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REGULATION NO. 2002/4

ON PERSONAL INCOME TAXES IN KOSOVO

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo, UNMIK Regulation No. 1999/16 of 6 November 1999, as amended, on the Establishment of the Central Fiscal Authority and Other Related Matters and UNMIK Regulation No. 2000/20 of 12 April 2000 on Tax Administration and Procedures,

Taking into account the final authority of the Special Representative of the Secretary-General under paragraph 8.1 (c) of UNMIK Regulation No. 2001/19 of 15 May 2001 on a Constitutional Framework for Provisional Self-Government in Kosovo to set the financial and policy parameters for the Kosovo Consolidated Budget, as well as the fact that the Provisional Institutions of Self-Government have not yet been fully established and are not able to provide advice through the Economic and Fiscal Council on the matters covered by the present regulation,

For the purpose of establishing a personal income tax on wage income as a first step towards a comprehensive personal income tax covering all sources of income,

Hereby promulgates the following:

Section 1
Definitions

“Employee” means an individual, whether or not resident in Kosovo, who earns income from wages in respect of employment in Kosovo, and includes government officials and officers and directors of companies.

“Employer” means any person who pays wages, either directly or through another person, to an employee for services rendered in respect of employment in Kosovo, and includes:

- (a) Any governmental unit;
- (b) Any business organization whether a company or a partnership;
- (c) Any business organization operating with public or socially owned assets;
- (d) Any permanent establishment of a non-resident;
- (e) A non-governmental organization registered with UNMIK under UNMIK Regulation No. 1999/22 of 15 November 1999 on the Registration and Operation of Non-Governmental Organizations in Kosovo;
- (f) International organizations, liaison offices and diplomatic missions of foreign governments; and
- (g) An individual who pays wages in the course of carrying on business in Kosovo.

“Permanent establishment” means a workplace through which a non-resident does business in Kosovo. This includes, but is not limited to, plants, branch offices, representative offices, factories, workshops and construction sites.

“Person” means a natural or a legal person.

“Principal employer” means the employer designated as such by the employee at a time and in the manner set out in an administrative instruction to be issued by the Central Fiscal Authority. An individual may have only one principal employer at a time.

“Residence” shall have the following meaning:

- (a) An individual is resident in Kosovo if the individual:
 - (i) Has a principal residence in Kosovo; or
 - (ii) Is physically present in Kosovo for 183 days or more in any tax period.
- (b) A company or a partnership is resident in Kosovo if it:
 - (i) Is established in Kosovo; or

- (ii) Has its place of effective management in Kosovo.

“Taxpayer” means an individual earning taxable income in Kosovo during the tax period.

“Tax period” means the calendar year.

“Wages” means any amount paid by an employer, in cash or in kind, as compensation for service rendered by an employee in the course of employment, whether or not under a written contract of hire. Wages includes salary, emolument, bonus, commission, or any other form of payment relating to employment.

Section 2 Taxable Income

Taxable income shall be the gross income of the taxpayer during the tax period less the deductions allowable under the present regulation.

Section 3 Gross Income

3.1 Gross income under the present regulation includes all income received or accrued in the form of wages during the tax period, other than incomes excluded under section 4.

3.2 Gross income from wages shall include, but not be limited to:

- (a) Salaries paid by or on behalf of an employer for work that the employee does under the direction of the employer;

- (b) Bonuses, commissions, and other forms of compensation that an employer, or some other person on behalf of the employer, pays to employees over and above salary;

- (c) Income earned under contracts for temporary work;

- (d) Pensions and other income whether paid by a previous employer or the government;

- (e) Income from prospective employment, such as a signing bonus;

- (f) Insurance premiums that an employer pays for the employee;

- (g) Forgiveness of an employee's debt or obligation to the employer;
- (h) Payment of an employee's personal expenses; and
- (i) Except as otherwise provided in the present regulation, in-kind benefits given by an employer to an employee that exceed a de minimus amount as specified in an administrative instruction to be issued by the Central Fiscal Authority.

3.3 Gross income from wages shall not include:

- (a) Mandatory contributions by the employer to a funded pension scheme approved by the competent governmental authority;
- (b) Reimbursement of actual business travel expenses in accordance with rules specified in an administrative instruction to be issued by the Central Fiscal Authority;
- (c) Indemnity for work accidents;
- (d) Reimbursement or compensation for medical treatment and expenses, including hospitalisation and medication, payable pursuant to health or disability insurance or in accordance with the applicable law, other than wages paid during the period of absence from work due to sickness or injury; and
- (e) In-kind benefits given by employers to foreign employees to facilitate their living in Kosovo (such as housing, school tuition).

Section 4 Excluded Income

The following incomes shall be excluded from tax under the present regulation:

- (a) Wages received by foreign diplomatic and consular representatives and foreign personnel of Liaison Offices in Kosovo, as defined in UNMIK Regulation No. 2000/42 of 10 July 2000 on the Establishment and Functioning of Liaison Offices in Kosovo;
- (b) Wages received by foreign representatives, foreign officials and foreign employees of international governmental organizations and international non-governmental organizations with public benefit status;
- (c) Wages received by foreign representatives, foreign officials and foreign employees of donor agencies or their contractors or grantees carrying out

humanitarian aid, reconstruction work, civil administration or technical assistance within Kosovo;

(d) Wages received by foreign and locally-recruited officials of the United Nations, its Specialized Agencies, and the International Atomic Energy Agency, which for purposes of the present regulation shall be deemed to include foreign and locally recruited UNMIK personnel as defined in UNMIK Regulation No. 2000/47 of 18 August 2000 on the Status, Privileges and Immunities of KFOR and UNMIK and their Personnel in Kosovo; and

(e) Wages received by foreign personnel of KFOR.

Section 5 Deduction

Mandatory contributions by employees to funded pension schemes approved by the competent governmental authority shall be allowed as deductions from gross income.

Section 6 Rates of Income Tax

6.1 For the tax year 2002, income tax shall be charged from 1 April 2002 on taxable income at the following rates:

(a) For taxable income up to 600 euro, at the rate of zero percent (0%);

(b) For taxable income between 600 euro and 3000 euro, at the rate of five percent (5%); and

(c) For taxable income over 3000 euro, 120 euro plus ten percent (10%) of the amount over 3000 euro.

6.2 For the tax period 2003, and subsequent years, income tax shall be charged on taxable income at the following rates:

(a) For taxable income up to 600 euro, at the rate of zero percent (0%);

(b) For taxable income between 600 euro and 3000 euro, at the rate of ten percent (10%); and

(c) For taxable income over 3000 euro, 240 euro plus twenty percent (20%) of the amount over 3000 euro.

Section 7 Withholding Tax and Certificate of Withholding

7.1 Each employer shall be responsible for withholding tax from the gross income from wages of its employees during each payroll period.

7.2 An employer who is the employee's principal employer shall withhold an amount for the appropriate payroll period, in accordance with withholding tables as set out in an administrative instruction to be issued by the Central Fiscal Authority.

7.3 The withholding tables shall compute a tentative tax based on the projected cumulative wages to be paid by the principal employer during the year and shall reduce this tentative tax by the sum of the amounts withheld by the principal employer for prior payroll periods in the year.

7.4 An employer who is not the employee's principal employer shall withhold an amount equal to ten percent (10%) of the wages for the tax period 2002 and twenty percent (20%) of the wages for the tax period 2003 and subsequent years.

7.5 Each employer shall provide by 1 March of the year following the tax period a certificate of withholding to every employee from whose wages tax has been withheld during the tax period. The certificate of withholding shall be in the form specified in an administrative instruction to be issued by the Central Fiscal Authority, and shall contain information about wages paid and tax withheld in respect of that employee.

Section 8 Duty to Keep Records

Each employer shall keep account of the tax withheld for each employee and shall keep the books and records that shall be specified in an administrative instruction to be issued by the Central Fiscal Authority.

Section 9 Tax Declarations and Remittance

9.1 Each employer shall submit a statement of tax withholding and remit the correct amount of tax withheld to the Tax Administration within fifteen (15)

days after the last day of each calendar month, in accordance with the form and procedure that shall be specified in an administrative instruction to be issued by the Central Fiscal Authority.

9.2 Each employer shall submit an annual tax reconciliation statement to the Tax Administration within thirty (30) days of the end of the tax period with information about wages paid and tax withheld and remitted in respect of each employee, in accordance with the form and procedure that shall be specified in an administrative instruction to be issued by the Central Fiscal Authority.

9.3 Each taxpayer, other than taxpayers to whom section 9.4 applies, shall submit a tax declaration, at the latest by 1 April of the year following the tax period, stating his or her taxable income and the amount of tax paid during the tax period, in accordance with the form and procedure that shall be specified in an administrative instruction to be issued by the Central Fiscal Authority.

9.4 A taxpayer shall not be required to submit a tax declaration under section 9.3 where his or her employer(s) has withheld the entire tax due in respect of the taxable income, and where no further tax or refund is due.

9.5 If the tax withheld from a taxpayer's wages in respect of the tax period is less than the tax due in accordance with section 6, the taxpayer shall, at the time of filing the tax declaration under section 9.3, pay the difference between the tax due and the tax withheld.

9.6 If the tax withheld from a taxpayer's wages is greater than the tax due in accordance with section 6, the taxpayer shall be entitled to a refund of the excess amount withheld.

9.7 The location for submitting tax declarations, remitting tax and claiming refunds shall be specified in an administrative instruction to be issued by the Central Fiscal Authority.

Section 10

Inspection of Records, Assessments, Enforced Collection

10.1 The Tax Administration may, in accordance with UNMIK Regulation No. 2000/20 and subsidiary instruments, require the production of documents or other information relating to the wages and the tax withheld from employees.

10.2 The Tax Administration may, in accordance with UNMIK Regulation No. 2000/20 and subsidiary instruments, issue a notice of assessment and demand for payment to persons responsible for withholding and remitting tax to the Kosovo Consolidated Fund if they fail to submit a declaration or make a correct remittance.

10.3 The Tax Administration may use the enforced collection methods of collecting tax authorized in UNMIK Regulation No. 2000/20 and subsidiary instruments if an employer or taxpayer fails to remit the correct amount of tax owed.

10.4 The powers of the Tax Administration under the present section shall not apply with respect to employers that are international governmental organizations, diplomatic missions or liaison offices of foreign governments.

Section 11 Violations, Penalties and Interest

11.1 Any taxpayer or employer who commits a violation pursuant to UNMIK Regulation No. 2000/20 and subsidiary instruments shall be subject to the applicable penalty thereunder in addition to any penalty and interest that may be chargeable under the present section.

11.2 Any employer responsible for withholding, accounting for, or remitting the withheld tax on wages shall be liable to a penalty equal to five percent (5%) of the tax not so withheld, or withheld but not remitted, for every month of default.

11.3 If an employer fails to withhold the tax from an employee as required under section 7, and/or fails to remit the amount of tax withheld as required under section 9, or delays withholding or remittance, interest shall be charged on the difference between the tax required to be withheld and remitted and the amount actually remitted, for the period of default, in accordance with the commercial lending rates in Kosovo as publicly announced from time to time by the Tax Administration.

11.4 If a taxpayer who is required to submit a tax declaration under section 9.3 fails to do so, or having submitted the declaration fails to make the payment in accordance with section 9.5, interest on the difference between the tax due and the tax withheld shall be charged, for the period of default, in accordance with the commercial lending rates in Kosovo as publicly announced from time to time by the Tax Administration.

11.5 The provisions of this section shall not apply to employers that are international governmental organisations, diplomatic missions or liaison offices of foreign governments.

Section 12
Appeals

Any person directly affected by an official determination made pursuant to the present regulation may make an appeal of such determination in accordance with UNMIK Regulation No. 2000/20 and subsidiary instruments.

Section 13
Applicable Law

The present regulation shall supersede any provision in the applicable law which is inconsistent with it.

Section 14
Implementation

The Special Representative of the Secretary-General may issue administrative directions for the implementation of the present regulation.

Section 15
Entry into Force

The present regulation shall enter into force on 1 March 2002.

Michael Steiner
Special Representative of the Secretary-General