

On the basis of Article IV a) of the BiH Constitution, the Parliamentary Assembly of Bosnia and Herzegovina, at the 50th session of the House of Representatives, held on 12th January 2005 and the 37th session of the Houses of Peoples, held on 26th January 2005, adopted the following:

LAW ON VALUE ADDED TAX

I - GENERAL PROVISIONS

Article 1 Territorial application

This law shall introduce the obligation and regulate the system of payment of value added tax (hereinafter: VAT) in the territory of Bosnia and Herzegovina.

The territory of Bosnia and Herzegovina constitutes the territory under the sovereignty of Bosnia and Herzegovina, including the air space and sea area which, according to national and international law, is under the sovereignty or jurisdiction of Bosnia and Herzegovina.

Article 2 Distribution of VAT revenues

The distribution of VAT revenues and the method of computing shares in collected VAT revenue shall be regulated with the Law on Payments into the Single Account and Distribution of Revenues, under the criteria laid down in Article 21 paragraph 3 items (i), (ii) and (iii) of the Law on Indirect Taxation System in Bosnia and Herzegovina.

II - SUBJECT OF TAXATION

Article 3 Subject of taxation

VAT shall be calculated, in accordance with the provisions of this Law, on:

1. supplies of goods and services (hereinafter: supply of goods and services) which a taxpayer, within the performance of his economic activities, makes for consideration within the territory of Bosnia and Herzegovina;
2. the importation of goods into Bosnia and Herzegovina.

III - SUPPLY OF GOODS AND SERVICES

Article 4 Supply of goods

The supply of goods, within the meaning of this Law, shall mean the transfer of the right to the disposal of items (hereinafter: goods) to the person who may dispose of these goods as owner.

Water, electric power, gas and heating energy or the like shall also be considered as goods.

The supply of goods, within the meaning of this Law, shall also be considered to be the following:

1. the transfer of the right to dispose of goods for consideration, on the basis of a decision by a State body, a local self-government body, or on the basis of law;
2. the sale of goods under contract on the basis of which commission is payable on the sale or purchase of goods;
3. the transfer of goods on the basis of a contract of hire for a certain period or on the basis of a sales contract with deferred payment which provides that the right of ownership shall be transferred no later than the payment of the final instalment;
4. the transfer of the right to dispose of newly-built construction objects or economically divisible units within these objects (hereinafter: objects);
5. the transfer of the business assets of a taxpayer by an authorised person, including liquidators, bankruptcy administrators and custodians, except for the cases referred to in paragraph 2 of Article 7 of this Law;
6. the use of the goods of a taxpayer for non-business purposes;
7. the exchange of goods for other goods or services.

Article 5 **Use of goods for non-business purposes**

Where a taxpayer applies goods, which form part of his business assets, for private purposes or for the private purposes of his employees, or disposes of the goods free of charge or for reduced payment, or uses the goods for purposes unrelated to his business activities, if the VAT on the goods in question or the component parts thereof is wholly or partly deductible, such use or disposal shall be considered a supply of goods made for a consideration.

Notwithstanding the provisions of paragraph 1 of this Article, the following shall not be considered a supply of goods made for a consideration:

1. the giving free of charge of business samples to customers or future customers in usual quantities for that purpose, provided they are not placed on sale by these customers or potential customers, or they are in a form which renders their sale impossible;
2. the giving of low-value gifts for the purpose of furtherance of the business activity of the taxpayer, if they are given only occasionally and not to the same persons.

Low-value gifts, within the meaning of paragraph 2, point 2 of this Article, shall be considered gifts whose individual price does not exceed 20.00 KM.

Article 6 **Use of self-produced goods, changes of purpose and retention of goods following cessation of business**

(1) The following shall also be considered a supply of goods made for consideration:

1. the putting to own use of goods which a taxpayer produces, constructs, processes, purchases or imports within the performance of his business activities;

2. the use of goods, for which input tax has been wholly or partly deducted and which the taxpayer wholly or partly uses for the purposes of performing VAT exempt activities;
3. the retention of goods after the cessation of activities or the cessation of registration, for which the input tax has been wholly or partly deducted.

The selling or renting out of buildings, which the taxpayer built from his own funds and on his own or rented land (a construction site) shall also be considered a supply of goods.

Construction of buildings, within the meaning of paragraph 2 of this Article, shall mean any alteration or renovation to the taxpayer's own or rented buildings to a value in excess of 10,000.00 KM.

The provisions of paragraph 2 of this Article shall also pertain to the buildings which a taxpayer constructs for the furtherance of his economic activities.

Article 7 **Transfer of taxpayer's assets**

The transfer of all or part of a taxpayer's business assets shall be considered as a transfer of goods made for a consideration if the input tax is wholly or partially deductible, when the assets are purchased, produced or in any other way acquired.

Notwithstanding paragraph 1 of this Article, the transfer of all or part of the taxpayer's assets, which form a separate business, with or without consideration, or as a share, shall not be considered as a supply of goods for consideration if the acquirer is a taxpayer or becomes a taxpayer by acquiring them and if he continues to perform the same economic activity, provided that the buyer has an opportunity to obtain the same rate for deduction of input tax as the seller.

The provisions of paragraph 2 of this Article shall apply whether or not the transfer is made against monetary or any other consideration.

The seller of business assets shall be required to notify the Indirect Taxation Authority (hereinafter: ITA), within 8 days from the date of sale, of the identity of the new owner of the business assets and the amount paid therefore.

Article 8 **Supply of services**

Supply of services, within the meaning of this Law, shall mean any operations and actions carried out within the performance of an economic activity, which does not constitute a supply of goods referred to in Articles 4 - 7 of this Law.

The following shall be considered as a supply of services:

1. the transfer and waiver of copyrights, patents, licenses, trademarks, as well as of other property rights (all hereinafter referred to as: property rights);
2. the supply of services for a consideration on the basis of a decision of a State body, local self-government body, or on the basis of a law;

3. the supply of services, which the taxpayer carries out without consideration for the non-business purposes of the founder, employees and other persons;
4. the exchange of services for other goods and services.

Article 9

Use of services for non-business purposes

The following shall also be considered as supply of services made for a consideration:

1. The use of goods forming part of the business assets for the non-business use of the taxpayer, employees or other persons, where the VAT on such goods is wholly or partially deductible;
2. the supply of services performed by a taxpayer, without consideration or for reduced consideration, for the non-business purposes of the founder, employees and other persons or for purposes not related to his business; and
3. the performance of a service by a taxpayer for the purposes of his business, where the VAT on such a service, had it been supplied by another taxpayer, would not be fully deductible.

Article 10

Supply of services in one's own name and for the account of another

Where a taxpayer performs services in his own name but for the account of another, he shall be considered to have simultaneously received and supplied those services himself.

Paragraph 2 of Article 7 shall apply in like manner to a supply of services.

Article 11

Importation of goods

“Importation” of goods shall mean any bringing in of goods into the customs territory of Bosnia and Herzegovina.

VAT shall be charged on any goods that are imported.

Notwithstanding the provisions of paragraph 2 of this Article, VAT shall not be calculated for goods in respect of which permission was granted immediately upon their bringing into Bosnia and Herzegovina for temporary warehousing, customs-approved treatment or use of the goods under Article 30, paragraph 1, item 2 of this Law and for which temporary importation procedure with exemption from the payment of import taxes or a customs transport procedure, was initiated.

IV – TAXPAYERS

Article 12

Definitions

A taxpayer shall be any person who independently carries out any economic activity.

Within the meaning of paragraph 1 of this Article “activity” shall be taken to include the activity of a manufacturer, trader or supplier of services performed with a view to generating income, including the activity of exploitation of natural resources, agriculture, forestry and professional activities.

“Economic activity” shall be taken to include the exploitation of property or property rights with a view to generating income

The taxpayer shall be the person in whose name and for whose account goods or services are supplied or goods imported.

The taxpayer shall also be the person who supplies goods or services or imports goods in his own name, but for the account of another.

The State and its authorities, Entity authorities, District authorities and authorities of local self-government, as well as legal entities founded under the law for the purpose of carrying out activities falling within the scope of activities performed by administrative authorities, shall not be considered taxpayers within the meaning of this Law if they supply goods and services within the activities and transactions in which they engage as administrative authorities.

The bodies referred to in paragraph 6 of this Article shall be considered taxpayers if they supply goods and services, where such supply of goods and services or transactions are carried out in competition with companies in private ownership.

Article 13 **Persons liable to pay VAT**

The persons who, within the meaning of this Law, are liable to pay VAT shall be:

1. taxpayers who perform the supply of goods and services on which VAT is chargeable;
2. a tax representative appointed by a taxpayer who does not have a seat or a permanent business unit in BiH, and who performs the supply of goods or services in BiH;
3. a recipient of services purchased in furtherance of business purposes, if the provider of the services, not based in Bih, referred to in point 2 of this paragraph has not appointed a tax representative;
4. any person who shows VAT on an invoice or some other document serving as an invoice (hereinafter: invoice) and who, according to this Law, is not required to calculate and pay VAT;
5. in the case of importations, the recipient of the goods, or the customs debtor determined in accordance with customs regulations; and
6. the recipient of goods and services relating to the construction of immovable property under Chapter XII of this Law.

V - PLACE OF TAXATION**Article 14
Place of supply of goods**

VAT shall be charged, levied and paid at the place of the supply of goods and services and Bosnia and Herzegovina shall be considered as one place for performing a supply.

The place of supply of goods shall be considered to be in Bosnia and Herzegovina if it is the place:

1. where the goods are at the time of their dispatch or transportation to the recipient or, at his order, to the third person, if goods are dispatched or transported by the supplier, recipient or a third party, at his order;
2. of installation and assembling of goods if they are installed or assembled by the supplier, recipient or, at his order, by a third party;
3. where goods are at the time of their delivery, if the goods are delivered without dispatch or transportation;
4. where goods enter the customs territory of Bosnia and Herzegovina.

**Article 15
Place of supply of services**

The supply of services shall be deemed to have taken place in Bosnia and Herzegovina if the taxpayer:

1. has a permanent seat in Bosnia and Herzegovina from which services are provided or,
2. in the absence of such a place, has his permanent address or usual place of residence in Bosnia and Herzegovina.

In addition to the provisions of paragraph 1 of this Article, the place where such supply of services is performed shall also be treated as being in Bosnia and Herzegovina when it is the place where:

1. immovables are located, if the supply of the service which is directly connected to these immovables is in question, including the activity of brokering and valuation in relation to the immovables, as well as planning, preparation and carrying out of construction works and supervision over them;
2. the transportation is carried out and, if the transportation is carried out both in Bosnia and Herzegovina and abroad (hereinafter: international transportation), the provisions of this Law shall apply only to that part of the transportation carried out in Bosnia and Herzegovina;
3. the service has been actually carried out, if these are:
 - a) ancillary services in the field of transportation, such as loading, unloading, transferring and similar services;
 - b) services in the field of culture, art, education and science, sport, entertainment-show business and similar services, including the services of organising events, as well as services related to them;
 - c) services of valuation of movable property;

- d) services performed on movable property
4. The recipient of a service carries out his activity, has a permanent seat, branch office, permanent address or usual residence if the following services are in question:
- a) the transfer, ceding, omission and placing at someone's disposal of property rights, copyrights, rights to patents, licences, trademarks and other rights of intellectual property;
 - b) advertising services;
 - c) the services of consultants, engineers, lawyers, auditors, accountants, interpreters, data processing and data supply;
 - d) assumption of the responsibility to fully or partially abandon the performance of an activity or the exercising of a right;
 - e) banking, financial services and services in the field of insurance and reinsurance, with the exception of the hiring of safes;
 - f) placing of staff at someone's disposal;
 - g) supply of telecommunications, meaning any transfer, broadcast or reception of signs, signals, text, images, sounds or information by cable, radio, optical or other electromagnetic systems, including the right to use such transfer, broadcast or reception;
 - h) the hiring of movable items, except for means of transport;
 - i) brokering, when supplying the services referred to in sub-points a) to h).
5. If the services referred to in point 4 of this Article are supplied by a taxpayer who has his seat or place of residence in BiH for the recipient of services who does not have his seat or place of residence in BiH, the place of the supply of the service shall be deemed to be the place where the recipient of the service has the seat of his company or place of residence.

Article 16 Special Rules

The ITA may, in specified instances, determine the place of supply of services for the purpose of avoiding double taxation or non-taxation for the services referred to in paragraph 2, item 4 of Article 15, as well as for the services of hiring-out means of transportation.

VI - INCURRENCE OF TAX LIABILITY

Article 17 General

The liability to tax shall be incurred at the moment when one of the following activities is performed, whichever is the earliest:

- 1. the delivery of the goods or the performance of the services;
- 2. issuing of an invoice, in accordance with this Law;
- 3. payment or part-payment made before an invoice is issued;
- 4. incurrence of the liability to pay a customs debt on the importation of goods, and if there is no such liability, at the moment on which the liability to pay that debt would arise;

5. for the supply of goods and services under Articles 5, 6 and 9, on the expiry of the tax period during which the supply was performed; and
6. for any changes in the tax base under Article 20, when the invoice or other document is issued.

Article 18
Incurrence of tax liability on supply of goods

The tax liability on supply of goods shall occur at the moment of:

1. dispatch or the beginning of transportation of goods to the recipient or third party, at the order of the supplier, recipient or the third party concerned;
2. taking ownership of the goods by the recipient in the case of installation or assembly of goods by the supplier or, at his order, by the third party;
3. transfer of the right to dispose of goods to the receiver, if goods are supplied without transportation or shipping;
4. reading of the received water, electric power, gas or heating energy for the purpose of calculating the consumption;
5. importation of goods into the customs territory of BiH.

In the cases referred to in paragraphs 2 and 3 of Article 11, VAT shall become chargeable when the goods are no longer subject to customs approved treatment.

Notwithstanding the provisions of paragraph 1, item 5 and paragraph 2 of this Article, where imported goods are subject to customs duties or other charges having equivalent effect, VAT shall be charged at the time the import charge obligation would arise if it were so prescribed.

The provisions of paragraph 1 of this Article shall also relate to partial supplies of goods.

The partial supplies referred to in paragraph 4 of this Article shall exist if consideration for the supply of certain parts of the economically divisible whole has been specially contracted for.

Article 19
Incurrence of tax liability on supply of services

A service shall be deemed to be supplied at the moment when the individual supply of the service is carried out.

If periodic invoices are issued for the supply of services, the supply of services shall be deemed as finished on the last day of the period for which an invoice is issued.

A partial service shall be deemed as finished at the time when the supply of that part of the service is completed.

The partial service referred to in paragraph 3 of this Article shall exist if consideration for the supply of certain parts of the economically divisible service has been specially contracted for.

VII - TAX BASE**Article 20****Tax base in the supply of goods and services**

The tax base (hereinafter: "base") of the supply of goods and services shall be the taxable amount of consideration (in cash, in items or in services) which has been or is to be received by a taxpayer for supplied goods or services, including subsidies directly linked to the price of such goods or services, excluding VAT, unless otherwise provided for by this Law.

The tax base shall also include:

1. any excise duty, customs duty and other import charges, as well as other public revenues, excluding VAT;
2. any indirect costs which the supplier charges to the recipient of goods and services (commissions, costs of packaging, transport, insurance and other extra charges which the supplier charges to the buyer);
3. any amounts charged on returnable packaging ;
4. any costs of connection, installation charges and other amounts charged to the purchaser or by the supplier as a condition of supplying goods and services

If the consideration or a part of the consideration has not been paid in money, but in the form of supply of goods and services, the base shall be considered to be the market value of the goods and services at the time of their supply which does not include VAT.

In exchange of goods or services, the base shall be considered to be the value of the goods or services which are the subject of the exchange.

The base in supply of goods and services performed by a taxpayer who does not have an established business in Bosnia and Herzegovina shall consist of the consideration which the recipient of goods or services has paid or will pay to the supplier of such goods or services who performs the supply of goods or supplies services, including subsidies directly linked to the price of such supply.

In case of a supply of the goods referred to in Articles 5 and 6 of this Law, the base shall be considered to be the purchase price of the goods in question or of similar goods at the moment of supply which excludes VAT.

The base for supply of the services referred to in Article 9 of this Law shall be the amount of consideration for performed services.

If the consideration for supply of goods and services is less than the market value, or if the supply was performed without consideration, the base shall be the market value of the goods or services at the time of their supply, which does not include VAT.

If the consideration for the supply of goods or services exceeds the amount to which the taxpayer was entitled, the base shall consist of the amount of the consideration received, which does not include VAT.

The following shall not be included in the base:

1. price reductions and other discounts, which are given to the recipient of goods or services on the invoice no later than at the time the supply of goods or services is performed;
2. amounts which the taxpayer receives from the purchaser as repayment of expenses paid out in the name and for the account of another and which are entered into his books as expenses.
3. amounts of interest that are calculated by the seller, that is, the supplier of services, calculated on the owed amount of the purchaser if, from contracts or other documentation on the payments, it can be determined which part of any payments concerns interest.

If the taxable amount subsequently changes due to return of goods to the supplier, the discount which the purchaser obtains after receiving goods or services, or if the amount of consideration is not recoverable after exhausting all legal means, the taxpayer who performed the supply of goods or services may under application of Article 55, paragraph 6 of this Law correct the amount of VAT.

The taxpayer who performed the supply of goods and services may correct the amount of VAT only if the taxpayer for whom the supply of goods or services was performed changes the deduction of input VAT and provided that he informs the supplier of the changes in writing.

If the VAT charged and levied on the importation of goods which the taxpayer takes into account as a deduction of input tax changes, the deduction of input tax may be corrected by the difference arising on the basis of the customs documents or a decision of the ITA.

If VAT on the importation of goods, which has been deducted as input tax, has been increased, reduced or a taxpayer is exempted from the payment liability, the taxpayer shall be required to correct the deduction of input tax in accordance with that change, on the basis of a customs document or an ITA decision.

If any package on which VAT was charged and levied is returned, the base shall be corrected in the period during which the package was returned.

The ITA may:

1. determine standards for the calculation of the base when certain types of goods are taken out for private use; and
2. set standard values for specified goods taken out for private use by certain groups of taxpayers.

Article 21

Tax base on the importation of goods

The tax base on the importation of goods into Bosnia and Herzegovina shall be the value of the goods determined in accordance with customs regulations.

The base referred to in paragraph 1 of this Article shall include:

1. excise duty, customs duty and other import charges, as well as other public revenues, except for VAT;
2. any contingent expenses (commissions, packaging costs, transport and insurance), which arise after the importation of goods to their first place of destination within Bosnia and Herzegovina.

The first place of destination within the meaning of paragraph 2, item 2 of this Article shall be treated as the place stated on the delivery note or other document on the basis of which the goods are imported into Bosnia and Herzegovina.

On importations of goods, the base shall exclude price reductions and discounts, in accordance with Article 20, paragraph 10 item 1 of the Law.

On importations of goods which the taxpayer temporarily exported for repair, processing, finishing or other processing in Bosnia and Herzegovina, the base shall consist of the value of that repair, processing, finishing or other processing.

Article 22

Converting the value of foreign currency into domestic currency

If the base for the importation of goods into Bosnia and Herzegovina is denominated in a foreign currency, customs regulations for calculating the customs value of goods shall apply for the calculation of that value in the local currency, which is valid on the day the tax liability arises.

If the value of goods or services is denominated in a foreign currency, the middle exchange rate of the Central Bank of Bosnia and Herzegovina valid on the day the tax liability arises shall apply for the calculation of that value in the local currency.

VIII - TAX RATE

Article 23

Standard rate

Standard VAT rate on the taxable supply of goods and services and importation of goods into Bosnia and Herzegovina shall be 17%.

IX - VAT EXEMPTIONS

Article 24

Activities in the public interest

The following shall be exempt from VAT:

1. public postal services, except telecommunications services;
2. medical and healthcare services, including the supply of human organs, blood and milk, performed in accordance with the law governing the field of health care, and services supplied by dentists, dental technicians and orthodontists;

3. social security services and the supply of goods directly linked to social security services, provided they are performed in accordance with the regulations governing the area of social security;
4. services of education (pre-school, elementary school, secondary school education, education in schools of further education and universities), as well as the supply of goods and services directly linked to these activities, provided these activities are performed in accordance with the regulations governing this field;
5. services in the field of sport and sports education, which are supplied to individuals by the persons whose activity is not focused on the acquisition of profit;
6. services of persons hired by religious institutions or philosophical associations for performing activities under items 2 to 4 of this Article;
7. the supply of goods and services directly linked to religious services performed by recognised religious organisations, in accordance with the regulations governing the performance of this activity;
8. the supply of services and goods directly linked to the services provided by political, trade-union, humanitarian, charitable, disabled and similar organisations to their members, in return for membership fees, in accordance with the regulations governing these activities, provided that such exemptions do not result in a distortion of competition on the market;
9. cultural services, including tickets for cultural events, as well as the supply of goods and services directly related to such services, performed by persons whose activity is not focused on the acquisition of profit in accordance with the regulations governing the field of culture;
10. the supply of services and goods performed by persons whose activities are exempt under items 2 and 9 above, provided that such supply is made exclusively for their own needs and provided that such exemptions do not result in a distortion of competition;
11. services of public radio and television bodies, other than those of a commercial nature.

Article 25 **Financial and monetary services**

The following shall be exempt from VAT:

1. insurance and reinsurance services, including services provided by insurance brokers and agents (representatives);
2. the supply of immovable property, except for the first transfer of the ownership rights or the rights to dispose of newly-constructed immovable property;
3. the leasing and sub-letting of residential houses, apartments and residential premises for a period of longer than 60 days, as well as the lease of agricultural land or woodland registered in the Land Registry;
4. financial services, including:
 - a) the approval and management of credits, guarantees or other forms of credit insurance on the part of the creditor;
 - b) services relating to the management of deposits, savings and bank accounts, conducting payment transactions, transfers, executing due liabilities, cashing cheques or other financial instruments, except for payment of debts and factoring;
 - c) transactions, including securities, relating to bank notes and coins which are legal tender in any country, except for collectors' items (coins of gold, silver and other material, bank notes which are normally not used as legal tender and coins with a numismatic value);

- d) trading in shares or other forms of participation in companies, bonds and other securities, including their issue, except for the safekeeping of securities;
- e) investment fund management;
5. the supplies of gold to the Central Bank of Bosnia and Herzegovina;
6. current postage stamps, tax stamps, and administrative and court stamps; and
7. games of chance.

Article 26 **Importation of goods**

The following shall be exempt from VAT:

1. The final importation of goods any further supply of which by a taxpayer would be exempt from VAT in Bosnia and Herzegovina;
2. the final importation of goods relieved from customs duties, unless otherwise provided in the Customs Policy Law of Bosnia and Herzegovina ("Official Gazette of Bosnia and Herzegovina", No. 57/04) – hereinafter: Customs Policy Law). The VAT exemption shall not apply to goods relieved from customs duties under Article 176, paragraphs 1 through 3 of the Customs Policy Law;
3. goods in transit through the customs territory of Bosnia and Herzegovina;
4. goods which are, within a customs procedure, temporarily exported and re-imported in an unchanged state, provided that such goods are exempt from payment of customs duties in accordance with customs regulations;
5. imported goods relieved from payment of customs duties intended for:
 - a) any official purpose of diplomatic and consular representatives accredited by Bosnia and Herzegovina;
 - b) any official purpose of international organisations, if regulated by international treaties the signatory of which is Bosnia and Herzegovina;
 - c) for the personal needs of the foreign staff of diplomatic and consular representatives accredited by Bosnia and Herzegovina, including members of their families;
 - d) for the personal needs of the foreign staff of international organisations, including members of their families, if regulated by international treaties the signatory of which is Bosnia and Herzegovina.
6. importations of catches from fishing boats into ports, provided that such catch is either unprocessed or has been subjected only to those procedures required to preserve quality and that, prior to such importation, no supply was performed;
7. services relating to the importation of goods, provided that the value of such services is included in the base, in accordance with Article 21, paragraph 2, item 2 of this Law;
8. gold and other precious metals, bank notes and coins imported by the Central Bank of BiH.

Article 27 **Export of goods**

The following shall be exempt from (taxable at the zero rate of) VAT:

1. export of goods from Bosnia and Herzegovina by or on behalf of the seller;
2. the supply of services, including transport and other ancillary services, which is directly linked to the export or importation of goods in accordance with Article 11, paragraph 3 of this Law;

3. goods exported from Bosnia and Herzegovina by a purchaser, or by another in the purchaser's name, who has no established seat in Bosnia and Herzegovina, except for goods intended to equip private boats, aircraft or any other means of transport used for private purposes;
4. services performed on goods imported into Bosnia and Herzegovina and exported by the persons who performed such services to the person who has no fixed seat and does not have a permanent or habitual residence in Bosnia and Herzegovina;
5. services of supply of goods to authorised organisations which export them within registered humanitarian or charitable activities;
6. supply of services performed by representatives and other agents in the name and on behalf of another, provided that the services form part of the services listed in this Article or services performed outside BiH.
7. export of gold to central banks.

Article 28

International transport

The following shall be exempt from VAT:

1. The supply of vessels with fuel and other goods:
 - a) used for navigation on the high seas which transport passengers for consideration or which are intended to perform commercial, industrial or fishing activities;
 - b) used for sea rescue and assistance at sea.
2. the supply, repair, maintenance and lease of vessels under sub-items a) and b) of item 1 of this Article, as well as the provision, lease, repair and maintenance of the equipment, including fishing equipment, which is incorporated or used in such vessels;
3. the purchase, repair, and lease of aircraft used by airlines for flights on international routes for consideration, as well as the circulation, lease, repair and maintenance of the equipment which is incorporated or used in such aircraft;
4. the supply of fuel and other goods to aircraft under item 3 of this Article.
5. the supply of services, except those under item 2 of this Article, to meet the direct needs of the vessels referred to under item 2 of this Article or their cargoes;
6. the supply of services, except those under item 3 of this Article, to meet the direct needs of the aircraft referred to under item 3 of this Article or their cargoes.

Article 29

Diplomatic and International Organisations

The following shall be subject to refund of VAT paid on the supply of goods and services:

1. to diplomatic or consular missions;
2. the supply of goods and services to international organisations, if provided for by international treaties, the signatory of which is Bosnia and Herzegovina.
3. the supply of goods and services to members of international organisations, including family members, if provided for by international treaties, the signatory of which is Bosnia and Herzegovina.

The ITA shall issue regulations by which it shall regulate the right to a refund of VAT on purchases of goods.

Article 30 **Special exemption**

The following shall be exempt from VAT:

1. Importations of goods intended for the purposes of free zones and warehouses, other than customs;
2. the supply of goods, provided they are:
 - a) produced to the ITA and, that a prior authorisation for such a supply was issued in accordance with customs regulations and that they are temporarily warehoused;
 - b) supplied to customs-free zones or customs-free warehouses;
 - c) supplied within a free zone and free warehouses;
 - d) supplied for customs warehouses.
3. any supply of services linked to the supply of goods under item 2 of this Article.

The places referred to in item (2), sub-items a) – d) shall be defined by customs provisions.

Any exemption from VAT under this Article shall be recognised only on condition that the goods in question are not released into free circulation and that the amount of VAT due on any such release into free circulation is the same amount as would have been charged and levied had such supply of goods been taxable by their import into Bosnia and Herzegovina and within the territory of Bosnia and Herzegovina.

No VAT shall be paid on the supply of goods in duty-free shops at international airports or at international ports registered for international traffic, provided that such goods are taken out of Bosnia and Herzegovina by passengers, in the prescribed quantities, to another country.

‘Passenger’ as referred to in paragraph 4 of this Article means any person holding a ticket stating a destination airport or port in another country.

The ITA shall further prescribe in regulations requirements for the application of paragraph 4 of this Article, including VAT on retail export.

Article 31 **Conditions for application of exemptions**

The ITA shall prescribe requirements for the application of the exemptions provided for in Articles 24 to 30 of this Law.

X - DEDUCTION OF INPUT TAX

Article 32 **General**

Input tax, in relation to a taxpayer, means the VAT charged on the supply to him of any goods or services and the VAT paid or payable by him on the importation of goods, being (in

both cases) goods or services used or to be used for the purpose of any business carried out on by him.

The taxpayer shall be eligible to deduct VAT which they are obliged to pay, or have paid, on the purchase of goods or services from another taxpayer or on the importation of goods, provided that they use those goods or services for the supply of goods and services liable to VAT.

The taxpayer may exercise the right to deduct input tax for the supply of goods and services performed abroad, on condition that the right to deduct input tax would have existed if such supply had been performed in Bosnia and Herzegovina.

The taxpayer may not exercise the right to deduct input tax on the following:

1. supply of goods and services exempt from VAT, unless otherwise provided by this Law;
2. supply of goods and services performed abroad if, for that supply, they would not have the right to deduct input tax had it been performed in Bosnia and Herzegovina;
3. supply of goods and services purchased from a person with the place of residence in Bosnia and Herzegovina, who has not been registered in accordance with this Law.

A taxpayer shall be eligible to deduct input tax on supply of goods and services which are exempt from payment of VAT under:

1. Article 26, item 8 of this Law; and
2. Articles 27 and 28 of this Law

The taxpayer may not exercise the right to deduct input tax on the following:

1. purchase, production and importation of passenger automobiles, buses, motorcycles, vessels and aircraft and any spare parts for such means of transport, fuels and consumable materials for transportation purposes, as well as renting, maintenance, repairs and other services connected to the use of these means of transport, unless they use the means of transport and other goods exclusively for carrying out their business activity;
2. expenses for business entertainment and accommodation;
3. expenses relating to the acquisition of immovable property which the taxpayer or his staff uses as a residence, a nursery or a recreational or leisure facility, as well as goods and services with it or its use;
4. representation expenses of the taxpayer and employees;
5. payment in kind to employees.

The taxpayer may exercise the right to deduct input tax only if he possesses:

1. an invoice issued by another taxpayer showing VAT in accordance with Article 55 of this Law;
2. a document relating to the importation of goods, which confirms that the recipient or importer has paid on importation the VAT shown in this way;
3. if he does not dispose of capital goods in accordance with Article 36, paragraph 2 and if a VAT return contains all data referred to in Article 39, paragraph 4 of this Law.

The taxpayer may deduct input tax from output tax, if any, within the tax period in which VAT was calculated in accordance with Article 17 and 38 of this Law.

If a taxpayer receives an invoice for purchased goods in which VAT is shown by the person who, according to the law, may not issue such an invoice, the taxpayer may not exercise the right to deduct the VAT shown as input tax, irrespective of the fact that he has paid that tax in good faith.

If a taxpayer receives an invoice showing an amount of VAT which exceeds the amount of VAT that should be charged and levied according to this Law, the taxpayer may not deduct this excess amount as input tax, even though the VAT has been paid.

Article 33

Calculation of deductible proportion of input tax – partial exemption

If a taxpayer uses supplied or imported goods for the purposes of their business activity or receives services in order to carry out a supply of goods and services with or without the right to deduct input tax, he may use the right to the deduction of a proportion of that input tax.

The proportion of input tax shall correspond to that part of the supply of goods and services with the right to deduction of input tax in the total supply which does not include VAT.

The proportional tax deduction shall be established by applying the percentage of proportional deduction onto the amount of input tax, reduced by the amount which the taxpayer is not eligible to deduct.

The deductible proportion of VAT shall not include:

1. the amount of a supply which relates to equipment which taxpayers use in the pursuance of their business activities;
2. the amount of a supply of financial services, if they are performed as incidental transactions;
3. the amount of a supply of immovables, if the supply is performed as incidental transactions.

The deductible share of VAT shall be determined on an annual basis as a percentage, and shall be rounded up to a whole number.

The deductible share for the current year shall be determined on the basis of data supplied in the previous year and, if there is no data on supply in the previous year, or if it is a negligible amount (*de minimis*), the deductible share shall be determined by the ITA on the basis of a statement made by the taxpayer.

Notwithstanding the provisions of paragraph 2 of this Article, a taxpayer may determine the deductible share separately for each individual activity he performs, provided he maintains accounts for each activity separately and provided he obtains permission from the ITA.

The ITA may require a taxpayer to maintain accounts separately for each individual area of the performed economic activities.

Article 34

Buildings of dual use

The VAT relating to the construction of a building, including any extension thereto, which, in addition to any premises for the use of the economic activities of the taxpayer, includes other premises, may be deducted in the ratio of the construction costs for the premises of the business to the total construction costs.

The following shall not be treated as business premises:

1. Premises that are used as a dwelling for the owner or his employees, regardless of whether such premises are also used as business premises;
2. Premises that are rented out, except where the taxpayer is voluntarily registered for renting activity within the meaning of Article 61 of this Law

VAT may be fully deducted on condition that in the invoice the supplier of goods or services has made a clear division of the costs attributed to the business premises and to the other premises.

VAT on any repair, renovation, alteration and maintenance of the buildings referred to under paragraph 1 of this Article which cannot be directly attributed to the business premises, is deductible in the ratio of the floorage of the business premises and the total floorage of the building.

VAT on any construction, repair and maintenance of immovable property other than buildings may be deducted in accordance with the general provisions of the Law.

Article 35

Other cases of dual use

The ITA may prescribe the manner of calculating and deducting the deductible proportion of input tax for those kinds of goods that frequently serve for dual use.

Article 36

Correction of deduction of input tax

A taxpayer who deducts input tax in accordance with the provisions of this Law shall be required to correct it:

1. if he subsequently determines that the deduction of input tax was calculated at a higher or lower amount than the amount to which the taxpayer was entitled;
2. if, after the tax calculation, there have been purchase cancellations or price reductions.

A taxpayer who has exercised the right to deduct input tax on the purchase of equipment and facilities for performing his business activity, shall be required to make a correction of the input tax if he no longer meets the requirements for exercising this right within a period of five years from the calendar year wherein the start of use of the equipment took place and, in the case of immovable property, ten years from the moment of the beginning of use of the facilities.

The moment of the beginning of use of the equipment and facilities referred to in paragraph 2 of this Article shall be treated as the tax period in which the deduction of input tax was made.

The equipment referred to in paragraph 2 of this Article shall be construed as capital goods, subject to depreciation, whose purchase price exceeds 10,000 KM, which under accounting regulations, is classified as the tangible fixed assets of the taxpayer.

A correction to the deduction of input tax shall not be made if the change of the proportion of deductible VAT is less than 5 (five) percentage points (de minimis level).

The ITA may further regulate the application of the provisions of this Article with respect to the correction of deductions of input tax.

Article 37

Deduction of input tax on the commencement of performance of taxable activities Stock in hand

Any person who is registered as a VAT taxpayer shall have the right to a proportional deduction of input tax on goods in stock on the day before he is first registered as a taxpayer.

The proportional deduction of input tax shall be determined by the ITA on the basis of the accounting information supplied by the taxpayer and data on stocks of goods of other taxpayers who perform a similar activity.

The taxpayer referred to in paragraph 1 of this Article may deduct input tax in proportion to the supplies of goods and services he has performed, but shall not have the right to a VAT refund on this basis.

XI - PERIOD OF TAXATION, CALCULATION AND PAYMENT OF VAT

Article 38

Period of calculation of VAT

The period for which VAT is to be calculated shall be one calendar month.

A taxpayer shall be required to calculate VAT for a corresponding tax period on the basis of the total supply of goods or services shown in invoices in that tax period.

Article 39

Submission of VAT return and payment of tax

Taxpayers shall be obliged to state their VAT liability calculated for the tax period in a monthly VAT return.

Taxpayers shall submit the return referred to under paragraph 1 above to the ITA by the 10th day of the month following the expiry of the tax period.

Taxpayers shall submit a VAT return irrespective of whether they are obliged to pay VAT in the period for which the return is submitted.

A VAT return shall contain all the information necessary to calculate a taxpayer's tax liability.

Persons referred to in Chapter III of this Law who are liable to VAT shall also pay VAT within the time limits referred to in paragraph 2 of this Article.

Where goods are imported, any VAT due thereon shall be charged, levied and paid in accordance with the provisions of the law relating to the collection of customs and other duties becoming due at importation.

The form and content of any VAT return shall be prescribed by the ITA under regulations made under this Law

XII - SPECIAL SCHEME FOR THE COLLECTION OF VAT ON SUPPLIES IN RELATION TO CONSTRUCTION WORK

Article 40

Scope of the Special Scheme

The liability to pay VAT on the supply of goods and services relating to the construction of immovable property shall be transferred to the person for whom the supply related to the construction of that property was made (hereinafter: "Special Scheme").

The Special Scheme shall pertain to construction works on new buildings and on any renovation, extension and maintenance of existing buildings whose total value exceeds 25,000 KM.

Article 41

Operation of the Special Scheme

A contractor who has employed a sub-contractor to supply goods and services, which affect the performance of the construction work performed by the contractor, shall be the payer of VAT charged to him by the sub-contractor.

The payment of VAT which the sub-contractor charges to the contractor shall be made with reference to the VAT identification number of the sub-contractor.

The contractor shall provide the sub-contractor with a proof of payment.

Article 42

Rights and obligations under the Special Scheme

The sub-contractor shall be jointly and severally liable with the contractor for the payment of the VAT, until proof of payment of the invoiced VAT has been received.

The sub-contractor shall calculate, pay and submit a VAT return under the Special Scheme in compliance with the provisions of this Law in the same manner as any other economic activity.

The contractor's payment of VAT, charged by the sub-contractor, shall be treated as input tax, and proof of its payment shall be the basis for the goods or service supplier's deduction of input tax.

Article 43
Extension of the application of the Special Scheme

The ITA may, by regulations, extend the application of the Special Scheme so that it becomes the obligation of registered VAT taxpayers receiving any construction works to account for and pay the VAT on behalf of suppliers.

XIII - SPECIAL TAXATION PROCEDURES

Article 44
Small businesses

A person whose total turnover of goods or services (hereinafter: "total turnover") within the previous year fails to exceed, or is unlikely to exceed, the amount determined by Article 57, paragraph 1 of the Law, shall not be a taxpayer within the meaning of the provisions of this Law.

The provisions of paragraph 1 of this Article shall not pertain to a taxpayer who was registered previously, that is, whose total turnover exceeded the amount determined in Article 57, paragraph 1 of the Law.

A person who, as a representative of a household, performs agricultural or forestry activities for which income tax is paid in accordance with the cadastral income of agricultural and forestry land (hereinafter referred to as a "farmer") shall not be a taxpayer within the meaning of the provisions of this Law if the total cadastral income of all members of the household falls below 15,000 KM.

A "household" shall mean any community of life, earning and spending joint income together.

The persons referred to in paragraphs 1 to 3 of this Article shall not have the right to show VAT on invoices or deduct input tax and are not obliged to maintain their accounts in the manner prescribed by this Law.

The persons referred to in paragraphs 1 to 3 of this Article may, at any time, submit a request to the ITA to pay VAT.

The ITA shall, on the basis of the request by persons referred to in paragraph 6 of this Article, issue a decision on their registration for VAT, and such person's liability to pay VAT shall last for a minimum term of 60 months.

Article 45
Farmers

Any farmers, as described under paragraph 3 of Article 44, who are not taxpayers, shall have the right to lump-sum compensation for input tax (hereinafter: "lump-sum compensation") on

the purchase of agricultural and forestry goods and services which result from activities on which income tax on cadastral income from agricultural and forestry areas is payable, under the conditions and in the method determined by this Article and on condition that they have previously acquired the permission of the ITA.

The lump-sum compensation shall be paid to any farmer who performs a supply involving agricultural and forestry goods and services for persons who are taxpayers within the meaning of this Law.

The taxpayers, referred to in paragraph 2 of this Article to whom farmers supply goods and services, shall be obliged to add lump-sum compensation to the amount they pay for supplies of goods or services.

The taxpayers referred to in paragraph 3 of this Article shall be entitled to deduct the lump-sum compensation as input tax under the conditions prescribed by this Law.

Further requirements for the application of this Article shall be issued by the ITA.

The ITA shall determine the amount of annual compensation for the coming year before the expiry of the current year.

The amount of compensation shall be set so that it compensates taxpayers under this Article for the VAT charged on the supplies of goods and services to them by farmers.

Article 46 **Services provided by travel agencies and tour operators**

Travel agencies and tour operators (hereinafter: "travel agencies") shall, within the meaning of this Law, be considered to be taxpayers who provide tourist services and, in relation to those services, act in their own name, using the goods and services of other taxpayers for the organisation of journeys which passengers directly use (hereinafter: "travel facilities") and pay VAT in accordance with this Article.

All services performed by a travel agency for the organisation of travel facilities shall, within the meaning of this Law, be treated as a single service.

The place of performing a single tourist service shall be determined in accordance with Article 15, paragraphs 1 and 2 of this Law.

The base of the single service performed by a travel agency shall be the amount which represents the difference between the total amount paid by the traveller and the actual costs which the travel agency pays for received supplies and services provided by other taxpayers, exclusive of VAT.

If the persons, supplying goods and services to a travel agency, are located outside Bosnia and Herzegovina, VAT shall not be paid in accordance with Article 28, paragraph 1, item 6 of this Law.

If the supply of goods and services is performed partly in Bosnia and Herzegovina and partly outside Bosnia and Herzegovina, VAT shall only be payable on that part which is performed inside Bosnia and Herzegovina.

A travel agency shall not be entitled to deduct VAT charged by other taxpayers who supply goods and services for the direct benefit of the traveller.

Article 47
Second hand goods, works of art, collectors' items and antiques

Any taxpayer who, in the performance of his business activities, either works in his own name or in the name of another under a contract, on the basis of which commission is paid for purchases or sales, and who purchases or obtains second hand goods, works of art, collectors' items and antiques, with the intention of resale (hereinafter: "reseller"), may choose to charge VAT on transactions relating to specific items, in accordance with this Article and with Articles 48 and 49.

Second hand goods shall mean any movable item which is suitable for further use in its current condition or after repair, other than works of art, collectors' items, antiques and precious metals and stones.

The following shall be considered precious metals: silver (including silver combined with gold or platinum), gold (including gold combined with platinum), platinum and all items made from these metals, provided that the consideration for the supply of the metals in question does not exceed the market value.

The following shall be considered precious stones: diamonds, rubies, sapphires and emeralds, either processed or unprocessed, provided they are not mounted or chained.

"Works of art", "collectors' items" and "antiques" shall follow the definition of items set out in Annex 1 to this Law.

If resellers simultaneously charge, levy and pay VAT under general arrangements, they shall be obliged to provide in their accounts separate statements of supply.

Resellers may charge and levy VAT under the special arrangements if they have purchased or obtained goods described in paragraph 1 of this Article:

1. from persons who are not taxpayers;
2. from other taxpayers who, in accordance with this Law, did not have the right to deduct input tax on the supply of such goods, which are exempted under Articles 24 and 25 of this Law;
3. from taxpayers under paragraphs (1) and (2) of Article 44, if business assets are concerned;
4. from other resellers, in so far as the supply is liable to VAT under the special arrangements under this Article.

If the conditions set out in Article 27 are fulfilled, the supply of goods under this Article shall also be exempt from VAT.

Resellers who charge VAT in accordance with this Article and with Articles 48 and 49 may not, on issued invoices, show VAT or include any other information based on which VAT can be calculated.

The ITA shall issue further regulations providing for applying the special conditions, including requirements of invoicing and bookkeeping, etc.

Article 48

Taxable amount for second hand goods, works of art, collectors' items and antiques

The base for a supply of goods referred to in Article 47 of this Law shall be the difference between the selling and purchase price of the goods, with the deduction of the VAT contained in that difference.

The purchase price for any reseller shall mean the total payment in cash, goods or services, including all taxes, commissions, expenses and duties paid by the reseller to the person from whom he obtained such goods.

The selling price for resellers shall mean the total payment received or to be received by the reseller from the purchaser or a third party, including subsidies directly linked to this supply, taxes, commissions, packaging costs, transport and insurance charged to the purchaser by the reseller, including VAT.

If the purchase price exceeds the sales price, the taxable amount shall be zero.

A reseller who opts to calculate output tax under the general conditions under this Law shall be entitled to deduct input tax in accordance with the general provisions at the moment the calculated VAT liability becomes chargeable.

Article 49

Other instances of supply of works of art, collectors' items and antiques

Resellers may also choose to charge VAT on the difference between the selling price and purchase price for the supply of the following goods:

1. works of art, collectors' items or antiques which they import themselves;
2. works of art which they acquire directly from an artist or his successors in title;
3. works of art which they acquire at a lower rate from a taxpayer who is not a reseller.

The taxable amount for the supply of goods under this Article shall be the difference between the selling price of the reseller for such goods and the purchase price of the reseller for these goods, reduced by the VAT on the difference.

The purchase price for importations shall be an amount which is equal to the taxable amount for the importation of goods, increased by the VAT which is charged and levied or paid on such importation.

The purchase price under the second and third items of paragraph 1 above shall be the total payment, including all taxes, commissions, expenses and duties paid by the reseller to the person from whom he acquired such goods.

The selling price of the reseller shall mean the total payment received or to be received by the reseller from the purchaser or third party, including subsidies directly linked to the supply, taxes and all other duties and contingent purchase costs, commissions, packaging costs, delivery and insurance, which the reseller charges to the purchaser, including VAT.

If the purchase price exceeds the sales price for the same goods, the taxable amount shall be considered to be zero.

A reseller who performs any supply of goods under this Article may not deduct input tax on goods acquired or imported in this manner.

Paragraphs 2 and 3 of Article 48, shall also apply to the supply of goods under this Article.

In cases where it is not possible to calculate VAT on each supplied article because purchases and sales are carried out in bulk, the taxpayer may determine the margin for taxation under the special arrangements for a tax period as being the difference between the period's total supplies and the total purchases of goods specified under paragraph 2 of Article 47.

The ITA may issue further regulations on the application of this Article.

Article 50 **Supply of goods at public auction**

Any taxpayer who, in the furtherance of his business activities, either working in his own name or in the name of another in accordance with a contract on the basis of which commission is paid for purchases or sales of second hand goods, works of art, collectors' items and antiques at public auction (hereinafter: "auctioneers") with the intention of selling to the highest bidder, may charge and levy VAT in accordance with this Article and with Article 51 of the Law.

If an auctioneer simultaneously charges and levies VAT under general arrangements and under special arrangements, he shall be obliged to provide in his accounts separate statements of supply, and to charge and levy VAT for each arrangement separately.

An auctioneer may charge and levy VAT in accordance with paragraph 1 of this Article if he works in the name of a principal who is:

1. a person who is not a taxable person;
2. another taxpayer who in accordance with this Law is not entitled to deduct input VAT for these goods;
3. a taxpayer under the first and second paragraphs of Article 44 of this law, if his business assets are concerned;
4. a reseller under Article 47 of this law.

The definitions referred to in paragraphs 2 and 3 of Article 47 shall also apply to the cases referred to under this Article.

Article 51
Taxable amount on the supply of goods at public auction

The taxable amount for a supply of goods under Article 50 of this Law shall be the difference between the price reached at the public auction and the amount paid by the auctioneer to the principal for the supply of goods performed, which shall include the amount of VAT the auctioneer paid for his commission.

The amount an auctioneer shall be obliged to pay to the principal shall be equal to the difference between the price reached for the goods at the public auction and the amount of the commission received or to be received by the auctioneer from the principal under a contract whereby commission is paid on sales.

The price reached at auction shall mean the total amount, including tax and direct costs, such as commissions, packaging costs, transport and insurance paid by the purchaser to the auctioneer for the goods.

An auctioneer shall be obliged to issue an invoice to the purchaser and the principal for each supply of goods at a public auction.

The invoice issued to the purchaser must state the price of the goods reached at the auction, taxes and other duties, and direct costs (commissions, packaging costs, transport and insurance) which the auctioneer charges to the purchaser of the goods.

VAT may not be stated separately on the invoice.

The invoice issued by the auctioneer to the principal must state separately the price reached at auction and the amount of the commission received or to be received by the auctioneer from the principal.

If the auctioneer has issued an invoice, referred to under paragraph 7 of this Article, to a principal who is a taxpayer, such invoice shall meet the requirements for the issuing of an invoice as provided for under Article 55 of this Law.

The principal shall be considered to have performed the supply when the auctioneer sells the goods at a public auction.

XIV - VAT REFUND

Article 52
Refund of input tax

If the amount of input tax in any tax period is higher than the amount of the output tax liability in the same period, the taxpayer shall have the right to have the difference refunded.

If the taxpayer decides not to have the difference referred to in paragraph 1 of this Article refunded, the difference shall be recognised as a tax credit.

Any tax credit which has not been used after a period of 6 (six) months shall be refunded.

At the request of the taxpayer, any refund due under paragraph 1 of this Article shall be paid no later than 60 (sixty) days after the expiry of the deadline for submission of the VAT return.

Refunds of input tax due to correction of errors in payments shall be carried out within the deadline referred to in paragraph 3 of this Article, after the ITA has been informed of the error by the taxpayer, or in any other way has ascertained it.

A taxpayer whose main business is the export of goods and who in successive VAT returns shows an amount of input tax which is higher than the amount of his output tax liability, shall be entitled to a refund within 30 (thirty) days after submission of the VAT return.

A taxpayer who does not receive the difference in VAT within the period stated under paragraphs 3 and 4 of this Article shall be entitled to interest at a rate prescribed by the law regulating the interest on arrears rate, starting with the first day after the expiry of the 30 (thirty) day period after the VAT return has been submitted.

If other taxes to be paid by a taxpayer have become due, the taxpayer shall receive a refund of the difference, reduced by the amount of the tax debt.

Regulations covering detailed conditions and methods of refunding the input tax shall be prescribed by the ITA.

Article 53

Refund of VAT to taxpayers who have not established their business in Bosnia and Herzegovina

Any taxpayer who does not have an established business in Bosnia and Herzegovina shall have the right to a refund of input tax which was charged to that person on the basis of the supply of goods and services performed by taxpayers in Bosnia and Herzegovina, or which was charged on goods imported into Bosnia and Herzegovina, under the conditions and in the manner provided for by this Law.

Any taxpayer, referred to in paragraph 1 of this Article, shall have the right to a refund of input tax if:

1. the goods are purchased or imported, or services received, for the purposes of an activity which the foreign taxpayer performs abroad, on condition that the foreign taxpayer would be entitled to deduct input tax on that activity if it were performed in Bosnia and Herzegovina;
2. during the period in which the right to a refund of input tax is recognised, that person does not perform a supply of goods or services which would be deemed a supply performed in Bosnia and Herzegovina, except for:
 - a) services in relation to the importation of goods in connection with item 2, paragraph 2 of Article 21 of this Law;
 - b) services in relation to importations in accordance with Article 26 and exports in accordance with Article 27 of this Law;
 - c) services on which VAT has been paid by the person for whom the services were performed.

3. Taxpayers shall have the right to a refund of input tax in a given period on the basis of a claim submitted to the ITA.

Regulations to regulate detailed conditions and methods of refunding the input tax shall be prescribed by the ITA.

Article 54 **Refund of VAT in respect of export by passengers**

Physical persons without a permanent residence in Bosnia and Herzegovina shall have the right to a refund of VAT on goods which they purchase in Bosnia and Herzegovina and take out of Bosnia and Herzegovina, except for: mineral oils, alcohol and alcoholic beverages and tobacco products.

The ITA shall prescribe detailed regulations on the conditions and methods of refunding the VAT.

XV - ISSUING OF INVOICE, ACCOUNTS AND STORAGE OF DOCUMENTATION

Article 55 **Tax invoices**

For any supply of goods and services, except for those exempted for the purposes of VAT under Articles 24 and 25 of this Law, a taxpayer shall be obliged to issue an invoice or other document serving as an invoice (hereinafter: "tax invoice") to a customer.

There shall be an obligation to issue an invoice referred to in paragraph 1 of this Article if only part of a supply is to be paid, namely before the total supply has taken place.

A person receiving an invoice or issuing a statement on payment must ensure that a supplier of goods or provider of services is a taxpayer.

The obligation to issue a tax invoice is considered to be fulfilled when the purchaser or a customer issues a statement on payment, which contains the same information as that on the invoice of a supplier.

The ITA shall issue further regulations on the requirements for invoicing, including allowing, for cash receipts only, to be issued in the retail trade, unless an invoice is requested by the buyer, determining limitations to the use of any customer's statement on payments.

A credit note shall be issued in the cases where:

1. goods are returned after the invoice has been issued;
2. the supplier of goods or service provider, after the issuing the invoice, grants a reduction in price or a discount; and
3. the supplier of goods or the service provider receives an additional payment for the supplied goods or for the services provided, after the issuing of an invoice.

Persons who are not registered as taxpayers, as well as registered taxpayers making supplies of goods and services exempted from VAT, may not show amounts of VAT on invoices or give any other indication that the invoiced amount includes VAT.

A taxpayer under paragraph 7 of this Article who receives a statement of payment on which it is indicated that the amount includes VAT, shall inform the person who issued the statement of payment of those circumstances and return the received amount of VAT.

A taxpayer who, in contravention of paragraphs 7 and 8 of this Article shows the amount of VAT on an invoice or in any other way indicates that the invoiced amount includes VAT, shall pay such sum of VAT to the ITA.

In accordance with the previous paragraph, VAT shall be paid to the ITA if a taxpayer shows too high an amount of VAT on an invoice or in an invoice relating to a supply on which VAT should not be paid in the amount of the shown VAT or if he otherwise indicates that the invoiced amount has included VAT.

Payment of the wrongly invoiced or obtained amount to the ITA can however be avoided if the error is corrected in favour of the purchaser.

It shall be clearly expressed in statements of prices if the stated price does not include VAT.

Article 56

Keeping accounts

Every taxpayer shall be obliged to keep accounts to permit the proper application of VAT, including calculation of the VAT liability for each VAT period and inspection by the ITA.

The said accounts shall be kept in accordance with the regulations on accountancy.

The supplier of goods or services shall be obliged to keep copies of all invoices, credit notes and statements of payments.

The ITA may issue further regulations on accounting and bookkeeping, including determining requirements and conditions for conversions of accounts and bookkeeping from foreign currency into national currency, for the purpose of establishing the tax liability and other information that shall be compulsorily recorded.

XVI - REGISTRATION OF TAXPAYERS

Article 57

Registration for VAT

Any person whose taxable supply of goods or services and supply of goods exempt with credit within the previous year exceeds, or is likely to exceed, the threshold limit of 50,000 KM shall be required to be registered under this Law as a VAT taxpayer. When determining whether the threshold limit of 50,000 KM is exceeded or not, turnover of related companies and other entities that through possession of shares or in any other way are under common direct or indirect control, shall be taken into account.

Further regulations on taxpayer registration including the registrations allowed under Article 44, paragraph 6 of this Law shall be issued by the ITA.

Taxpayers registered or persons disposing of goods in respect of which it is deemed under this Law that the disposal is performed by taxpayers shall be recorded in a single register (hereinafter: "tax register") kept by the ITA for the purposes of the implementation of this Law.

The ITA shall issue further regulations on recording the taxpayers in the tax register, including those on inclusion and correction of information in that register.

A taxpayer shall be obliged to report to the ITA on any amendments to data which affect the calculation and payment of VAT, and which are related to the start, changing or ceasing of activities, unless otherwise provided by this Law.

The ITA shall issue a decision on the registration of VAT liability in the tax register to every person under paragraph 1 of this Article.

The registration certificate shall be displayed in a prominent place at the business premises.

A taxpayer shall submit an application for registration no later than 8 (eight) days before the start of the taxable business.

All persons who for the first time become or may become taxpayers shall be obliged to submit to the ITA an application for registration no later than the 20th day of the calendar month following the month in which they performed or are likely to perform a supply of goods or services in an amount which exceeds the amounts set out in paragraph 1 of this Article.

They shall become registered taxpayers on the day determined by the ITA in the decision on registration, which shall be issued within 15 (fifteen) days of receipt of the application.

Notwithstanding the provisions of paragraph 1 of this Article, the ITA shall, ex officio, determine the VAT liability of farmers whose cadastral household income exceeds the amount provided under paragraph 3 of Article 44 of this Law.

All persons disposing of goods, which under this Law are treated as being supplied by taxpayers pursuing their business activities, shall be obliged to submit to the ITA an application for registration within 15 (fifteen) days of the day when they acquired the right to dispose of such goods.

The form and content of the application for registration shall be prescribed by the ITA.

Article 58

Separate business registration

Where a taxpayer has more than one business in Bosnia and Herzegovina, he shall apply for registration as one.

Upon the request of the taxpayer under the paragraph above, the ITA may register each business individually if separate accounts are kept for each business.

Article 59

Joint registration

Where more than one taxpayer jointly performs activities taxable under this Law, the ITA may, upon the request of those taxpayers, allow one joint registration.

Joint registration may also be permitted in the case of two or more taxpayers performing activities that are both taxable and exempt under this Law.

It is a condition of joint registration that one taxpayer, legal entity or “mother company”, directly or indirectly, through possession of all shares, fully owns the other taxpayer’s subsidiary company or companies that are included under the joint registration.

Article 60

Registration of tax representatives

A taxpayer not based in Bosnia and Herzegovina shall, if the taxpayer supplies goods or services in Bosnia and Herzegovina, be registered with a tax representative based in Bosnia and Herzegovina.

The taxpayer and the representative shall be jointly and severally liable for the tax that is chargeable under this Law.

The rights and obligations imputed to taxpayers based in Bosnia and Herzegovina under this Law shall apply in like manner to the representative.

Article 61

Voluntary registration

The ITA may grant permission for voluntary registration to those persons who are commercially renting and farming out real estate or any part thereof.

Voluntary registration may be granted to a person who is renting premises, unless those premises are to be rented for dwelling purposes.

Voluntary registration does not include already established tenancies unless the tenant so accepts.

The ITA may, conditionally grant permission for voluntary registration of the purchase and construction of real estate and the development of land for sale to a taxpayer.

Voluntary registration under paragraph 1 of this Article shall include a period of at least 2 (two) calendar years.

In case voluntary registration is granted before construction of the real estate to be rented is finalised, the registration period shall be calculated from the beginning of the first tenancy.

The ITA may prescribe further provisions on voluntary registration under this Article.

Article 62 **Cessation of registration**

The ITA may, at the request of a taxpayer who in the period of the previous calendar year has failed to achieve a total turnover in the amount determined by the provisions of paragraphs 1 to 3 of Article 44 and paragraph 1 of Article 57 of this Law, or ex officio, issue a decision on the cessation of registration for VAT.

If a taxpayer ceases to perform business activities, the ITA shall issue a decision on the cessation of registration for VAT ex officio.

Prior to issuance of a decision on the cessation of registration, the taxpayer shall be obliged to calculate and pay VAT on all purchases performed until the day of notification to the ITA of the ceased activities and to make an inventory of all stocks of goods.

The taxpayer shall be obliged to calculate VAT on stocks of goods as if this were a purchase of goods for his own use.

The ITA shall issue a decision on the cessation of registration after the settlement of tax liabilities under paragraphs 3 and 4 of this Article.

XVII - SUPERVISION OF THE CHARGING, PAYMENT AND COLLECTION OF VAT

Article 63 **Supervision of the charging, payment and collection of VAT**

The charging, payment and collection of VAT shall be supervised by the ITA in accordance with a separate Law.

In respect of the importation of goods, the charging, levying, payment and collection of VAT shall be supervised by the ITA in accordance with customs regulations, as if VAT were an import duty/duty of customs.

XVIII - PREVENTIVE MEASURES AGAINST TAXPAYERS PERFORMING BOGUS TRADE

Article 64 **Interpretation**

“Bogus trade” shall mean the performance of business activities with the purpose of fraudulently evading payment of VAT.

Article 65 **Trade and business based on contract against public order and interest**

Notwithstanding the provisions laid down under Chapter X of this Law, the ITA shall reject claims for a VAT refund if the supply on which the claim is founded is considered not to

have taken place due to the contractual base between the supplier and the receiver being deemed invalid on objective grounds.

The ITA shall reject claims under paragraph 1 of this Article regardless of the claimant's good faith concerning the invalidity of the contractual base.

Article 66 **Joint liability**

The ITA shall reject claims for a VAT refund where the claimant knew or had reason to believe that the supplier of goods or services was irregularly accounting for his own VAT.

The claimant shall be considered to have known or had reason to believe, where the supply is made on terms indicating that the supplier's business operations are unprofitable, if all business costs, including VAT, are paid.

The ITA shall be authorised to determine for specific registered taxpayers having arrears-debtors that the VAT on supplies to registered VAT taxpayers shall be accounted for by the receiver of the supplies.

Articles 41 through 43 of this Law concerning supplies relating to construction work shall likewise be applicable to the receivers and the suppliers of goods and services under the special scheme for taxpayers-debtors provided for under the previous Paragraph.

The special scheme for taxpayers-debtors may only be introduced for a specific taxpayer-debtor if there are significant amounts of tax revenues in jeopardy and if the introduction of the special scheme by the ITA is considered necessary and the most appropriate in order to prevent the coming into existence of additional tax arrears.

The ITA shall lay down by regulations the further conditions for the application of the special scheme to taxpayers-debtors.

Decisions concerning introduction of the special scheme for a specific taxpayer-debtor shall be published in the Official Gazette of Bosnia and Herzegovina and in at least three widely read dailies and cannot be applied to any taxpayer-receiver of supplies prior to the publication of the decision.

XIX - PENALTY PROVISIONS

Article 67 **Offences**

Any taxpayer who by act or default commits an offence shall be subject to a fine for violations. The taxpayer, who:

1. charges and levies VAT on the transfer of assets constituting a business or part of a business in contravention of paragraph 2 of Article 7 of this Law, will be fined in the amount equal to 50% of the charged amount;

2. fails to calculate and pay VAT on the taxable amount in accordance with Article 20 of this Law, will be fined in the amount equal to 50% of the non calculated or unpaid amount with a minimum of 100 KM;
3. fails to calculate and pay or incorrectly calculates and pays VAT in accordance with paragraph 2 of Article 38 and paragraph 5 of Article 39 of this Law, will be fined in the amount equal to 50% of the unpaid or wrongly calculated amount with a minimum of 100 KM;
4. fails to submit a VAT return or fails to submit it within the prescribed time limits in accordance with paragraphs 1 to 4 of Article 39 of this Law, will be fined in the amount of 300 KM except in the cases when the return is negative;
5. incorrectly calculates the amount of input tax in accordance with Chapter X of this Law, will be fined in the amount of 50% of the unduly obtained benefit;
6. calculates the VAT, shows VAT on invoices and deducts input tax in contravention of Article 44 of this Law, will be fined in the amount of 100% of the calculated amount with a minimum of 100 KM;
7. calculates a larger lump-sum compensation than that allowed under Article 45 of this Law, will be fined in the amount equal to 100% of the exceeded compensation;
8. fails to calculate and pay VAT in accordance with Article 46 of this Law, will be fined in the amount of 50% of the non calculated or unpaid amount with a minimum of 100 KM;
9. fails to calculate and pay VAT in accordance with Articles 47 to 49 of this Law as resellers of used goods, works of art, collectors' items and antiques, will be fined in the amount equal to 50% of the non calculated or unpaid amount with a minimum of 100 KM;
10. fails to calculate and pay VAT in accordance with Articles 50 and 51 of this Law as an auctioneer, will be fined in the amount of 50% of the non calculated or unpaid amount with a minimum of 100 KM;
11. fails to issue an invoice or fails to retain a copy of the invoice in accordance with paragraphs 1 and 2 of Article 55 of this Law, will be fined in the amount of 300 KM;
12. on an invoice does not show VAT or other information from which the VAT amount can be deduced in accordance with Articles 47 and 51 or fails to show VAT on an invoice or does not clearly express in statements of prices if VAT is not included in accordance with Article 55 of this Law, will be fined in the amount equal to 100% of the showed VAT amount or of the VAT amount that can be deduced and in the amount of 300 KM in the other cases;
13. fails to keep and store records in accordance with Article 56 of this Law, will be subject to a fine ranging from 300 KM to 10,000 KM;
14. fails to report to the ITA when his business activity begins, changes or ceases, in accordance with Articles 57, 60 and 62 of this Law, will be fined in the amount of 100% of the liability that was not reported due to the taxpayer's failure with a minimum of 1,000 KM.

An authorised person working for a legal person shall be subject to the same fine as provided for the legal person under the previous Paragraph.

The penalties provided for in the Paragraphs 1 and 2 of this Article shall be increased by 50%:

1. for each time they are committed by a recidivist (a previously punished criminal);

2. in cases where the taxpayer has made obstructions in order to prevent that the ITA reveals the offences; and
3. in cases where the taxpayer has committed the offence by applying fraudulent means or through the involvement of a third person that is not an employee of the taxpayer or in other ways are not dependent on the taxpayer.

XX - APPEAL PROCEDURE

Article 68 Appeals

Where a taxpayer receives a decision from an officer that:

1. affects any amount of VAT that he has to pay, either directly or indirectly; or
2. is a decision to impose on him any administrative penalty; or
3. is a decision to seize any thing belonging to him that has been detained, or to extend a time limit for a decision to be made on that seizure; or
4. is a condition for the return of any thing detained or seized,
5. affects the registration or cancellation of registration of any person under this Act;
6. he may request the ITA to review that decision.

Any request for a review by the ITA shall be made within 60 days of the decision by a notice in writing, supported by such documentary evidence as the person may wish to present.

The ITA may extend the time in which a request to review is required to be made under paragraph (1) above as it thinks fit.

The ITA shall notify in writing the taxpayer who requested a review under paragraph (1) above, within 60 days of its receipt of the request, of its decision on the review.

Where the ITA fails to notify the taxpayer as required, the ITA shall be regarded as having confirmed the decision.

Within 60 days of the ITA having either notified its decision on a request for a review, or being regarded as having confirmed his decision, the taxpayer who requested the review may appeal to the Minor Offence Court.

The appeal to the Minor Offence Court shall be made in writing, supported by such documentary evidence as the taxpayer (hereinafter referred to as: "the Appellant") wishes to present.

The ITA shall, within 30 days of its being notified of the appeal, reply in writing to it.

The Minor Offence Court shall conduct a hearing of the appeal within 60 days of the date the appeal was submitted.

The Appellant may give oral and written evidence to the Minor Offence Court during the hearing of the appeal and, where this occurs, the ITA shall also be given the opportunity to present oral and written evidence.

The Minor Offence Court shall notify the parties of its decision, together with written reasons for the decision, within 30 days of the date of conclusion of the hearing.

The Appellant or the ITA may apply to the Supreme Court for the review of a decision made by the Minor Offence Court.

The burden of proving that the decision of the ITA is erroneous shall be on the Appellant.

A request for review by the ITA made pursuant to paragraph (1) above, an appeal to the Minor Offence Court under paragraph (6) above or an application to the Supreme Court for review under paragraph (12) above shall not suspend any obligation to pay any duty or tax in dispute, except that the ITA, the Minor Offence Court or the Supreme Court may, on application by reason of hardship, order that the obligation to pay shall be suspended until they have given their decision.

Where the dispute is ultimately resolved in favour of:

7. the ITA, the taxpayer shall pay outstanding tax, penalties and interest accrued until the matter was resolved;
8. the Appellant, the ITA shall:
 - a) refund any excess tax paid together with interest thereon accrued until the matter was resolved; and
 - b) where any thing has been returned to its owner, sold or destroyed, refund:
 - i. an amount equal to any sum paid by its owner for the item's return;
 - ii. in the case where a certain thing has been destroyed, an amount equal to the proceeds of sale; or
 - iii. refund an amount equal to the market value of the thing at the time of its seizure, before destruction.

The ITA may by regulations prescribed introduce further provisions under this Article.

XXI - SPECIAL AND SUPPLEMENTARY PROVISIONS

Article 69 Authorisation

The ITA may amend the amounts set out in paragraph 3 of Article 44 and paragraph 1 of Article 57 of this Law, if the Central Bank of Bosnia and Herzegovina's exchange rate for the KM against the euro changes significantly, or if regulations on the determination on cadastral income change.

Article 70 Detailed regulations

A combined nomenclature of the tariff codes shall be used for the classification of products, whereas the standard classification of activities shall be used for the classification of business activities.

The ITA shall prescribe regulations on the implementation of this Law, including criteria on exemptions and the manner in which they may be exercised.

The ITA may prescribe in regulations issued under this Law that any physical person violating the provisions of the regulations shall be liable to a fine up to 3,000 KM, that a responsible person in a legal entity shall be liable to a fine up to 5,000 KM and that any legal person shall be liable to a fine up to 10,000 KM.

Article 71 Interpretation

In this Law “business” includes any trade, profession or vocation.

The following are deemed to be the carrying on of a business:

1. the provision by a club, association, or organisation (for a subscription or other consideration) of the facilities available to its members;
2. the admission, for a consideration, of persons to any premises.

“Capital goods” include computer equipment, land and buildings, civil engineering works and refurbishments and fitting-out works.

“Document” means anything in which information of any description is recorded.

“Input tax”, in relation to a taxpayer, means the VAT charged on the supply to him of any goods or services and the VAT paid or payable by him on the importation of any goods, being (in both cases) goods or services used or to be used for the purpose of any business carried on by him.

“Invoice” includes any document similar to an invoice.

“Output tax”, in relation to a taxpayer, means VAT charged by him on the supplies which he makes.

“Prescribed” means prescribed by Regulations.

“Regulations” means regulations made by the ITA under this Law.

“Supply” shall have the meanings given by Articles 4 and 8.

“Tax” means value added tax.

“Tax invoice” has the meaning given by Article 55.

“Taxpayer” has the meaning given by Article 12 and is a person who is liable to be registered for the purposes of VAT under Article 57 of this Law.

In the Articles of the this Law in which authorisation is given to the ITA to issue regulations shall the “ITA” be understood as also referring to the Governing Board created by the Law on Indirect Taxation System of Bosnia and Herzegovina (“Official Gazette of Bosnia and

Herzegovina”, No. 44/2003) and as respecting the division of responsibilities between the Board and the ITA as provided for under the said Law.

XXII - TRANSITIONAL AND FINAL PROVISIONS

Article 72

VAT refund in the period until 30.06.2006

Within the period from 01.07.2005 to 30.06.2006 shall the application of Article 52 of this Law be suspended in the way that taxpayers' amounts of input taxes exceeding the amounts of output taxes for any given tax period shall not be refunded but be carried forward as credits against future VAT liabilities for a period of 6 (six) months.

In cases where the tax credit has not been used within the period provided for under paragraph 1 of this Article, the taxpayer shall upon request be entitled to a refund.

The ITA may prolong the period in which the application of Article 52 is suspended for up to one additional period of 12 (twelve) months.

The application of Article 52, Paragraph 6 of this Law shall, notwithstanding the previous Paragraphs of this Article, not be suspended.

Article 73

Calculation of the supply of goods and services performed until 30.06.2005

A supplier of goods and services shall be obliged, as at 30.06.2005, to calculate the value of goods supplied and services performed, which has not been collected from the purchasers and to charge the said purchasers for them.

The obligation under paragraph 1 of this Article shall also apply to the services of subcontractors of the main contractor of the services.

If the calculation in cases referred to in paragraph 1 of this Article is made after 01.07.2005, in which the total value of goods supplied or services provided is recorded, the taxable amount for the calculation of VAT shall be only on the value calculated for the period after 01.07.2005.

The taxable amount under paragraph 3 of this Article shall also be reduced by prepayments made up to 30.06.2005 relating to the supply of investment equipment, fixed assets, the construction of immovables and services to be carried out after 01.07.2005, if the sales tax on products and services was calculated and paid according to the regulations regulating taxation thereof.

Any invoice issued with respect to which no supply of goods or services was provided until 30.06.2005 shall be invalidated.

Any supplier who supplies goods and services on a continuing basis and who issues subsequent invoices for such supplies, calculating his accounts up to 30.06.2005 shall calculate sales tax on products and services according to the regulations regulating taxation thereof.

Article 74**Final calculation of the sales tax on goods and services, and time limits for payment of the tax**

Taxpayers liable to sales tax on products and services shall be obliged to provide the ITA with a final calculation of sales tax on products and services for the period from 01.01 to 30.06.2005, no later than 20.08.2005.

Sales tax on products and services, for which the obligation to calculate the period until 30.06.2005 arises, shall be paid within the time limits and in the manner prescribed under regulations for the payment of that tax after the return has been submitted.

The amount of sales tax included in unpaid claims as at 30.06.2005, which was not paid after the submission of the return for the period from 01.01 to 30.06.2005, shall be paid together with the payment of claims within 5 (five) days after the receipt of payment, but no later than 31.12.2005.

Article 75**List of unpaid invoices**

Taxpayers liable to sales tax on products and services shall be obliged to draw up a list of all unpaid invoices issued and advanced payments made as at 30.06.2005, which shall include calculated tax on any completed supply of goods or services, and to submit them to the ITA together with the calculation of sales tax for the period from 01.01. to 30.06.2005.

Article 76**List of goods in retail trade**

Taxpayers liable to sales tax who perform retail supply activities shall be obliged to draw up a list of goods in stock as at 30.06.2005.

Taxpayers referred to in paragraph 1 of this Article shall be obliged to calculate VAT in accordance with the provisions of this Law.

Taxpayers shall be obliged to submit inventory lists of stocks to the ITA by 10.07.2005.

Any taxpayer referred to in paragraph 2 of this Article who is not liable to VAT payment shall present his VAT account by 31.07.2005 and pay the calculated VAT by 31.08.2005.

Selling price changes shall be monitored by the market inspectorate in accordance with the law.

Article 77**List of certain goods in retail trade and catering**

Taxpayers who perform trading and catering activities and who are liable to pay VAT under this Law shall be obliged to, as at 30.06.2005, make an inventory of stocks (of non-alcoholic beverages, beer, mineral waters, juices and alcoholic beverages and wine distillates), at purchase price including sales tax on products. The same obligation shall apply to other

taxpayers liable to sales tax and who calculate their sales tax liabilities based on the deliveries to the shop or other business units.

If the amount of sales tax included in the purchase price cannot be established, the sales tax shall be determined from rates calculated on the basis of rates under the Law on Sales Tax.

The inventory lists of stocks with indicated sales tax shall be submitted by taxpayers to the ITA by 10.07.2005.

When the ITA has approved the inventory list of stocks under paragraph 1 of this Article, the sales tax shown in the inventory shall be treated as input tax under this law.

Any taxpayer shall have the right to deduct the input tax under paragraph 4 of this Article in proportion to his turnover, but shall not have the right on this basis to a refund of input tax.

Taxpayers under the paragraph 1 of this Article shall be obliged to make an inventory of stocks as at 30.06.2005 of tobacco products and to submit such inventory of stocks to the ITA by 10.07.2005.

Taxpayers shall be obliged to sell stocks of tobacco products established as at 30.06.2005 at the prices valid on the inventory day until the stocks are exhausted.

The sale of stocks at the selling price shall be monitored by the market inspectorate in accordance with the law.

Article 78 **Application for registration for VAT**

Persons referred to under Article 12 of this Law shall become taxpayers under the provisions of this Law if, in 2005, they achieved or are expected to achieve turnover exceeding the amount laid down in paragraph 1 of Article 57, or cadastral income exceeding the amount laid down under paragraph 3 of Article 44 of this Law.

Persons referred to under paragraph 1 of this Article, shall be obliged no later than by 30.03.2005 to submit an application for registration to the ITA, apart from farmers included as taxpayers by the ITA, ex officio.

The ITA shall issue to persons under paragraph 2 of this Article a certificate of registration no later than 31.05.2005, and to other persons no later than 30.06.2005.

Article 79 **Penalties for violations committed between the entering into force of the Law and its implementation**

Taxpayers who by act or default commit an offence in connection with the independent performance of business activities shall be subject to a fine for violations. The taxpayer, who:

- a) fails to calculate the value of the goods purchased and services performed for the purchasers as at 30.06.2005 (paragraph 1 of Article 73 of this Law), will be fined in the amount equal to 100% of the non calculated amount with a minimum of 500 KM;
- b) fails to pay sales tax in the prescribed manner and within the prescribed time limits (paragraph 2 of Article 74 of this Law), will be fined in the amount equal to 150% of the unpaid sales tax with a minimum of 500 KM;
- c) fails to pay the amount of Sales Tax included in unpaid claims as at 30.06.2005 to 31.12.2005 (paragraph 3 of Article 74 of this Law), will be fined in the amount equal to 150% of the unpaid amount with a minimum of 500 KM;
- d) fails to draw up a list as at 30.06.2005 of all issued, unpaid invoices or fail to submit them to the ITA within the prescribed time limit (Article 75 of this Law), will be fined in the amount of 1.000 KM;
- e) fails to make an inventory as at 30.06.2005 of all goods in stock or fail to submit to the ITA inventory lists within the prescribed time limit (Article 76 of this Law), will be fined in the amount of 1,000 KM;
- f) fails to make an inventory as at 30.06.2005 of products by sales price with sales tax stated separately, or fail to submit the inventory lists to the ITA within the prescribed time limit (paragraphs 1 and 3 of Article 77 of this Law), will be fined in the amount of 1,000 KM;
- g) fails to submit an application for registration within the prescribed time limit (paragraph 2 of Article 78 of this Law); will be fined in the amount of 5,000 KM.

Any employee, representative or agent of the taxpayer who is responsible for performing the tasks listed in the previous paragraph shall be subject to the same fine as the main taxpayer for violations under paragraph 1 above.

The penalties provided for in the Paragraphs 1 and 2 of this Article shall be increased by 50%:

1. in cases where the taxpayer has made obstructions in order to prevent that the ITA reveals the offences; and
2. in cases where the taxpayer has committed the offence by applying fraudulent means or through the involvement of a third person that is not an employee of the taxpayer or in other ways are not dependent on the taxpayer.

Article 80

Suspension of application of Article 33 of this Law

Notwithstanding the provisions of Article 52 of this Law, the deducted share of input tax shall be determined on the basis of actual data on the supply of goods and services performed and subject to payment of VAT until 31.12.2005.

Article 81

Application of Article 37 of this Law

Article 37 of this Law shall not apply to goods in stock purchased before 01.07.2005.

Article 82
Cessation of validity of Regulations

On the day this Law becomes applicable, the following shall cease to apply:

1. Law on Sales Tax on Goods and Services -consolidated text (Official Gazette of the Federation of Bosnia and Herzegovina, No. 42/2002);
2. Law on Excises and Sales Tax (Official Gazette of Republika Srpska, No. 25/02, 30/02, 60-Part II/03 and 96/03);
3. Law on Sales Tax on Goods and Services (Official Gazette of the Brcko Distric, No. 7/02 and 16/03)

Article 83
Entry into force

This Law shall enter into force fifteen days after its publication in the “Official Gazette of Bosnia and Herzegovina”, and shall be applied from 01.07.2005, with the exception of the provisions contained in Articles 72 to 79 of this Law, which shall be applied from the day this Law enters into force.

This Law shall be published in the Official Gazettes of the Entities and the Brcko District of Bosnia and Herzegovina.

BiH PA No. 146/05

Date: 26/01/2005

Sarajevo

Chairman
House of Representatives
BiH Parliamentary Assembly
Sefik Dzaferovic

Chairman
House of Peoples
BiH Parliamentary Assembly
Goran Milojevic

ANNEX 1**WORKS OF ART, COLLECTORS' ITEMS AND ANTIQUES**

Paragraph 5 of Article 47)

a) 'Works of art 'shall mean:

- pictures, collages and similar decorative plaques, paintings and drawings, executed entirely by hand mouth or foot by the artist, other than plans and drawings for architectural, engineering, industrial, commercial, topographical or similar purposes, hand-decorated manufactured articles, theatrical scenery, studio back cloths or similar painted canvases. (CN code 9701);
- original engravings, prints and lithographs, being impressions produced in limited numbers directly in black and white or in colour of one or of several plates executed entirely by hand, mouth or foot by the artist, irrespective of the process or of the material employed by him, but not including any mechanical or photomechanical process (CN code 9702 00 00);
- original sculptures and statuary, in any material, provided that they are executed entirely by the artist;
- sculpture casts, the production of which is limited to eight copies and supervised by the artist or his successors in title (CN code 9703 00 00);
- tapestries (CN code 5805 00 00) and wall textiles (CN code 6304 00 00) made by hand from original designs provided by artists, provided that there are not more than eight copies of each;
- individual pieces of ceramics, executed entirely by the artist and signed by him,
- enamels on copper, executed entirely by hand, limited to eight numbered copies bearing the signature of the artist or the studio, excluding articles of jewellery and goldsmiths' and silversmiths' wares,
- photographs taken by the artist, printed by him or under his supervision, signed and numbered and limited to 30 copies, all sizes and mounts included;

b) 'collectors' items 'shall mean:

- postage or revenue stamps, postmarks, first-day covers, pre-stamped stationary and the like, franked, or, if unfranked, not being of legal tender and not being intended for use as legal tender (CN code 9704 00 00),
- collections and collectors' pieces of zoological, botanical, mineralogical, anatomical, archaeological, ethnographic or numismatic interest (CN code 9705 00 00);

c) 'antiques 'shall mean objects other than works of art or collectors' items, which are more than 100 years old (CN code 9706 00 00).