according to provisions of this chapter.

2. Non-resident individuals are subject to tax on personal income during a taxable period, according to provisions of this chapter, for sources of income generated within the territory of the Republic of Albania.

Article 8* - Taxable income

1. For purposes of the personal income tax the following shall be considered as taxable income:

a) wages, salaries and other compensation derived from labor relations.

Income generated from wages and compensation of labor relationships of consular, diplomatic or similar officials of third countries and international organizations who, during performance of their official functions in the Republic of Albania, according to international conventions or agreements signed or accepted by the Republic of Albania or the Albanian Government, enjoy diplomatic status, is tax exempt income. Individuals, Albanian or foreign, who do not enjoy diplomatic status, as recognized by international conventions or agreements for this purpose, are not entitled to this exemption;

b) income generated from profits of a partnership or a shareholder in a commercial company;

c) interest generated from bank deposits or interest generated from securities, excluding interest generated from Government treasury bills or other securities issued by the Government before the effective date of this law;

ç) income derived from copyright and royalty;

d) income from emphyteusis, loans and leasing, excluding cases when income is generated from conducting commercial activity, pursuant to commercial legislation;

dh) income generated from selling real estate;

e) income of individuals generated from games of chance and casinos.

f) income generated from transactions of selling and buying quotas or stock;

g) other income not identified in forms provided in this article generated within the Republic of Albania by resident or non-resident individuals.

Article 8.1 – Exempted income

The following are not subject to personal income tax:

1. Income generated from the mandatory scheme of social security and health insurance, and from financial aid for individuals without income or with low income, according to the applicable legislation.
2. Tuition of students.
3. Bonuses benefited in case of illness and misfortune, according to the applicable legislation.
4. Income generated, in cash or in kind, by owners from compensation for expropriation for public interest.
5. This item is repealed by article 9326.
6. Income exempted by international agreements ratified by Parliament of the Republic of Albania

Article 9* - Tax rate

1. Wages, salaries and compensation relating to actual employment, shall be taxed according to table no. 1 attached to this law.
2. Dividends, income generated from gains of a partnership or sole partner, interest generated from loans, deposits or other similar contracts, income generated from copyright or intellectual property, as well as all other compensation or income, subject to other provisions of this law, shall be taxed at the rate of 10%.
3. This article is repealed by article 4 of law 9161.

Article 10* - Tax collection

1. Any employer who pays a wage or compensation as provided in item “a” of Article 8 of this law, is required to withhold personal income tax from such an amount according to paragraph one of Article 9 of this law, and the employer is required to deposit withholding tax in accounts at the Tax Administration not later than the 20th calendar day of the next month.
2. All employers are required to keep records of payments described in item “a” of Article 8 of this law, according to instructions issued by the Ministry of Finance.
3. All employers and self-employed persons are required to declare personal income tax, withheld at the source on behalf of the employees. The Minister of Finance shall issue an instruction to establish the form, content, deadlines and procedures of submitting tax declarations.

Article 11 - Sale of immovable property

1. Sale of immovable property shall be taxed according to table no. 2 attached to this law, while immovable property, agricultural land, shall be taxed at the rate of 0.5 percent of the

selling price.

2. Payable tax is required to be deposited by the seller of immovable property before registering the property, according to legislation in force. The immovable property shall not be registered without certifying the payment of such tax in offices of registration of immovable property.

3. Offices of registration of immovable property are required to deposit, within 10 days, the collected tax according to this Article.

Article 12 - Gains from games of chance and casinos

This article is repealed by article 2 of law no. 9458, date 21.12.2005.

Article 13* - File tax declarations

1. Any individual who generates income from any source provided in article 8, for which tax is not withheld at the source according to other provisions of this law, is required to declare such income to the tax authority not later than 30 January of the next year.

2. Taxpayers, subject to item 1 of this article, shall pay tax liability to the bank based on a payment document issued by tax authorities

Article 14* - Administrative violations

The following actions or omissions, according to Chapter II of this law, when they do not constitute a criminal offence, constitute administrative violations:

a) Failure to document payments performed, failure to calculate and withhold tax at the source, and hiding or falsifying data for income paid for each taxpayer.

b) Failure to correctly declare and collect tax liability on personal income by individuals who are required to do so, in compliance with Article 13 of this law.

c) Failure to deposit to the state budget the tax calculated by tax agents.

ç) Failure to keep records for income paid to taxpayers and tax withheld, which have been deposited to the budget, including keeping records on each taxpayer.

d) Failure to submit in due time the personal tax return, required in accordance with Article 13 of this law.

dh) Failure to pay in due time tax liabilities as provided by this law.

e) Failure to submit in time a personal income tax declaration withheld at the source according to article 10 and failure to pay in due time the claimed tax.

ë) Failure to declare the real taxable amount of personal income.

f) Failure of employers to pay to the tax authority the withheld personal income tax.

Article 15* - Sanctions

Administrative violations provided by Article 14 of this law shall be punished as follows:

a) For violations provided in items “a”, “b” and “c” of Article 14, violators, in addition to the tax liability amount, shall pay a fine equal to the unpaid tax liability.

b) For violations provided in item “ç” of Article 14, violators shall be punished by a fine of 10 thousand leks.

c) For violations provided in item “d” of Article 14, violators shall be punished with a fine of 20 thousand leks.

ç) for violations provided in item “dh” of Article 14, violators shall pay late payment penalties according to law no. 8560, date 22.12.1999 “On tax procedures in the Republic of Albania”.

d) For violations provided in item “e” of article 14, employers shall be punished by a fine of 10 percent of the withheld amount at the source declared late, and not less than 10 000 leks for each month, or parts of the successive month, after the date when the declaration was due.

dh) For violations provided in item “ë” of article 14, employers shall be punished by a fine equal to 100 percent of the delinquent tax.

e) For violations provided in item “f” of article 14, employers shall be punished by a fine equal to 100 percent of the delinquent tax. When employers fail to pay to tax authorities the withheld taxes even after three months from the date established in the relevant law, employers shall be subject to criminal indictment.

Procedures of appealing and executing administrative measures shall be subject to law no. 8560, date 22.12.1999 “On tax procedures in the Republic of Albania.”

CHAPTER III - PROFIT TAX

Article 16* - Scope of profit tax

1. The following persons shall be subject to profit tax:

a) Legal entities and partnerships described in subsections “iii” and “iv” of letter “b” of item 1 of Article 2 of this law, and which are registered with VAT.

b) Legal entities, partnerships or other groups of persons, established or organized under a foreign law, that conduct business in the territory of the Republic of Albania.

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

2. All physical persons, who are registered with the office of the Value Added Tax, and who are not subject to the small business tax, are subject to profit tax.

Article 17 - Payment requirement

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

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

Article 18* - Exemptions

The following entities will be exempted from profit tax:

a) Central and Local Government Institutions.

- b) Bank of Albania.
- c) Legal entities that conduct only religious, humanitarian, charity, scientific, or educational activity, the property or profit of which is not used in the interest of their organizers or members.
- ç) Trade unions or chambers of commerce, industry or agriculture, property or profit of which is not used in the interest of an individual or a member of such organizations.
- d) International organizations, agencies of technical cooperation and their representatives, the exemption from taxes of which is established by specific agreements.
- dh) Persons provided in international agreements which have been ratified by Parliament.
- e) Non-banking financial foundations or institutions, created or transferred with a decision of the Council of Ministers, intending to support developing policies of the Government through granting loans.
- ë) Cinematographic organizations licensed and subsidized by the National Cinematography Center.

All entities mentioned in item “a” to “ë” of this article, regardless of exemption from profit tax, are required to submit to tax authorities a tax return attached to the annual balance sheet at the same deadlines as other entities subject to profit tax.

Article 19 -Tax basis

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

Article 20 - Deductible expenses

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

The VAT invoice, simple tax invoice, and any other document issued in accordance with instructions of the Minister of Finance are the documents used to support expenses for tax purposes.

Article 21* - Expenses not deductible

1. The following expenses are not deductible:
 - a) The cost of land and building site acquisition and reclaiming.
 - b) The cost of acquisition, improvement, renovation, and reconstruction of assets of businesses depreciated according to Article 22 of this Law.
 - c) The increase of basic capital of the company or contribution of each person in a partnership.
 - ç) Costs of compensation in kind.
 - d) Voluntary pension contributions.

- e) Dividends declared and profit distribution among partners or shareholders of commercial companies, as well as profits in case of a partnership.
 - ë) Interest paid which exceeds the average rate of 12 months interest of the loan of the market, according to the official publication of the Bank of Albania.
 - f) Fines, interest paid for failure to pay in due time, and other sanctions.
 - g) Creation or increase of reserves and other special funds except when otherwise defined by this law or specific rules.
 - gj) Deductible personal income tax, excise duty, profit tax, and value added tax.
 - h) Representation and reception expenses exceeding 0.3 percent of the annual overturn.
 - i) Personal living and family expenses as defined by the Minister of Finance.
 - j) Expenses that exceed limits established by law or specific rules.
 - k) Expenses for gifts.
 - l) All expenses that a taxpayer fails to certify with a document.
 - ll) Expenses for technical, advisory and management services billed by third parties that a taxpayer fails to pay within the tax period
 - m) losses, damages, losses and defects during manufacturing, transiting and storing, above the norms established by special legal and sub-legal acts.
2. Interest paid on loans and prepayments shall not be deductible to the extent that the loan or prepayment for which the interest is paid exceeds on the average four times the amount of capital stock during the taxable period. Banks and insurance companies shall not be subject to this paragraph.
3. For legal entities that are not established pursuant to law no. 7638, date 19.11.1992 “For commercial companies”, the second paragraph shall apply at the same manner as it is applied for other entities provided in this Article. .

Article 22* - Depreciation

1. For determining taxable profit, depreciation for assets of businesses shall be calculated by:
- a) The owner of assets of business, except cases mentioned in item “b” of this Article.
 - b) The person who bears the risk for losses or damage to assets, in cases of assets given in rent, usufruct, or any other form as provided by legal provisions.
2. Land, building sites, works of fine art, antiques, jewelry, precious metals and stones are not depreciable.
3. Costs of purchase or construction, costs of improvement, restoration, and reconstruction of buildings, fixtures and fittings and machinery and equipment that serve for a long term, for purposes of depreciation, will be calculated separately by the straight line method at the rate of 5%.
4. Costs of purchase of intangible assets, for purposes of amortization, will be calculated separately, by the straight-line method at the rate of 15%.
5. Depreciation for categories of assets described in items a) and b) will be calculated based on a pooling system with the following percentages:
- a) Computers, information systems, software products, and equipment of database back up - 25%.

b) All other assets of business -20%.

c) For assets of state enterprises, or companies with total state owned capital, depreciation of which is calculated according to item “b” of the fifth paragraph of this Article, the depreciation percentage for years 1999-2000 shall be 10%.

6. In each category, as described in paragraph five, the depreciation percentage specified in this item will be applied based on depreciation of the appropriate category.

7. The depreciation basis will be equal to the book value of the relevant category as it is recorded on the balance sheet in the beginning of the taxable period:

a) by adding the cost of purchase or asset creation and the cost of improvement, restoration, and reconstruction of assets of the relevant category during the taxable period;

b) by subtracting the selling price of assets and damages received for conversion of assets because of natural calamity or other involuntary changes during the taxable period.

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

If the depreciation basis does not exceed 5 000 leks, the entire depreciation basis will be considered a deductible business expense.

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

Article 23* - Inventory

At the end of the taxable period, taxpayers assess inventory according to one of methods provided by law no. 9228, date 29.4.2004 “For accounting and financial statements”, which is required to be consistently applied.

Article 24 - Bad debts

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

a) An amount corresponding to the bad debt is included earlier in income;

b) The bad debt is written off the accounting books of the taxpayer; and

c) All possible legal remedies to collect the debt have been undertaken.

Article 25 - Special reserves for banks and insurance companies

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

Article 26 - Shares excluded from profit tax

1. Dividends and profit shares shall be excluded from income for purposes of determining taxable profit of a resident person.

2. Exclusions mentioned in the first paragraph shall take place when dividends and profit shares are distributed by resident companies or partnership which:

- a) are subject to profit tax;
- b) when the beneficiary subject has a package of shares at least 25%, in value or number of stock capital or voting rights and, for partnership, at least 25% of the initial capital.

Article 27 - Carry-over loss

1. If taxable profit is a loss in a taxable period, such a loss may be offset with profits in the three next taxable periods, according to the principle “the first loss before the last one”.

2. If during a taxable period direct and/or indirect ownership of stock capital or voting rights of a person changes by more than 25% in value or number, the above paragraph shall not be applied for losses of that legal entity in that taxable period and in preceding taxable periods.

Article 28* - Tax rate

The profit tax rate shall be 20%.

Article 29* - Tax return

1. Taxpayers are required to prepare the annual taxable income return in the form approved by an instruction of the Minister of Finance issued to implement this law. **Taxpayers shall submit this annual taxable income return to the Tax Administration by 31 March of the next year, attached to the balance sheet and its annexes, and any other data provided by the instruction of the Minister of Finance.**

For tax purposes, data of these documents shall be considered accepted only after approved by Tax Authorities, or when, after two months from the official delivery of these documents, tax authorities fail to answer officially.

2. Taxpayers, when submitting the annual taxable income return, are required to pay to the Tax Administration bank account the amount of tax calculated in the annual taxable income return, reduced by amounts calculated according to Article 37 of this law and advance payments made during the taxable period.

3. This item is repealed by article 9 of law no 9326.

4. The control of the tax return and balance sheet by Tax Authorities does not violate implementation of item 3 of this Article. Irregularities detected by Tax Authorities will result in penalties and sanctions provided by this law.

Article 30 - Advance Payment

1. During the current taxable period, taxpayers shall pay in advance, not later than the 15th calendar day of each month, in the Tax Administration account, amounts as follows:

- a) For each of months January, February, March, and April of the current taxable period: the amount of profit tax for taxable period of two preceding years divided by 12;
- b) For each of 8 other months of the current taxable period: the amount of profit tax for

the preceding taxable period reduced by payments performed from January to April of the current taxable period, divided by 8.

2. If a taxpayer starts a new business during the taxable period of the second preceding year, payment in advance for months January-April of the current taxable period shall be as follows:

The amount of profit tax for the taxable period of two preceding years divided by the number of months during which the taxpayer has conducted business. Item “b” of the first paragraph shall apply, for determining payment in advance for other months of the current taxable period.

3. If a taxpayer starts a new business during the full preceding taxable period, payment in advance for months January-April of the current taxable period shall be the profit tax amount for the preceding taxable period divided by the number of months of the preceding taxable period during which business was conducted. Item “b” of the first paragraph shall apply to determine advance payments for months remaining from the current taxable period.

4. If a taxpayer starts a new business in the current taxable period, advance payments for the current taxable period shall be calculated based on the profit tax for the current period divided by the number of months remaining from the current taxable period.

5. If a taxpayer can demonstrate to the Tax Administration, at any time during a taxable period, that profit tax imposed on taxable income for that taxable period shall be significantly less than profit tax for the preceding taxable period, or the second preceding period, the Tax Administration should agree to decrease advance payments according to instructions of the Ministry of Finance.

6. If the Tax Administration judges that the profit tax for the current taxable period shall exceed the profit tax for the preceding taxable period by more than 10%, the Tax Administration may increase the advance payments according to the assessed profit tax.

7. For taxpayers, monthly advance payments of whom, according to the first paragraph of this law, for the current taxable period or for the preceding taxable period, do not exceed 10 000 leks, these advance payments may be accumulated for each quarter, and paid by the 15th calendar day of the next month following the quarter in question.

Article 31* - Administrative violations

The following actions or omissions, according to Chapter III of this law, when they do not constitute a criminal offence, constitute administrative violations:

a) Misstatement of income and expenses generated by businesses that influence the financial result.

b) Falsification of data and documentation relating to income and expenses.

c) Failure to submit in due time the tax return and balance sheet and its annexes.

ç) Failure to pay tax in due time as provided by this law.

d) Incorrect keeping of accounts, but without influencing the financial result.

dh) Failure to complete exactly, and non-reconciliation of data of schedules of the balance sheet, its annexes and other data required by law no. 8438, date 28.12.1998 “On income tax”, and sub-legal acts issued to implement it.

Article 32* - Sanctions

Administrative violations provided in Article 31 of this law, when they do not constitute criminal offences, shall be punished as follows:

a) For violations provided in items “a” and “b” of Article 31 of this law, violators, in addition to the tax liability amount, shall pay a fine equal to the unpaid tax liability.

b) For violations provided in item “c” of Article 31 of this law, violators shall be punished by a fine of 40 thousand leks for each month delay.

c) For violations provided in item “ç” of Article 31 of this law, violators shall pay late payment penalties according to law no. 8560, date 22.12.1999 “On tax procedures in the Republic of Albania”.

ç) For violations provided in item “d” Article 31 of this law, violators shall be punished by a fine of 10 thousand leks.

d) For violations provided in item “dh” of Article 31, punishment by fines shall be as follows:

- at the rate of 25 thousand leks the person responsible authorized by the taxpayer for completing schedules;

- at the rate of 50 thousand leks the Certified Public Accountant, when the entity is subject to accounting expertise.

The Institute of Certified Public Accountant shall be notified for fines imposed on a Certified Public Accountant.

Procedures of appealing and executing the administrative measure shall be performed according to law no. 8560, date 22.12.1999 “On tax procedures in the Republic of Albania.”

CHAPTER III/A* - SIMPLIFIED PROFIT TAX

Article 32/1* - Scope of the simplified profit tax

1. The following are subject to the simplified profit tax:

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

b) a person not registered or not required by law to register with VAT.

2. The following are exempted from the simplified profit tax:

a) Movable merchants.

b) Those who carry out business related to individual transport.

Article 32/2* - Registration and re-registration

1. Taxpayers, before starting their businesses, are required to register only once. Exclusively for 2005, taxpayers subject to local tax of small business and/or simplified profit tax, shall re-register by 20 March. If taxpayers fail to register or re-register in due time, branches of Tax Authorities complete their registration, which shall have the same effects as the registration or re-registration made by taxpayers themselves.

2. Taxpayers shall register or re-register with the branch of Tax Authorities of the district

where the principal location of their business is located. The Minister of Finance issues an instruction to provide procedures of registration and re-registration.

3. Taxpayers, during registration or re-registration, are required to submit the following data and documents:

For registration:

- i) birth certificate with a photo;
- ii) court registration document;
- iii) type or types of businesses that he shall carry out;
- iv) address of the location or locations where business shall be carried out;
- v) declaration for turnover estimated for the year of registration.

For re-registration:

- i) the turnover statement according to item 1 of Article 32.4;
- ii) a document showing that tax liability for the previous year is totally paid.

4. The Minister of Finance establishes in an instruction the method and any other data or documents needed for registration or re-registration. When a taxpayer has met requirements of registration, the tax branch, within three business days from the moment of satisfying such requirements, provides him with a registration certificate. The Minister of Finance provides the form of this registration certificate in an instruction.

5. The respective tax branch provides any registered person with a registration certificate. When a taxpayer carries out his business in two or more locations, he shall be provided with an original copy of the registration certificate for each location with different serial numbers.

6. A taxpayer is required to display his registration certificate in each of his business locations.

7. A taxpayer is required to notify in writing the tax branch for any change in data submitted for registration or re-registration. The Minister of Finance establishes with an instruction the due time within which changes should be submitted.

Article 32/3* - Tax rate

1. The tax rate of the simplified profit tax is 1.5 percent.
2. Tax is calculated over the turnover generated by the taxpayer in the course of a calendar year or parts of the year.

Article 32/4* - Declaration

1. A taxpayer should submit a declaration in writing for his turnover during a calendar year by 31st of March of the next year. The Minister of Finance establishes the declaration form in an instruction.

2. If a taxpayer stops his business during the year, or he is no longer subject to the simplified tax profit, as provided by Article 32.1, he is required, within 15 days from stopping his business, to submit a declaration for the turnover volume in the course of the current year up to the stopping date.

Article 32/5* - Keeping records

1. A taxpayer is required to keep the selling book (turnover) and purchasing book, where he registers every day daily sales and purchases. The Minister of Finance establishes in an instruction the form of the abovementioned books.

2. A taxpayer, retailer of goods or services, provided with a cash register, is required to issue a receipt, produced by the cash register, showing taxes for each sale. Other taxpayers, retailers of goods and services, not provided with a cash register, are required to issue a hand-written receipt showing taxes for each sale. For wholesales, taxpayers issue a simplified receipt showing taxes. The Minister of Finance establishes in an instruction the manner of issuing such documents.

3. Upon a request of Tax Authorities, taxpayers are required to submit their records for tax inspection.

4. Taxpayers are required to allow tax inspectors to enter in their business premises for inspection.

5. Tax authorities publish and distribute selling books (turnover) and simplified tax receipt in compliance with an instruction of the Minister of Finance.

Article 32/6* - Payment

1. Taxpayers shall pay installments of the annual tax liability based on turnover estimated for the calendar year. Except cases provided in item 2 of this article, turnover estimated for a calendar year is based on the actual turnover of the previous year, set in estimations declared by the taxpayer himself and also in assessments made by the tax branch. Taxpayers shall pay simplified profit tax in installments as follows:

a) not later than dates 20 April, 20 July, and 20 October, respectively for the first, second and third quarter of the fiscal year;

b) not later than 20 December for the fourth quarter of the fiscal year;

c) probable differences stemmed by changes of the factual turnover during the year with the one over which tax was calculated, shall be declared and paid when the annual declaration is submitted as provided by article 32.4 of law no. 8438, date 28.12.1998 "For income tax", as amended and shall be reconciled when the first installment of the next year shall be paid.

2. When a business starts during a tax period, calculation of installments shall be based on turnover estimated according to calculations made by the taxpayer himself and estimations made by tax branches. Payment is made in accordance with deadlines established in item 1 of this article, corresponding with the factual period of activity performance.

3. When a taxpayer shall submit a declaration for interrupting his business, according to article 32/4 of law "For income tax", payment of the simplified profit tax is due not later than 10 days from the date of submitting the declaration. The Minister of Finance shall issue an instruction to establish procedures of declaration of interrupting and re-starting businesses.

4. The tax collected shall be deposited to the State Budget and transferred once a month to the budget of the municipality or commune where the taxpayer is registered, or where his business is located. A joint instruction of the Minister of Finance and Minister of Local

Government and Decentralization establishes the procedure of transferring funds and exchanging information.

Article 32/7* - Data

1. The Ministry of Finance and the Ministry of Local Government and Decentralization, by December 15 of the previous year, deliver to municipalities and communes the revenue plan for the simplified profit tax.

2. The Tax Authority notifies the municipality or commune at least once in six months for the work done for registration of small business taxpayers, for the level of simplified profit tax collection, and measures taken for avoiding administrative violations and collection of penalties.

3. Municipalities or communes, when they deem necessary, request Tax Authorities to register businesses that are not currently registered, to fulfill duties for tax management and collection, to their benefit, of revenues generated by the simplified profit tax according to legally established terms.

Article 32/8* - Violations and penalties

1. For purposes of this law, when violations do not constitute criminal offences, they constitute administrative violations and are subject to the following sanctions according to the case:

a) when a taxpayer fails to register or to re-register according to Article 32/2, he is punished by a fine of 35 000 leks;

b) when a taxpayer fails to submit an accurate declaration, he is punished by a fine equal to 25 percent of the difference between the declared tax and tax liability;

c) when a taxpayer fails to pay tax in due time, he is punished by a fine equal to 25 percent of the tax liability;

ç) when a taxpayer fails to display his registration certificate, according to item 5 of Article 32/2, he is punished by a fine of 10 000 leks;

d) when a taxpayer fails to meet any requirements of article 32/5, he is punished by a fine of 10 000 leks;

dh) when a taxpayer fails to submit the annual turnover declaration, he is punished by a fine of 10 thousand leks.

2. In all cases fines should be paid, together with the full amount of the tax liability, within 15 days from the date when the tax branch issues the violation warrant.

3. Fines shall be paid according to the manner provided for payment of this tax.

4. If a taxpayer fails to pay his tax liability and relevant fine within 15 days, as provided by item 2 of this Article, the tax branch exercises its authority to suspend his business until the amount of tax liability and fine is completely paid.

5. Procedures for appealing and executing the administrative measure shall be performed according to law no. 8560, date 22.12.1999 "On tax procedures in the Republic of Albania", as updated.

Article 5* (Law no. 8979) - Transitory provisions

The Minister of Finance and the Minister of Local Government and Decentralization establish in a joint instruction the manner of programming and collecting revenues by this tax for 2003.

CHAPTER IV - WITHHOLDING TAX IN INCOME SOURCE

Article 33 - Withholding tax from income

(1) All persons resident in the Republic of Albania, central and local government institutions, non-for-profit organizations and any other entity, recognized as such by the legislation in force, are required to withhold tax at the source at the rate of 10% from the gross amount of following payments generated from a source in the Republic of Albania:

- a) Dividends.
- b) Profit shares.
- c) Interest,
- ç) Payments on copyright and intellectual property..
- d) Payments for technical services, management services, financial services, and insurance services.
- dh) Payments for management and participation in board of directors.
- e) Payments for construction, installation, assembling, or respective supervising work.
- ë) Payments for renting.
- f) Payments for performance of actors, musicians, or athletic activities, including such payments made to persons that employ employee artists or athletes, or which arrange such performances.

2. Item 1 of this article does not apply to:

- a) Albanian resident entities, registered as taxpayers of profit tax and value added tax or persons registered as taxpayers of the local tax of small business.
- b) Dividends and other profit shares as provided in article 26 of this law.
- c) Payments made to non-resident persons for services for international transport of goods and passengers.

3. Except cases provided in item 2 of this article, tax withheld at the source, according to item one of this article, represents the final tax liability.

4. This item is repealed by article 8 of law no. 9458.

5. Without challenging the above provisions of this article, the International Agency of Air Transport (IAAP) shall pay a tax at the rate of 10 percent as a special tax on income generated from air navigation services. IAAP shall calculate such tax on gross payments collected by EUROCONTROL and shall pay it to tax authorities not later than 15 days from the moment when EUROCONTROL collects relevant tariffs.

Article 33/1 – Profit destination

1. Commercial companies, after payment of profit tax according to provisions of Chapter III of this law, in compliance with provisions of article 56 of law no. 7638, date 19.11.1992 “For

commercial companies”, as amended, within six months from the closing of the fiscal year, shall approve, in the Assembly of Shareholders or the authorized decision-making body, financial results of the previous year and shall decide how shall they use the after tax profit, establishing the legal reserve amount, the portion to be invested or to increase capital and the portion to be distributed as dividend.

2. Commercial companies are required to submit to tax authorities, not later than 31 July, the decision of the authorized body, as provided in item 1 of this article. For failure to submit such decision in due time, a fine of 25 000 leks shall be imposed for every month or parts of the month.

3. Legal entities are required to pay to tax authorities the tax on distributed dividend according to item 1 of this article, not later than 30 July of the year when the approval of financial results is approved, no matter if dividend is paid or not.

Article 34* - Final withholding tax

This article is repealed by article 14 of law no. 9160.

Article 35* - Collection and recording

1. The payer of amounts, for the effect of tax withholding subject to Articles 33 and 34 of this law, is required to transfer withholding tax to the Tax Administration account not later than the 20th calendar day of the next month following the month when payment was done.

2. The payer of these amounts is required to record payments and tax withholding at the source and to make available appropriate documents to the Tax Administration and the person who received the payment.

CHAPTER V - SPECIFIC PROVISIONS

Article 36 - Price transfer

1. When commercial or financial conditions, different from those that may exist between two unrelated persons, are established or created between individuals, who together are carrying out a business, the Tax Administration may decide to include to the income of one or more of these related persons the profit that he or they could have gained if such conditions should not exist.

2. For achieving the right and effective application of this Article, the Tax Administration may previously agree with persons who carry out business, who are subject to conditions in question, that specific conditions among related persons do not change from those that may exist among unrelated persons.

Article 37 - Credit for foreign tax

1. If during a taxable period a resident generates profits or income from sources outside the Republic of Albania, the personal income tax, or profit tax payable by that resident for these profits or income should be reduced by the amount of the tax payable for these profits or income. The amount of foreign tax payable is required to be substantially certified from an authentic document as defined by an instruction of the Ministry of Finance.
2. Reduction of personal income tax or profit tax described in the first paragraph of this Article cannot exceed the tax payable on profit or income generated from a foreign source, if such income is generated in the Republic of Albania.
3. In case of a taxpayer, subject to profit tax, any tax reduction described in the first paragraph of this Article is required to be limited to the tax that should had been payable in the Republic of Albania presuming that Article 27 of this law were applied specifically for each foreign country relating to gains or losses generated from sources in that foreign country.
4. Tax reduction described in this Article is required to be calculated specifically for each foreign country that is the source of income or profit.

CHAPTER VI - TRANSITORY AND LAST PROVISIONS

Article 38* - Transitory provisions

1. Tax to be withheld according to the first and second paragraph of Article 10 and Article 33 of this law shall apply to payments made after the effective date of this law.
2. Buildings, construction, and plants purchased before January 1, 1999 shall be depreciated based on their historical cost.
3. Intangible assets purchased before January 1, 1999 shall be amortized based on their historical cost. If the book value of such assets on January 1, 1999 is less than 50% of their historical cost, the taxpayer is allowed to continue the amortization according to Instruction no. 8, date 12.2.1992 "For depreciation rates of fixed assets of individuals and legal entities".
4. Depreciation basis of computers, information systems, software products, and back-up systems as well as all other assets of business, purchased before January 1, 1999, for the taxable period of 1999, shall be the value of these assets in the general ledger in January 1, 1999, adjusted as described in Article 22, item (6) of this law.
5. Taxable profit for taxable period 1999 and 2000 may be reduced by losses of the taxpayer before January 1, 1999 and calculated according to Article 8 of law no. 7677, date 3.3.1993 "On profit tax", if these losses are registered in profit statements for 1998. Losses of 1996 and 1997 cannot carry-over.
6. Taxpayers who are subject to tax incentives, according to Article 6 of law no. 7677, date 3.3.1993 "On profit tax" enjoy such tax incentives according to conditions provided by the above law.
7. Taxpayers who are subject to tax incentives according to law no. 7995, date 21.1.1993, "On development of zones that have potential for tourism", law no. 8098, date 28.3.1996 "On legal status of blind persons", and decree no. 782, date 22.2.1994 "On taxes applying to the hydrocarbon industry" shall enjoy such tax incentives according to conditions

provided by these laws.

Article 39 – Applicable law

1. The present law shall repeal law no. 7786, date 27.1.1994 “On Personal Income Tax”, including relevant changes and all other acts inconsistent with this law..
2. The present law shall repeal law no. 7677, date 3.3.1993 “On Profit Tax” including relevant changes, and other provisions inconsistent with this law.

Article 40 - Sub-legal acts

The Ministry of Finance is required to issue sub-legal acts to implement this law.

Article 41 - Entry into force

This law comes into force 15 days after publication in Fletorja Zyrtare.

Proclaimed with decree no. 2289, date 31.12.1998 of the President of the Republic of Albania, Rexhep Mejdani.

TABLE NO. 1* Table of personal income tax generated from employment

Taxable income (Monthly)		monthly personal income tax	
OVER (In leks)	UP TO (In leks)	Leks	Percentage
0	14 000		+1% of the amount over 0 leks
14 000	40 000	140	+ 5 % of amount over 14 000
40 000 +	90 000	1 440	+ 10 % of amount over 40 000
90 000 +	200 000	6 440	+ 15 % of amount over 90 000
200 000 +	over	22 940	+20 % of amount over 200 000

TABLE NO. 2

SELLING PRICE		PAYABLE TAX
Over (in leks)	Up to (in leks)	Percentage
0	2 000 000	0.5% of the selling price
2 000 000+	4 000 000	1% of the selling price
4 000 000+	6 000 000	2% of the selling price
6 000 000+	More	3% of the selling price

Table no. 3 RATE OF SIMPLIFIED INCOME TAX

NO.	Type of business	Rate of simplified tax
1.	Retail activity	4 per cent
2.	Manufacturing	4 per cent
3.	Services	5 per cent
4.	Freelance professions	5 per cent

Changes to Law no. 8438, date 28.12.1998

Act changed:

Law	8438	1998	New Art.	Article/section added
Law	8438	1998	Art. 2	Changes to article
Law	8438	1998	Art. 2/3	Article/section added
Law	8438	1998	Art. 2/3	Article/section added
Law	8438	1998	Art. 4/i	Article/section added
Law	8438	1998	Art. 8.1/5	Article/section deleted
Law	8438	1998	Art. 8/f,g	Article/section added
Law	8438	1998	Art. 8.1	Article/section added
Law	8438	1998	Art. 9	Changes to article
Law	8438	1998	Art. 9/1	Changes to article
Law	8438	1998	Art. 10/1	Changes to article
Law	8438	1998	Art. 10/3	Article/section added
Law	8438	1998	Art. 11/1	Changes to article
Law	8438	1998	Art. 12	Article/section deleted
Law	8438	1998	Art. 13	Changes to article
Law	8438	1998	Art. 13/3, 4	Article/section deleted
Law	8438	1998	Art. 14	Changes to article
Law	8438	1998	Art. 14/e,ë,f	Article/section added
Law	8438	1998	Art. 15	Changes to article
Law	8438	1998	Art. 15/d,dh,e	Article/section added
Law	8438	1998	Art. 16/1/a	Changes to article
Law	8438	1998	Art. 16/a	Changes to article
Law	8438	1998	Art. 16/a	Changes to article
Law	8438	1998	Art. 18	Changes to article
Law	8438	1998	Art. 18/e-ë	Article/section added
Law	8438	1998	Art. 20	Changes to article
Law	8438	1998	Art. 21	Changes to article
Law	8438	1998	Art. 21	Changes to article
Law	8438	1998	Art. 21/h	Changes to article
Law	8438	1998	Art. 22/4	Changes to article
Law	8438	1998	Art. 23	Changes to article
Law	8438	1998	Art. 28	Changes to article
Law	8438	1998	Art. 28	Changes to article
Law	8438	1998	Art. 28	Changes to article
Law	8438	1998	Art. 29	Changes to article
Law	8438	1998	Art. 29	Changes to article
Law	8438	1998	Art. 29/3	Article/section deleted
Law	8438	1998	Art. 29/4	Article/section added
Law	8438	1998	Art. 29/4	Article/section added
Law	8438	1998	Art. 30/p4	Changes to article
Law	8438	1998	Art. 31	Changes to article
Law	8438	1998	Art. 31/dh	Article/section added
Law	8438	1998	Chap. III.A	Article/section added
Law	8438	1998	Art. 32	Changes to article
Law	8438	1998	Art. 32/b	Changes to article
Law	8438	1998	Art. 32.1/2	Changes to article
Law	8438	1998	Art. 32.1-32.8	Article/section added
Law	8438	1998	Art. 32.1/2c	Article/section deleted

Act that makes changes:

Law	8979	2002	Art. 5
Law	8841	2001	Art. 1
Law	8979	2002	Art. 1
Law	8979	2002	Art. 1
Law	9161	2003	Art. 1
Law	9326	2004	Art. 1
Law	9161	2003	Art. 2
Law	9161	2003	Art. 3
Law	9161	2003	Art. 4
Law	9326	2004	Art. 2
Law	9326	2004	Art. 3
Law	9161	2003	Art. 5
Law	9326	2004	Art. 4
Law	9458	2005	Art. 2
Law	9326	2004	Art. 5
Law	9458	2005	Art. 3
Law	8711	2000	Art. 1
Law	9161	2003	Art. 6
Law	8711	2000	Art. 2
Law	9161	2003	Art. 7
Law	8979	2002	Art. 2
Law	8841	2001	Art. 3
Law	8979	2002	Art. 2
Law	9458	2005	Art. 4
Law	9326	2004	Art. 6
Law	9161	2003	Art. 8
Law	9161	2003	Art. 9
Law	9326	2004	Art. 7
Law	8841	2001	Art. 6
Law	9458	2005	Art. 5
Law	9458	2005	Art. 6
Law	9458	2005	Art. 7
Law	8711	2000	Art. 3
Law	9326	2004	Art. 8
Law	8711	2000	Art. 4
Law	9161	2003	Art. 10
Law	9326	2004	Art. 9
Law	8979	2002	Art. 3
Law	8979	2002	Art. 3
Law	8841	2001	Art. 7
Law	8711	2000	Art. 5
Law	8841	2001	Art. 4
Law	8979	2002	Art. 4
Law	8711	2000	Art. 6
Law	9326	2004	Art. 10
Law	9161	2003	Art. 11
Law	8979	2002	Art. 4
Law	9326	2004	Art. 11

Law	8438	1998	Art. 32.2/1	Changes to article	Law	9326	2004	Art. 12
Law	8438	1998	Art. 32.3	Changes to article	Law	9326	2004	Art. 13
Law	8438	1998	Art. 32.3/1	Changes to article	Law	9431	2005	Art. 1
Law	8438	1998	Art. 32.5/5	Article/section added	Law	9161	2003	Art. 12
Law	8438	1998	Art. 32/d	Article/section added	Law	8841	2001	Art. 5
Law	8438	1998	Art. 32.6	Changes to article	Law	9326	2004	Art. 14
Law	8438	1998	Art. 32.8	Changes to article	Law	9326	2004	Art. 15
Law	8438	1998	Art. 33	Changes to article	Law	9161	2003	Art. 13
Law	8438	1998	Art. 33	Changes to article	Law	9326	2004	Art. 16
Law	8438	1998	Art. 33.1	Article/section added	Law	9458	2005	Art. 9
Law	8438	1998	Art. 33/4	Article/section deleted	Law	9458	2005	Art. 8
Law	8438	1998	Art. 33/d	Changes to article	Law	8841	2001	Art. 8
Law	8438	1998	Art. 34	Article/section deleted	Law	9161	2003	Art. 14
Law	8438	1998	Art. 34/4	Article/section added	Law	8841	2001	Art. 9
Law	8438	1998	Art. 35/1	Changes to article	Law	9326	2004	Art. 17
Law	8438	1998	Art. 38/p6	Changes to article	Law	8711	2000	Art. 7
Law	8438	1998	Art. 38/7	Article/section added	Law	8841	2001	Art. 10
Law	8438	1998	Table 1	Changes to article	Law	8841	2001	Art. 11
Law	8438	1998	Table 1	Changes to article	Law	9458	2005	Art. 1
Law	8438	1998	Table 1	Changes to article	Law	8711	2000	Art. 8