

In accordance with Article 88 Item 2 of the Constitution of the Republic of Montenegro I hereby pass the

**ENACTMENT ON PROCLAMATION OF
THE LAW ON TAX ON TURNOVER OF IMMOVABLE PROPERTY
("Official Gazette of RoM", number 69/03, "Official Gazette of Montenegro"
number 17/07 dated 31st December 2007)**

This is a proclamation of the Law on Tax on Turnover of Immovable Property, adopted by the Parliament of the Republic of Montenegro at the second meeting of the second regular session in the year 2003, on 18th December 2003.

Number: 01-1510/2
Podgorica, 23rd December 2003
President of the Republic of Montenegro
Filip Vujanović, signed

LAW ON TAX ON TURNOVER OF IMMOVABLE PROPERTY

I BASIC PROVISIONS

Article 1

This Law shall regulate the issues related to the obligation of payment of the tax on turnover of immovable property in the territory of Montenegro.

Article 2

Revenues from tax on turnover of immovable property shall belong to the State Budget, budgets of local self-government units and the Equalization Fund, in proportion 30% : 50% : 20%.

Article 3

Local and foreign legal entities and physical persons shall be equal with respect to payment of tax on turnover of immovable property, unless otherwise determined by an international agreement.

II SUBJECT OF TAXATION

Article 4

(1) The turnover of immovable property shall be subject to taxation.

- (2) Turnover of immovable property, under this Law, shall be deemed to be any acquisition of ownership over immovable property in Montenegro.
- (3) Acquisition of ownership over immovable property, in respect of paragraph 2 of this Article, shall be deemed to imply the following: purchase, exchange, inheritance, gift, inclusion and exclusion of immovable property in/from a business organization, acquisition of immovable property under the liquidation or bankruptcy proceeding, acquisition of immovable property based on a decision of the court or other competent authority, as well as other manner of acquisition of immovable property by another party.
- (4) The immovable property in respect of this Law shall be deemed to imply land and building facilities.
- (5) The land referred to in paragraph 4 of this Article shall be deemed to imply construction, agricultural, forest and other land.
- (6) Building facilities referred to in paragraph 4 of this Article shall be deemed to be buildings and their parts, irrespective of their purpose.

Article 5

- (1) Turnover of immovable property, under this Law, shall not be deemed to imply the acquisition of newly built building facilities that are subject to taxation according to the Law on Value Added Tax.
- (2) Newly built building facilities referred to in paragraph 1 of this Article shall be deemed to imply the facilities or their parts that are built, delivered or paid after the commencement of the application of the Law on Value Added Tax.

III TAXPAYERS

Article 6

- (1) The taxpayer of the tax on turnover of immovable property shall be the acquirer of the immovable property.
- (2) The taxpayer of the tax on turnover of immovable property in case of exchange of immovable property shall be each participant in the exchange.
- (3) The taxpayer of the tax on turnover of immovable property, in case of acquisition of aliquot part of immovable property, shall be each acquirer individually.

Article 7

- (1) The taxpayer of the tax on turnover of immovable property in case of inheritance shall be the heir. If the heir, during the probation proceeding, renounces his/her inheritance or cedes it to another co-heir, shall not pay the tax, under this Law, on renouncing or ceding his/her inheritance.
- (2) The taxpayer of the tax on turnover of immovable property in case of gift or other form of acquisition of immovable property without compensation shall be the person receiving the gift or other person acquiring the immovable property without compensation.
- (3) The taxpayer of the tax on turnover of immovable property, in case when the immovable property is acquired on the basis of contract on whole-life support, shall be the acquirer of the immovable property.

IV TAX BASE

Article 8

- (1) The base of the tax on turnover of immovable property shall be the market value of immovable property at the moment of its acquisition.
- (2) The market value of immovable property shall imply the price of the immovable property that is achieved or is achievable on the market at the moment of its acquisition. The market value of the immovable property shall be determined, as a rule, based on the documents on acquisition.
- (3) In case of acquisition of immovable property with compensation, the tax base for the tax on turnover of immovable property shall be the total amount of the compensation for the transferred ownership right over the immovable property. The total amount of the compensation shall be deemed to be everything that the acquirer or other party, gives or pays for the acquirer for the acquisition of the immovable property (such as payment in money, in things, in services, debts taken over from the previous owner, ceding of other immovable property, things or rights and other).
- (4) In case of exchange of immovable property, the tax base shall be determined for each participant in the exchange according to the market value of the immovable properties that are subject to exchange.
- (5) If co-owners acquire aliquot parts of the immovable property, the tax base shall be determined separately for each co-owner according to the market value of the part of the immovable property being acquired.

- (6) If the amount of compensation referred to in paragraph 3 of this Article does not correspond to the market value at the time of occurrence of the tax liability, the tax authority shall determine the market value by assessment method.

V TAX RATE

Article 9

The rate of the tax on turnover of immovable property shall be flat and shall amount to 3% of the tax base.

VI TAX EXEMPTIONS

1. General Exemptions

Article 10

The following shall not pay the tax on turnover of immovable property:

- 1) the State bodies, State administration bodies, bodies of the local self-government units and bodies of local government, public institutions, funds and foundations, Red Cross and other humanitarian organizations founded on the basis of special regulations;
 - 2) diplomatic and consular missions of foreign countries accredited in Montenegro, under reciprocity conditions and international organizations which are under international agreements exempted from payment of the tax on turnover of immovable property;
 - 3) persons acquiring immovable property in the procedure of restitution of the taken away immovable property and with regard to agrarian measures;
 - 4) persons purchasing a dwelling building or apartment, for the purpose of resolving dwelling needs, provided that they do not have a dwelling building or apartment in their ownership, but not exceeding 20m² per a household member;
 - 5) persons acquiring immovable property based on the contract on whole-life support who are first-degree heirs in relation to the person giving the immovable property;
 - 6) persons acquiring special parts of the immovable property in respect of termination of the co-ownership or division of the joint ownership over immovable property, up to the amount of the value of their co-ownership or joint ownership prior to termination of the co-ownership or division;
 - 7) non-governmental organizations for immovable property that serves them for performance of program activities they are founded for.
- (2) The Ministry of Finance shall regulate in details procedure for realization of tax exemption referred to in paragraph 1, item 4 of this Article.

2. Tax Exemptions for Inclusion of Immovable Property in a Business Organization

Article 11

- (1) Tax on turnover of immovable property shall not be paid in the case when the immovable property is included in a business organization as an initial capital or for increasing fixed capital in accordance with the Law on Business Organizations.
- (2) Tax on turnover of immovable property shall not be paid in the case when the immovable property is acquired in the procedure of merger by acquisition, merger by creation of a new company and by division of a business organization that are performed in accordance with the Law from paragraph 1 of this Article.

3. Tax Exemption in Case of Inheritance, Gift and Other Cases of Acquisition of Immovable Property without Compensation

Article 12

- (1) The following shall not be subject to payment of tax on turnover of immovable property in case of inheritance, gifts and other cases of acquisition of immovable property without compensation:
 - 1) first-degree heir, spouse or parent of the testator, or the first-degree person receiving the gift and the spouse of the person giving the gift;
 - 2) heir, or the person receiving the gift who is an agricultural producer of the second-degree who is inheriting property that serves them for performing agricultural activities, if they lived with the testator, or the person giving the gift in the same household for no less than three years continuously prior to the death of the testator, or receipt of the gift;
 - 3) heir, or the second-degree person receiving the gift – for one inherited, or as gift received apartment, if they lived in the same household with the testator, or the person giving the gift for the period of no less than one year prior to the death of the testator, or the receipt of the gift;
 - 4) ex spouses when regulating their property relations with regard to divorce;
 - 5) the person receiving the gift – for property ceded to them in the legacy procedure that they would inherit if the heir-the person giving the gift renounced the inheritance;
 - 6) the Republic as a legal heir;
 - 7) non-governmental organizations for immovable property received as a gift or immovable property obtained without compensation, which serve them for performance of program activities they are founded for.
- (2) If the heir, or the person receiving the gift referred to in paragraph 1 Item 2) of this Article changes their job prior to expiry of 5 year period from the day of inheriting, or receiving the property as gift, they shall submit a return on the

change of the job to the competent tax authority within 15 days from the day when such change occurs.

- (3) In case from paragraph 2 of this Article the heir, or the person receiving the gift shall pay the tax on inheritance and gift according to the rates referred to in Article 9 of this Law.

VII OCCURRENCE OF TAX LIABILITY

Article 13

- (1) Tax liability shall occur on the day of conclusion of the contract, or other legal action, which implies acquisition of the immovable property.
- (2) If the immovable property is acquired based on a decision of the court or another authority, the tax liability shall occur on the day when such decision comes into effect.
- (3) If the immovable property is acquired based on the contract on whole-life support, the tax liability shall occur on the day of death of the person receiving the support.
- (4) Courts and other competent bodies shall be obliged to submit their decisions on the change of ownership over immovable property to the tax authority in the territory where the immovable property is located within 15 days upon the expiry of the month in which the decision become effective, and according to the regulations governing mandatory submission of documents in written form.

VIII TAX ASSESSMENT

Article 14

- (1) The taxpayer shall report the occurrence of tax liability to the tax authority in the territory where the immovable property is located within 15 days from the day of its occurrence.
- (2) The taxpayer shall in addition to the return on occurrence of the tax liability submit the contract or other document on the turnover performed.
- (3) The taxpayer shall be obliged to also submit other data required for the tax assessment, at request of the tax authority.
- (4) The form and contents of the return for tax on turnover of immovable property shall be prescribed by the Ministry of Finance.

IX TAX COLLECTION

Article 15

The taxpayer shall pay the assessed tax on turnover of immovable property within 15 days from the day of submission of the decision on the assessment of the tax liability.

X TAX REFUND

Article 16

- (1) The person, who pays the tax on turnover of immovable property, interest, enforced collection costs or pecuniary fines that was not obliged to pay, shall be entitled to refund of the paid or overpaid amounts.
- (2) Refund of paid or overpaid amount referred to in paragraph 1 of this Article shall be performed at request of the taxpayer, within 15 days from the day of submission of the request.

Article 17

- (1) If the contract on transfer of ownership over immovable property is terminated by mutual consent of the parties within 60 days from the day of the conclusion of the contract, and prior to registering the new owner with the land register or if the contract is terminated or annulled by the court decision, the taxpayer shall be entitled to refund of the paid tax.
- (2) The transfer of ownership due to termination or annulment of the contract or other legal action under the conditions referred to in paragraph 1 of this Article shall not be deemed as new turnover of the immovable property under this Law.

XI APPLICATION OF OTHER REGULATIONS

Article 18

The provisions of the law regulating tax procedure shall be applied accordingly in respect of interest, appeal procedure, renewal of the procedure, statute of limitations, enforced collection and other issues not specifically regulated by this Law.

XII PENALTY PROVISIONS

Article 19

- (1) A pecuniary fine in the amount of 20 fold to 200 fold of the minimum wage in Montenegro shall be imposed on a legal entity or entrepreneur for an offence, if:
 - 1) fails to report the occurrence of the tax liability and fails to submit the data for the assessment of the tax base (Article 14);
 - 2) fails to pay the tax within the prescribed period referred to in Article 15 of this Law.

- (2) A pecuniary fine in the amount of 2 fold to 20 fold of the minimum wage in Montenegro shall be imposed on the responsible person in the legal entity for the offence referred to in paragraph 1 of this Article.

Article 20

- A pecuniary fine in the amount of 2 fold to 20 fold of the minimum wage in Montenegro shall be imposed on a physical person, if:
- 1) fails to report the occurrence of the tax liability and fails to submit the data for assessment of the tax base (Article 14);
 - 2) fails to pay the tax within the prescribed period referred to in Article 15 of this Law.

Article 21

A pecuniary fine in the amount of 5 fold to 20 fold of the minimum wage in Montenegro shall be imposed on the responsible person in the court or other authority, if they fail to provide the decision on the change of the owner over the immovable property to the competent tax authority in the prescribed manner.

XIII FINAL PROVISIONS

Article 22

From the day this Law enters into force, the provisions of Article 23 of the Law on Tax on Immovable Property ("Official Gazette of RoM", number 65/01) and the provisions of the Law on Property Tax ("Official Gazette of RoM", numbers 3/92, 30/93, 3/94, 42/94, 20/95, and 45/98), which are related to the tax on turnover of immovable property and rights and taxes on inheritance and gifts, shall be rescinded.

Article 23

This Law shall enter into force on the eighth day from the day of its publication in the "Official Gazette of the Republic of Montenegro".