

*Unofficial English Translation*

# **The Tax Code of the Kyrgyz Republic**

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**Bearing Point /USAID EREC Project**

## **DISCLAIMER**

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# THE TAX CODE OF THE KYRGYZ REPUBLIC

[Adopted by the Jogorku Kenesh of the Kyrgyz Republic on October 02, 2008]

## GENERAL PART

### SECTION I. GENERAL PROVISIONS

#### Chapter 1. General Provisions

##### **Article 1. Relations regulated by the Tax Code of the Kyrgyz Republic**

1. The Tax Code of the Kyrgyz Republic (further - Code) regulates relations pertaining to:

- 1) Setting, enforcement and levying taxes in the Kyrgyz Republic;
- 2) Incurring in the process of tax control;
- 3) Bringing to account for violation of the requirements of this Code;
- 4) Appealing of the decisions of the tax authorities, action and (or) inaction of their officials.

2. The relations regulated by this very Code shall be considered as tax legal relations.

3. The customs legislation should be applied to relations pertaining to levying taxes on goods shipping through the customs border of the Kyrgyz Republic to the extent these relations are not regulated by the tax legislation of the Kyrgyz Republic and are not in contradiction with it.

##### **Article 2. Tax legislation of the Kyrgyz Republic**

1. The tax legislation of the Kyrgyz Republic is a system of normative and legal acts regulating the tax legal relations.

2. The following normative and legal acts constitute the tax legislation of the Kyrgyz Republic:

- 1) the present Code;
- 2) the normative and legal acts adopted on the basis of this very Code (further referred to in this Code as tax legislation acts of the Kyrgyz Republic).

3. This very Code establishes the following:
- 1) principles of taxation in the Kyrgyz Republic;
  - 2) system of taxes in the Kyrgyz Republic;
  - 3) types of taxes charged in the Kyrgyz Republic;
  - 4) procedure for introduction, putting into effect and termination of local taxes;
  - 5) grounds for incurring, changing, termination and tax liabilities compliance arrangements;
  - 6) rights and duties of taxpayers, tax service bodies and other participants of tax legal relations;
  - 7) forms and methods of tax control;
  - 8) responsibility for violation of the requirements established by the tax legislation of the Kyrgyz Republic;
  - 9) procedure for appealing decisions of tax service bodies and action and (or) inaction of their officials.

### **Article 3. Effect of international treaties**

If an international treaty, which was put into effect in the order established by the law, and the participant of which is the Kyrgyz Republic, provides for norms other than those stipulated by the tax legislation of the Kyrgyz Republic, then norms of this international treaty are applied.

### **Article 4. Terms and definitions used in this Code**

1. Institutions, terms and definitions of the civil, family, customs and other spheres of legislation of the Kyrgyz Republic used in the present Code shall be applied in that meaning in which they are used in these spheres of legislation unless otherwise stipulated by this very Code.

2. The following terms and definitions are used in this Code:

- 1) «Agent» – a subject carrying out activity based on civil-and-legal agreements including agency contract, commission agreement, and freight forwarding agreement or brokerage agreement.
- 2) «Property» - objects pertaining to property in compliance with the Civil Code of the Kyrgyz Republic as well as property and non-property rights.
- 3) «Budget» – state budget of the Kyrgyz Republic.

4) «Bank» - commercial bank, specialized financial-and-credit or credit agency or organization which have the license or the certificate of the National Bank of the Kyrgyz Republic (further referred to as NBKR in this Code).

5) «Earnings» - money funds actually received or receivable by a taxpayer from the sales of goods, works and services in compliance with the standards set and the method of accounting chosen.

6) «Subject» - physical person, individual entrepreneur, organization, detached subdivision, permanent establishment carrying out economic activity irrespective of organizational-and-legal form, type of activity, subordination to and forms of property and (or) possessing objects of taxation.

7) «Account» - settlement or any bank account in which money resources of a person engaged in entrepreneurial activity are entered and from which money resources are drawn out for spending.

8) «Fixed asset» - property that is considered a fixed asset in compliance with the accounting legislation of the Kyrgyz Republic and whose value exceeds 10000 soms unless otherwise stipulated by this Code.

9) «Tax debt» - sum of arrears as well as unpaid sums of interest, financial penalties and tax sanctions.

10) «Arrear» - amount of tax overdue, which was not paid in the term established by the tax legislation of the Kyrgyz Republic.

11) «Tax debt recognized by a taxpayer» - unpaid sum of tax indebtedness:

- Indicated by a taxpayer in the tax reporting;
- Charged according to the results of the tax inspection act with which the taxpayer was familiarized, and which was signed by him with no objections;
- Charged according to the results of the tax inspection act in respect of which there is a court's effective decision on payment.

12) «Subject of small entrepreneurship» – organization or physical person registered at the tax service bodies according to the procedural rules and carrying out entrepreneurial activity the volume of an annual income of which does not exceed the VAT registration threshold.

13) «Authorized state body» - state body of the Kyrgyz Republic having functions and an authority to regulate tax legal relations.

14) «Authorized tax body» - central state body of the tax service of the Kyrgyz Republic.

15) «Tax bodies» - territorial and (or) functional subdivisions of an Authorized tax body.

3. The terms and definitions of the tax legislation of the Kyrgyz Republic shall be applied in the meaning defined as to those in the appropriate Sections and Chapters of this Code.

## **Article 5. Principles of tax legislation of the Kyrgyz Republic**

1. This very Code shall define principles of tax legislation of the Kyrgyz Republic.

2. The tax legislation of the Kyrgyz Republic shall be based on the following principles:

- 1) Legality of taxation;
- 2) Obligatoriness of taxation;
- 3) Integrity of tax system;
- 4) Openness of tax legislation;
- 5) Fairness of taxation;
- 6) Presumption of faithfulness of a taxpayer;
- 7) Presumption of appropriateness;
- 8) Definiteness of taxation.

3. The norms of tax legislation cannot contravene principles established by present Code.

4. The right to setting out taxes shall be within authority of the Jogorku Kenesh of the Kyrgyz Republic.

Taxes shall be set out or repealed by this Code exclusively.

5. Local taxes shall be put into effect by the normative and legal acts of local councils (keneshes) within authority provided to the local council by this very Code.

6. It is prohibited to include into legislation other than tax legislation of the Kyrgyz Republic the norms regulating tax legal relations except for cases stipulated by present Code.

7. The lack of norms necessary for regulation of tax legal relations may not be used against the taxpayer, the tax representative.

#### **Article 6. Principle of legality of taxation**

Nobody can be placed an obligation to pay out taxes, which are not stipulated by this very Code, as well charges and fees possessing tax features specified by this Code or established or put into effect in the order other than identified by this Code.

#### **Article 7. Principle of obligatoriness of taxation**

Every person is obliged to pay taxes in the order and in cases stipulated by this Code.

All the participants of tax legal relations are obliged to adhere to the tax legislation of the Kyrgyz Republic.

**Article 8. Principle of integrity of tax system**

The tax system of the Kyrgyz Republic shall be uniform throughout the whole territory of the Kyrgyz Republic.

**Article 9. Principle of openness of tax legislation of the Kyrgyz Republic**

The normative legal acts regulating tax legal relations shall be subject to mandatory promulgation in the order stipulated by the tax legislation of the Kyrgyz Republic.

**Article 10. Principle of fairness of taxation**

1. The taxation in the Kyrgyz Republic is deemed universal.
2. It is prohibited granting tax allowances on an individual basis.
3. Taxes may not have discriminative nature and apply differently basing on gender, social, racial, national and religious criteria.

**Article 11. Principle of presumption of faithfulness**

The taxpayer and the tax representative are recognized as acting faithfully unless this fact is disproved basing on duly documented information in compliance with the order established by the tax legislation of the Kyrgyz Republic.

**Article 12. Principle of presumption of appropriateness**

1. The taxpayer and the tax representative are recognized lawfully as active or inactive in occurrence of tax legal relations in all cases, except for those when such action of inaction is prohibited by the tax legislation of the Kyrgyz Republic under simultaneous observance of the following conditions:

1) Action or inaction does not contradict principles established by the tax legislation of the Kyrgyz Republic; and

2) Action or inaction does not impede duly execution of the tax liability.

2. An authorized state body, tax bodies, customs bodies as well as the local self-government bodies are regarded as acting lawfully if their actions are stipulated by the tax legislation of the Kyrgyz Republic.

It is prohibited for the bodies stipulated by this very part to carry out actions if such actions are not stipulated by the tax legislation of the Kyrgyz Republic.

### **Article 13. Principle of definiteness of taxation**

1. The taxation shall be definite.

The definiteness of taxation means a possibility for setting within the tax legislation of the Kyrgyz Republic of all the grounds and provisions for incurring, fulfillment and termination of the tax liability.

2. When setting the taxes, all elements of taxation shall be defined for each type of taxes stipulated by Sections XI and XV of this Code.

### **Article 14. Operation of the tax legislation of the Kyrgyz Republic in space, time and within a circle of persons**

1. The tax legislation of the Kyrgyz Republic operates throughout the whole territory of the Kyrgyz Republic except for the normative and legal acts of local councils (keneshes) put into effect on an appropriate territory.

2. The laws of the Kyrgyz Republic, which propose changes to this Code in terms of setting new taxes and increasing tax rates, shall come into force from the first date following the tax period starting not earlier than 2 (two) months after their official promulgation.

3. The tax legislation of the Kyrgyz Republic may be applied retroactively if it:

- 1) Abolishes the tax;
- 2) Reduces the tax rate;
- 3) Eliminates obligations of a participant of tax legal relations;
- 4) Eliminates or mitigates responsibility for violation the requirements of the tax legislation of the Kyrgyz Republic;
- 5) Establishes additional guarantees for protection of rights of the participants of tax legal relations;
- 6) Otherwise improves the status of the participant of tax legal relations.

4. The normative legal acts of the Kyrgyz Republic, which set new taxes, rise tax rates, establish or aggravate responsibility for tax violation and set new tax liabilities of the participants of tax legal relations shall not be applied retroactively.

**Article 15. Correlation of normative legal acts**

1. The acts of tax legislation of the Kyrgyz Republic and other statutory legal acts of the Kyrgyz Republic shall not contravene this Code.

2. In the event if contradiction exists between this Code and the acts of tax legislation and other normative and legal acts of the Kyrgyz Republic, the norms established by this Code shall be applied to regulate tax legal relations.

3. In the event if contradiction exists between the norms of this Code and there is the lack of norms necessary for regulation of tax legal relations, the tax service bodies and (or) judicial bodies shall make decision in the taxpayer's favor. For the purposes of this paragraph, availability of two or several norms established by this Code, which are not consonant to each other from the point of view of meaning and the content, shall be recognized as contradiction.

4. The normative legal act is recognized as being inconsistent with this very Tax Code judicially in the presence of one of the following circumstances:

1) Act is approved by the body, which has no right to approve such types of acts in accordance with this Code, or is approved by violation of the order established by the legislation of the Kyrgyz Republic;

2) Act repeals or restricts the rights or authority of the participant of tax legal relations established by this Code;

3) Act introduces changes or repeals the defined by this Code content of the duties, grounds for and consistency and order of actions of the participants of tax legal relations;

4) Act prohibits actions authorized or prescribed by this Code;

5) Act permits or admits actions prohibited by this Code;

6) Act changes the content of terms and definitions established by this Code or uses terms and definitions in another meaning than it is used in this Code.

5. The body which has approved the normative legal act not complying with this Code is obliged to eliminate such an inconsistency.

**Article 16. Procedure for calculation of terms established by the tax legislation of the Kyrgyz Republic**

1. The term established by the tax legislation of the Kyrgyz Republic is determined by a calendar date or termination of a period that is estimated at years, months or days. The term may be defined as well by an indication of an inevitable event.

2. The course of any time stipulated by tax legislation of the Kyrgyz Republic shall start the next day after commencement of the appropriate date, termination of a time period or an event.

3. The term estimated at years shall terminate in the appropriate month and on date of the last year of term. At that, a year is a period comprising of 12 calendar months following in a row.

Calendar year is a period starting on January 1<sup>st</sup> of a year and finishing on December 31<sup>st</sup> of this year.

4. The term estimated at months shall terminate in the appropriate month and on date of the last month of the term. At that, a calendar month shall be considered a month.

5. Where the completion of terms estimated at years or months falls on the month in which the appropriate date does not exist, then the term shall expire on the last day of this month.

6. Where the last day of a term falls on a non-working day, the working day following it shall be recognized as the day of a term completion.

7. An action for the fulfillment of which a term is established may be executed prior to completion of working hours of the last day of a term.

### **Article 17. Participants of tax legal relations**

The following shall be the participants of tax legal relations:

- 1) Subject recognized as a taxpayer in compliance with this Code;
- 2) Subject recognized as a tax representative in compliance with this Code;
- 3) authorized state body;
- 4) Tax service bodies and customs bodies;
- 5) Local self-government bodies;
- 6) Other persons, rights and duties of which are regulated by this Code in the sphere of tax legal relations.

### **Article 18. Documentation on application of the norms of tax legislation of the Kyrgyz Republic**

1. An authorized state body and the tax service bodies are obliged to present responses in written to the taxpayer's inquiries referring to application of norms of the tax legislation of the Kyrgyz Republic.

2. An authorized state body, which carries out tax policy and an authorized tax body are obliged to issue rules, regulations, instructions and other documents referred to application of tax legislation of the Kyrgyz Republic.

3. The documents indicated in Para 1 of this Article shall not be mandatory for the taxpayer.

4. The documents indicated in Para 2 of this Article shall be mandatory for application in cases when implementation of authority stipulated by this Code is needed.

5. Documents issued in compliance with Para 2 of this Article shall be posted on an open information website of an authorized state body and (or) of an authorized tax body.

### **Article 19. Concept of a tax**

By a concept of a tax is implied a monetary payment of a mandatory and non quid-pro-quo nature being charged from the taxpayer in accordance with the tax legislation of the Kyrgyz Republic.

### **Article 20. Indirect taxes**

Indirect taxes are taxes on goods, works and services, such as VAT, Excise and Retail Sales, which are established in the form of a surplus to price or tariff and which are not tailored to the taxpayer's income or property.

### **Article 21. Economic activity**

1. Economic activity is considered to be entrepreneurial and other type of.
2. Entrepreneurial activity means activity defined in compliance with the Civil Code of the Kyrgyz Republic.
3. The following activities are regarded as other activities:
  - 1) activity, which is carried out in compliance with the labor legislation of the Kyrgyz Republic;
  - 2) Activity connected with depositing of monetary funds into banks;
  - 3) Activity connected to acquisition, transfer and sales of securities;
  - 4) Another type of activity which is not deemed entrepreneurial.

### **Article 22. Organization. Detached subdivision**

1. For the purposes of this Code, the following is implied by "organization":
  - 1) Legal person established pursuant to the civil legislation of the Kyrgyz Republic (further referred to as domestic organization in this Code);
  - 2) Corporations, companies, firms, funds, agencies or any institutions established pursuant to the legislation of a country of this institution or international organization (further referred to as foreign organization in this Code).

International organization is the subject of international law established pursuant to international agreements or contracts.

2. The detached subdivision is a subdivision, which in general fits with the following conditions:

- 1) carries out economic activity;
- 2) possesses territorial and property isolation/separation from the place of core management;
- 3) Employs personnel who communicate with organization through relations, which are regulated by the Labor Code of the Kyrgyz Republic.

### **Article 23. Physical person**

1. Physical person is a citizen of the Kyrgyz Republic, foreign citizen or a person without citizenship.

2. Physical person-the resident means any physical person, who is located on the territory of the Kyrgyz Republic within 183 days and more within any period, which comprises of 12 months following in a row and ends in the current tax period, or any physical person who is occupied in the state service of the Kyrgyz Republic abroad.

3. Physical person- the non-resident means physical person, who is not recognized as physical person- the resident in compliance with this Code.

### **Article 24. Individual entrepreneur**

The following persons are regarded as an individual entrepreneur:

- 1) Physical person-the resident, who is carrying out entrepreneurial activity without establishment of an organization, including patent-based activity and who is assigned execution of responsibility placed by this Code;
- 2) Physical person-the non-resident, who is carrying out activity through a permanent establishment in the Kyrgyz Republic.

### **Article 25. Permanent establishment**

1. A permanent establishment means a permanent place through which foreign agency or physical person- non-resident (further referred to as non-resident in this Article) carries its entrepreneurial activity, in whole or in part.

2. The following in particular are considered «permanent establishment»:

- 1) Place of management;

- 2) Branch office;
- 3) Work office;
- 4) Factory;
- 5) Workshop;
- 6) Mine, oil or gases well, quarry or any other place designated for extracting of natural resources;
- 7) Plot of land;
- 8) construction sites or construction, installation or assembly facilities and supervisory activities connected with such facilities if only these facilities exist within 183 and more calendar days, or if such these supervisory services are being rendered within 183 and more calendar days during any 12-month period;
- 9) installations or sites used for surveying for natural resources, or services connected with supervisory activities to observe execution of these works, or a drilling rig or a vessel used for the purposes of exploration of natural resources provided that such use lasts during 183 and more calendar days or such services being rendered during 183 and more calendar days during any 12-month period;
- 10) Rendering services, including consultative services to be rendered by a nonresident through personnel hired by this nonresident provided that personnel carry out such activity on the territory of the Kyrgyz Republic during 183 and more calendar days during any 12-month period.

3. A concept of a «permanent establishment» does not include:

- 1) use of facilities solely for the purposes of storing, demonstration or delivery of goods belonging to the non-resident;
- 2) keeping a stock of goods belonging to the non-resident exclusively for the purposes of storing, demonstration or delivery;
- 3) keeping a stock of goods belonging to the non-resident exclusively for the purposes of processing by another organization of physical person;
- 4) maintenance of a permanent place of operations exclusively for the purposes of purchasing goods or gathering information for the non-resident;
- 5) maintenance of a permanent place of operations exclusively for the purposes of performing any other non-resident's activity that is of preparatory or auxiliary in nature;
- 6) maintenance of a permanent place of operations exclusively for the purposes of execution of any combination of the activities indicated in Subpara 1)-5) of Para 3 of this Article under condition that such cumulative activity resulting from such a combination is of preparatory or auxiliary in nature;
- 7) Carrying out economic activity in the Kyrgyz Republic through an agent under condition that such persons act within the framework of their ordinary activity.

**Article 26. Sale of goods**

Good designates any property possessing physical form.

Sale of goods means transfer of rights to property of a gratis and non-gratis basis, including exchange of goods.

**Article 27. Execution of works and services**

Unless otherwise provided by this Code, any activity other than sales of goods is regarded as works and services.

Transfer of the results of works executed or services rendered by one subject to another is regarded as execution of works or services rendering.

**Article 28. Taxpayer's electronic document or digital signature**

Taxpayer's electronic document or electronic signature is a document compiled and signed in accordance with the requirements of the legislation of the Kyrgyz Republic on electronic digital signature.

**Article 29. Insuperable force**

Insuperable force is occurrence of emergency and inevitable consequences resulted from calamities, such as earthquakes, flooding or any other consequences difficult to envisage or prevent, or possible to envisage and impossible to prevent. The consequences indicated are identified in the presence of notorious facts, publications in mass media and in other ways not requiring special substantiation tools.

**Article 30. Interdependent subjects**

1. Interdependent subjects are the subjects the relations between which may have a direct influence on the conditions and economic results of transactions between them or on activity of the subjects they represent, where:

1) The subject directly or indirectly participates in organization and a cumulative share of such participation is more than 20 %;

2) two organizations, in which the third subject participates, and direct and/or indirect participation share of which in each of these organizations is more than 20 % or is under control of such subject;

3) One physical person is subordinate to the other physical person in terms of his business position;

4) Subjects between which the relations emerge regulated by the Labor Code of the Kyrgyz Republic;

5) The subjects are close relatives;

6) The subjects are the Founder of Board and the Trustee.

2. The Court may recognize subjects as interdependent based on other grounds not contemplated by Para 1 of this Article if relations between these subjects may have influence on the results of transactions between them.

3. For the purposes of Para 1 of this Article, a share of indirect participation in organization of one subject through the succession of other organizations shall be determined by multiplication of the appropriate participation shares.

## **Chapter 2. Tax System of the Kyrgyz Republic**

### **Article 31. Types of taxes**

1. The taxes of the Kyrgyz Republic consist of general state taxes, local taxes and special tax regimes.

2. General state taxes are the taxes established by this Code and mandatory to payment on the whole territory of the Kyrgyz Republic.

3. Local taxes are the taxes established by this Code and put into effect by normative and legal acts of local keneshes mandatory to payment on the territories of the appropriate administrative and territorial units.

4. General state taxes include:

1) Income tax;

2) Profit tax;

3) Value added tax (VAT);

4) Excise tax;

5) Taxes on the use of subsurface;

6) Sales tax.

5. Local taxes include:

1) Land tax;

2) Property tax.

6. Special tax regimes include:

- 1) Mandatory patent-based tax;
- 2) Voluntary patent-based tax;
- 3) Unified tax-based simplified system of taxation;
- 4) Contract-based taxes;
- 5) Tax regime in Free Economic Zones;
- 6) Tax on special means<sup>1</sup>.

### **Article 32. General conditions for establishment of taxes**

1. Unless otherwise contemplated by this Code, a tax shall be accepted as established only under condition that the taxpayers and elements of taxation are defined by this Code, namely:

- 1) Object of taxation;
- 2) Tax base;
- 3) Tax rate;
- 4) Tax period;
- 5) Tax calculation procedure;
- 6) Tax payment procedure;
- 7) Terms of tax payment.

2. Tax incentives and tax exemptions may be contemplated in cases stipulated by this Code when establishing taxes by the tax legislation of the Kyrgyz Republic.

### **Article 33. Object of taxation**

1. Rights and (or) actions in the presence of which the tax liability incurs are considered as object of taxation.

2. An object of taxation shall be determined for each type of tax in accordance with this Code.

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<sup>1</sup> Or: excessive profits.

**Article 34. Tax base**

Tax base is a cost-related, physical or any other characteristics of the object of taxation on the basis of which the amount of a tax is calculated.

**Article 35. Tax rate**

1. Tax rate is the amount of tax charges per tax base measuring unit.
2. Tax rate is established in percentage terms or in absolute sum per tax base measuring unit.

**Article 36. Tax period**

1. Tax period is a period of time during which a tax base is defined and sum of a tax is calculated. If such a period is not established, a day of tax liability occurrence shall be a tax period.
2. Unless otherwise provided by this Code, a tax period for a certain tax shall be:
  - 1) A period from the day of registration as a taxpayer of a certain tax until the end of tax period;
  - 2) A period from the start of tax period for certain tax until the day when the taxpayer's records are deleted from the State Register of Taxpayers of the Kyrgyz Republic;
  - 3) A period from the day of registration as a taxpayer of certain tax until the day of cancellation of taxpayer's registration on this tax, in case if registration and its cancellation incurred during one tax period.

**Article 37. Tax calculation procedure**

1. The taxpayer shall independently calculate the amount of a tax due for a tax period by multiplying the tax base by the tax rate basing on tax privileges and exemptions provided.
2. In cases stipulated by this Code, responsibility for calculation of certain types of taxes is placed on the tax service bodies.

**Article 38. Terms of tax payment**

1. The terms of tax payment are established in respect of each tax separately according to the requirements of this Code.

2. Changing of the established terms of tax payment is permitted only in the order exclusively stipulated by this Code.

3. Violation of terms of tax payment shall be a basis or bringing into account stipulated by the legislation of the Kyrgyz Republic.

### **Article 39. Tax payment procedure**

1. The tax is paid:

- 1) In full amount of a tax or in parts;
- 2) On deferment or by installment;
- 3) Prior or on the date of tax liability occurrence;
- 4) Directly by a taxpayer or on behalf of him;
- 5) Directly by place of location of a taxpayer or of detached subdivision;
- 6) In cash or through cashless settlement.

2. The tax payment procedure shall be established for each tax separately.

### **Article 40. Tax regimes**

1. A tax regime is recognized as the procedure for calculation and payment of taxes to be applied in cases and in accordance with procedure established by the tax legislation of the Kyrgyz Republic.

2. A general tax regime and special tax regime are established in the Kyrgyz Republic.

3. A general tax regime is a regime established by this Code except for the following special tax regimes:

- 1) Mandatory patent-based tax;
- 2) Voluntary patent-based tax;
- 3) Uniform tax –based simplified system of taxation;
- 4) contract-based taxes;
- 5) FEZ tax regime;
- 6) Tax on special means.

## SECTION II. PARTICIPANTS OF TAX LEGAL RELATIONS

### Chapter 3. Taxpayer. Tax representative

#### Article 41. Taxpayer

Taxpayer is a subject who is obliged to pay out taxes under conditions established by the tax legislation of the Kyrgyz Republic.

#### Article 42. Rights of the taxpayer

1. The taxpayer has the right:

- 1) To require observance of the tax legislation of the Kyrgyz Republic on behalf of the Tax Service official;
- 2) To participate in the tax legal relations personally or through his/her tax representative;
- 3) To receive from the appropriate state bodies information about tax legislation of the Kyrgyz Republic as well as rules, regulations and other instructions developed by an authorized state body and by an authorized tax body;
- 4) Not to use the tax reporting forms, which were not promulgated officially in mass media;
- 5) To receive on a gratis basis any information about himself requested for in written and retained within the tax service bodies;
- 6) To offsetting and refunding of sums paid in excess as well as excessively charged tax amount;
- 7) To use tax privileges under condition of availability of grounds for and in order stipulated by the tax legislation of the Kyrgyz Republic;
- 8) To require observance of tax secrecy;
- 9) To receive information about the results of tax control;
- 10) To submit to the tax service bodies explanatory notes upon results of tax control;
- 11) Not to submit information and documents not pertaining to tax liability execution;
- 12) To appeal against notification upon results of tax inspection as well as decision, action or inaction of the officer of tax service bodies;
- 13) To compensate damage or losses inflicted by an illegal decision of the tax service body, or by an unlawful action or inertness of an official in compliance with the legislation of the Kyrgyz Republic.

2. The taxpayer has also other rights contemplated by the tax legislation of the Kyrgyz Republic.

#### **Article 43. Securing and protection of the taxpayer's rights**

1. The Kyrgyz Republic guarantees administrative protection and legal defense of taxpayer's rights and legitimate interests.

2. This Code and other law of the Kyrgyz Republic shall define procedures for protection of taxpayer's rights and legitimate interests.

3. The taxpayer's rights are secured by the appropriate obligations of an authorized state body, tax service bodies, customs bodies and their officials.

4. Non-fulfillment and unduly execution of functions to secure the taxpayer's rights shall entail responsibility stipulated by the legislation of the Kyrgyz Republic.

#### **Article 44. Duties of the taxpayer**

1. The taxpayer is obliged:

- 1) To register at the tax service body in the manner prescribed;
- 2) To execute tax liability;
- 3) To take stock of tax liabilities in compliance with the requirements set by this Code;
- 4) To present tax reporting information in accordance with order and terms established by this Code;
- 5) To submit explanation, information and documents in cases and in accordance with the order established by this Code;
- 6) To execute lawful instruction of the tax service bodies to remove consequences of tax violations or instruction about termination of action or inaction, which lead to tax malfeasance or perpetration;
- 7) Not to impede legitimate operations of the officers of tax service bodies in the process of discharging of their official duties according to this Code;
- 8) To allow official of the tax service body entering the territory or premises, the availability and the use of which lead to tax liability occurrence, if there is a special prescription to do so when this tax official carries out tax inspection in the form of a field tax audit, raid tax control, establishes a tax post, undertakes time study and levies tax debts recognized by a taxpayer at the cost of cash resources;

9) To ensure within a period of not less than 6 years safe storage of documents, which confirm accounting and fulfillment of a tax liability;

10) To show the Inspection Book to the tax service body official, who undertakes inspection for the purposes of registration and control.

11) To inform about bank accounts opening or closure including accounts of banks situated beyond the territory of the Kyrgyz Republic within a period of 15 days from the day of opening or closure of such bank accounts.

2. The taxpayer shall perform other duties established by the legislation of the Kyrgyz Republic.

#### **Article 45. Taxpayer official**

The taxpayer official is:

- 1) The head of executive body of the department for taxpayers;
- 2) The head of a permanent establishment of an organization;
- 3) The physical person authorized to execute duties established by this Code based on labor agreement or civil-and-legal contract or power of attorney;
- 4) The physical person temporary acting in the capacity of persons indicated in Subpara 1)-3) of this Article.

#### **Article 46. Authority, rights, duties and responsibility of a tax representative**

1. The taxpayer is eligible to participate personally in the tax legal relations as well through his/her tax representative.

2. The tax representative has the right to participate in the tax legal relations on behalf of a taxpayer being represented.

3. Personal participation of a taxpayer in the tax legal relations shall not deprive a taxpayer of the right to have taxed representative, likewise, participation of the tax representative shall not deprive the taxpayer of his/her right to personal participation in the tax legal relations.

4. The authority, rights, duties and responsibility of the tax representative shall be determined by the:

- 1) Tax legislation of the Kyrgyz Republic;
- 2) civil-and-legal agreement signed with the taxpayer and the tax representative;
- 3) Power of attorney issued by the taxpayer to the tax representative.

5. Action or inaction of the tax representative about participation of this taxpayer in tax legal relations may be considered as the taxpayer's action or inaction.

6. A state body or its official may not act as the tax representative of a taxpayer.

## **Chapter 4. Tax service**

### **Article 47. Tax service bodies**

1. The tax service bodies comprise of:

- 1) An authorized tax body;
- 2) the tax bodies.

The tax service bodies possess a status of a legal person, undertake tax management within authority provided by the legislation of the Kyrgyz Republic and participate in implementation of tax policy of the Kyrgyz Republic.

2. The tax bodies do not subordinate to local state administrations and local self-government bodies.

3. Prohibited is interference of the state and local self-government bodies into operations of the tax service bodies and operations of an Authorized tax body when exercising their powers established by the tax legislation of the Kyrgyz Republic.

4. The special law determines the procedures for carrying out tax service, legal and social protection of the officers of tax service bodies as well as awarding special titles to them.

5. The spending of the tax service bodies shall be funded from the state budget including percentage deductions from the sums of actually collected taxes and earmarked extra-budgetary funds.

### **Article 48. Official of the tax service body**

The head or the officer of the tax service bodies possessing powers established by this Code shall be considered the official of the tax service body.

### **Article 49. Objectives of the tax service bodies**

The following objectives are set before the tax service bodies:

- 1) Control over observance of the tax legislation of the Kyrgyz Republic;
- 2) Support to the taxpayer or to his/her tax representative in his/her tax liability fulfillment according to the requirements set by the tax legislation of the Kyrgyz Republic.

**Article 50. Rights of the tax service bodies and their officials**

1. The tax service bodies and their officials have the right:

1) To elaborate and approve the normative and legal acts stipulated by the tax legislation of the Kyrgyz Republic in the order stipulate by this Code;

2) To carry out tax control in the order established by this Code;

3) To require from the taxpayer the submission of documents certifying calculation, withholding and payment of taxes to the budget in accordance with forms established by an authorized tax body;

4) To require from the taxpayer an explanation regarding filling out documents on calculation, withholding and payment of taxes as well as documents certifying correctness of calculation and timeliness of tax withholdings and payments;

5) To obtain copies of documents from taxpayers in the process of tax control according to the procedures defined by this Code;

6) To undertake surveying of any territories, premises, documents and subjects implying significance for carrying out of a comprehensive tax control;

7) to obtain information from banks on the issues connected with taxation of a taxpayer under inspection in the order established by this Code, as well as data on the existence of taxpayer's bank accounts and their numbers, balance and cash flow information under condition of observance by the tax service bodies of the requirements established by legislation of the Kyrgyz Republic with regard to disclosure of information having commercial, bank and other protected secrets;

8) To determine the taxpayer's liability on the basis of indirect methods of assessment in cases and in the order stipulated by this Code;

9) To apply to the bodies engaged in registration of taxpayers with a written request for an enforced liquidation in the order established by the legislation of the Kyrgyz Republic;

10) To advance claims to courts including claims on liquidation of organization on the grounds stipulated by the legislation of the Kyrgyz Republic;

11) To demand elimination of the revealed violation of the tax legislation of the Kyrgyz Republic and control execution of indicated requirements;

12) to require and obtain information from another state and local self-government bodies pertaining to the objects of taxation and tax liabilities calculation in compliance with this Code;

13) To undertake control over collection of taxes;

14) To conclude tax contracts.

2. The tax service bodies and their officials have also other rights stipulated by this Code and the legislation of the Kyrgyz Republic for the purposes of exercising authority provided for by this Code.

## **Article 51. Duties of the tax service bodies and their officials**

1. The tax service bodies and their officials are obliged:
  - 1) To observe rights and legitimate interests of a taxpayer;
  - 2) To observe tax legislation of the Kyrgyz Republic and demand taxpayer's compliance with it;
  - 3) To assist taxpayers in execution of their tax liabilities;
  - 4) to inform taxpayers through official mass media about established tax reporting forms, the procedures for filling out these forms, ways and terms of their submission to the tax service body;
  - 5) To respond to the taxpayer's written inquiry in cases stipulated by the tax legislation of the Kyrgyz Republic;
  - 6) To undertake tax control over the tax liability execution;
  - 7) To keep records about taxpayers, objects of taxation, charged and paid taxes;
  - 8) To provide standard tax reporting forms published at the expense of the budget in case of their provision by the tax service bodies unless otherwise provided by this Code;
  - 9) To explain an order for filling out a prescribed form for tax reporting;
  - 10) To undertake tax inspection strictly by order;
  - 11) To register tax inspections and other forms of tax control in the Inspection Book;
  - 12) To observe office, commercial, tax, banking and other secrecy protected by the legislation of the Kyrgyz Republic;
  - 13) to hand over to the taxpayer a notification on tax liability execution within terms and in cases stipulated by this Code;
  - 14) To present in the period of not later than two days the abstracts of records on the status of settlements with the budget referring to tax liabilities execution upon written request of the taxpayer;
  - 15) To secure safe retention of documents certifying the fact of actual tax liability execution within a period of 6 years;
  - 16) To apply methods of securing tax liability execution in the order established by this Code;
  - 17) To impose tax sanctions on the taxpayers according to the requirements established by this Code, and apply sanctions in compliance with the Administrative Responsibility Code of the Kyrgyz Republic;
  - 18) To consider the taxpayers' complaints in the order established by this Code.
2. The tax service bodies are obliged to post on the open information website of the Authorized state body the reports on the performance of the tax service bodies prior to March 1 of the year following the reporting calendar year. This report shall contain the following information for the reporting calendar year:

- 1) Names of the types of taxes and sums collected by the tax service bodies;
- 2) Sums of tax debts;
- 3) Expenditures incurred by the tax bodies in the process of tax collection;
- 4) Statistical data regarding provided tax privileges, tax debts deferments and payments by installments;
- 5) Description of achievements and drawbacks in the work of the tax service bodies;
- 6) List of names of physical persons, names of organizations having taxed debts in the amount exceeding 5000 estimated indicators with indication of the size of a tax debt.

3. If upon results of the field tax audit, the sums of unpaid tax are revealed and exceed the threshold above which a criminal responsibility incurs, the tax service bodies shall send for consideration of the law enforcement bodies the materials of documentary tax inspection in the following cases:

- 1) If the appropriate notification was put into effect and was not appealed against by the taxpayer at the upper tax service body or at court within a period specified for making such complaints about notification established by this Code and the amount of tax indicated in notification was not paid by taxpayer in the period established by notification;

- 2) If with respect to taxpayer's complaint on notification there is a decision of an Authorized tax body that has come into effect or the court's decision on taxpayer's guilt in tax offence.

4. The tax service bodies and their officials shall carry out other functions as well, as it is stipulated by the tax legislation of the Kyrgyz Republic.

## **Article 52. Powers of customs bodies in the sphere of tax legal relations**

The customs bodies shall collect taxes to the budget regarding goods passing through the customs border of the Kyrgyz Republic in compliance with the customs and the tax legislation of the Kyrgyz Republic.

## **Article 53. Conflict of interest**

1. The official of the tax service bodies shall be prohibited from conducting official duties with respect to a taxpayer:

- 1) who is related to the official, or
- 2) in relation to whom this official or his/her close relative has a direct or indirect financial interest connected with the taxpayer's economic activity of his/her tax liability satisfaction.

2. The official of the tax service body is obliged to take actions on barring the conflict of interest from occurrence of in his/her performance.

**Article 54. Tax secret**

1. Unless otherwise provided by this Code, any information obtained about the taxpayer or his/her official shall be regarded as tax secret, except for information:

1) about taxpayer's personal data (name, address) and also about taxpayer's identification number (TIN);

2) about taxpayer's registration as a VAT payer;

3) about VAT invoices and Excise collection stamps;

4) about amount of tax debt recognized by the taxpayer;

5) about taxpayer's violation of the tax legislation of the Kyrgyz Republic and liability of infringement put into force by a court's decision or recognized by the taxpayer.

2. Tax secrets shall not be disclosed by the tax service bodies except for cases when such information may be transferred to:

1) other officials of tax service and customs bodies, authorized state body in the course of and for the purposes of execution of their official duties stipulated by this Code or the Customs Code;

2) the law enforcement agencies upon prosecution commenced exclusively regarding persons who have committed tax offences;

3) a court in proceedings to establish taxpayer's indebtedness or his/her responsibility for tax violation;

4) an authorized state body responsible for bankruptcy issues, administrator (temporary administrator, special administrator, conservator (a person for closing-down), external administrator) for the purposes of exercising their powers stipulated by the bankruptcy legislation of the Kyrgyz Republic for those subjects only in respect of whom the bankruptcy process was initiated;

5) an authorized state body responsible for civil service issues in the Kyrgyz Republic in respect of persons obliged to submit property and income declaration in compliance with the legislation of the Kyrgyz Republic on civil service;

6) the members of the Parliament (Jogorku Kenesh) of the Kyrgyz Republic, Office of Prime Minister of the Government of the Kyrgyz Republic, Finance Intelligence Office of the Kyrgyz Republic in cases established by the legislation of the Kyrgyz Republic for regulation of their activity;

7) the tax and law enforcement bodies of other states in compliance with international treaties on cooperation between tax and law enforcement bodies, where the Kyrgyz Republic acts as a participant.

3. Except for cases stipulated by Para 2 of this Article, the information about the taxpayer may be disclosed to other person only upon written consent of a taxpayer.

4. Use or transfer to other subject of the taxpayer's banking or commercial secrets became known to the officials of tax service bodies in the course of execution of their duties shall be regarded as breach of confidence except for cases stipulated by this Code.

5. Information received by the tax service bodies and constituting tax secret shall have special retention regime and an access mode, which is defined by written decision of the head of the tax service body.

6. Officials identified by the written decision of the head of tax service body shall have an access to information constituting tax secret. The right of these officials to an access is also indicated in the prescription for carrying out tax inspection.

7. Tax service bodies, their officials, as well as persons who had previously worked for the tax service bodies, are obliged to keep any information about the taxpayer secret, which they have obtained in an official capacity.

8. A person who has disclosed information constituting tax secret, which is well known to him/her due to his/her professional occupation or service, is obliged to indemnify loss inflicted to the taxpayer in full amount and also to pay other indemnification.

A person who has illegally obtained information constituting tax secret, which entailed damage infliction, is obliged to indemnify loss inflicted to the taxpayer in full amount and also to pay other indemnification.

The illegal obtaining of information constituting tax secret, which did not entail damage infliction, shall be a subject to administrative responsibility.

9. The state bodies are prohibited to demand from the tax service bodies the information and the documents that constitute the secrecy of information, except for cases contemplated by this Article.

10. The state body officials, breaching requirements of Para 9 of this Article shall bear responsibility in compliance with the legislation of the Kyrgyz Republic.

## **SECTION III. TAX LIABILITY AND TAX DEBT**

### **Chapter 5. General Provisions**

#### **Article 55. Tax liability**

1. Tax liability is a taxpayer's duty to pay out tax under certain conditions established by the tax legislation of the Kyrgyz Republic.

2. Tax liability is regarded as monetary liability.

3. Tax service bodies are obliged to demand from the taxpayer satisfaction of his/her tax liability.

4. In the event of non-satisfaction or unduly satisfaction of tax liability, the tax service bodies shall have the right to apply measures to secure execution of tax liability and measures of enforced execution of tax liability in the order established by this Code.

#### **Article 56. Tax liability emerging, changing, execution and cessation**

1. Tax liability emerges, changes, and is regarded as executed or terminated under conditions of availability of certain grounds, which are established by the tax legislation of the Kyrgyz Republic.

2. Tax liability is imposed on the taxpayer from the day of liability emerging, which stipulates payment of tax in compliance with the tax legislation of the Kyrgyz Republic.

#### **Article 57. Tax liability currency**

1. Tax liability shall be executed in national currency of the Kyrgyz Republic- soms.
2. Rounding of a sum of tax liability to a digit is permitted when calculating tax liability.

#### **Article 58. Period of limitation for tax liability**

1. Period of limitation for tax liability is 6 (six) years from the day of:
  - 1) termination of tax period;
  - 2) Loss of effect of deferment or payment by installments in case of non-payment of the deferred sum or a tax debt to be paid by installments;
  - 3) Presenting notification on tax liability emerged in the result of tax inspection to the taxpayer.
2. If the taxpayer has made incorrect calculation or executed tax liability improperly than in the period of limitation:
  - 1) A taxpayer has the right to make appropriate corrections on his/her own;
  - 2) A tax service body has the right to increase or reduce a charged sum of taxes and impose a charged sum of a tax as well.
3. The taxpayer has a right to demand offsetting of an exclusively paid sum or to its refunding within a period of limitation of the appropriate tax period.
4. During the process of reorganization or rehabilitation, a period of limitation for tax debt shall be terminated.
5. Termination of a period of limitation for tax liabilities is regulated in compliance with the Civil Code of the Kyrgyz Republic.

## **Chapter 6. Satisfaction of tax liability. Cessation of tax liability**

### **Article 59. Satisfaction of tax liability**

1. Tax liability shall be satisfied in a duly manner in compliance with the requirements of the tax legislation of the Kyrgyz Republic.

2. Satisfaction of tax liability is done by the taxpayer independently or by third persons in cases stipulated by the tax legislation of the Kyrgyz Republic.

3. Placement of cash money resources and (or) cashless money resources transfer through a bank on account of a total tax sum due shall be regarded as satisfaction of tax liability.

4. Taxpayer has the right to satisfy tax liability by paying out of a whole amount of a tax due at once or in parts.

5. Taxpayer has the right to satisfy tax liability ahead of schedule.

6. Refusal to satisfy tax liability or changing of the order of tax liability satisfaction shall be prohibited.

7. Tax liability satisfaction shall be carried out regardless of bringing to account for the tax violation.

### **Article 60. Date of tax liability satisfaction**

1. Date of execution of tax liability is:

1) the day of submission of payment order to bank for transferring of due sums of a tax under condition of availability of funds on the taxpayer' bank account enough for settlement of this payment order in full amount, in case, if money funds have been credited to the budget;

2) the day of execution by bank of payment order for the receipt of due sums not satisfied before due to the lack of money resources on the taxpayer's bank account enough for execution of this payment order in the full amount in case if money resources have been credited to the budget;

3) The day of placement of cash in the bank or in the tax service body for the purposes of due tax sums transfer;

4) The day of making decision by the tax service body on offsetting exclusively paid or excessively charged tax sums on account of a tax debt and (or) on account of satisfaction of an upcoming tax liability.

2. Tax liability shall not be regarded as satisfied in time:

1) in case if money resources have not been credited to the budget in the deadline established by the tax legislation of the Kyrgyz Republic, except for cases stipulated by the Para 1 of this Article;

2) in case of revocation by the taxpayer of payment order for tax sum transferring;

- 3) in case of payment order return to the taxpayer for tax sum transferring;
- 4) in the event, that on the day of submission to bank of the taxpayer's payment order for the tax sum transfer, this taxpayer has other presented and not executed money requirements, which in compliance with the legislation of the Kyrgyz Republic, are executed in an out-of-sequence and top-priority order and no money resources are adequately available on the taxpayer's bank account to satisfy all such money requirements;
- 5) In case of revocation by the taxpayer of the sums of cash money resources placed in bank account for the purposes of transferring.

#### **Article 61. Procedure for tax debt settlement**

The tax settlement in respect of each separate tax shall be made in the following order:

- 1) Sum of a tax;
- 2) Interest on the sum of a tax not paid in time;
- 3) Charged fine on the sum of a tax not paid in time;
- 4) Charged tax sanctions.

The tax debt settlement is carried out in order of precedence as these tax debts arise.

#### **Article 62. Satisfaction of tax liability and repayment of tax debt in the event of organization restructuring**

1. The taxpayer is obliged to inform the tax service body about organization restructuring in written form.

2. The tax liability of the restructured organization shall be executed by a successor irrespective of the successor's awareness or ignorance of the facts and/or of conditions for non-satisfaction or unduly satisfaction of tax liability by the restructured organization.

3. In merging of several organizations, the organization resulted from such merger shall be regarded as a successor in terms of tax liability satisfaction.

4. As one organization joins other, organization, which has made such incorporation, shall be regarded as the successor of organization incorporated in terms of tax liability satisfaction.

5. As organization is divided, new organizations, which appear as a result of such division, shall be regarded as the successors or the restructured organization in terms of tax liability satisfaction.

6. As one or several organizations are detached from the composition of an organization, no mandatory succession incurs regarding the restructured organization in terms of tax liability satisfaction unless otherwise provided by the transfer notice.

7. As one organization is modified into another, a newly formed organization is regarded as the successor.

8. Identification of participation shares of the successors in tax liability satisfaction of the restructured organization is carried out in compliance with the civil legislation of the Kyrgyz Republic.

9. If in the result of reorganization it is impossible to determine the successor's participation share, or a possibility for satisfaction of tax liability in full amount is eliminated, the successors shall bear shared responsibility for satisfaction of tax liability of the restructured organization.

10. Restructuring of organization shall not be a basis for changing the term of tax liability satisfaction by the successors.

11. Sum of taxes excessively paid by organization prior to its restructuring shall be liable to offsetting by the tax service body on account of redemption of a tax debt of the restructured organization.

12. In the lack of tax debts of the restructured organization, a sum of excessively paid taxes shall be refunded to the successors or shall be counted against tax liability satisfaction.

### **Article 63. Satisfaction of tax liability and repayment of tax debt in the event of the liquidation of a credit-worthy organization**

1. In the process of liquidation (release), the liquidation commission is obliged to inform in written form the tax service body and an Authorized state body, which is responsible for customs affairs about such fact.

2. Tax liability of a released credit-worthy organization shall be satisfied by the liquidation commission at the expense of money resources of this organization, including proceeds from the sale of the property of the organization and in the order of precedence established by the Civil Code of the Kyrgyz Republic.

3. Tax liability, which incurs in the period of liquidation shall be satisfied by the liquidation commission as such liability arises and in the order established by this Code unless otherwise provided by this Code.

4. If an organization being liquidated does not have monetary resources to satisfy its tax liabilities in full, than in this case:

1) Organization may be liquidated only in the order established by the bankruptcy legislation of the Kyrgyz Republic. To this end, the tax service body may initiate a bankruptcy process of this organization;

2) the remaining indebtedness for the tax liabilities must be paid by the founders-principal shareholders (participants) of indicated organization in cases, within the limits of and in the order established by the civil legislation of the Kyrgyz Republic;

5. If an organization being liquidated has excessively paid sums of taxes than these sums have to be offset against tax liability satisfaction of the organization under liquidation in the order established by this Code.

6. In the event that the organization being liquidated has no tax indebtedness, a sum of excessively paid taxes needs to be returned to this organization in the order established by this Code.

#### **Article 64. Satisfaction of tax liability and repayment of debt of an insolvent organization or individual entrepreneur regarded as or declared bankrupt**

1. Satisfaction of tax liability of the insolvent organization regarded as or declared bankrupt shall be made in accordance with the legislation of the Kyrgyz Republic on bankruptcy taking into consideration specific peculiarities established by this Code.

2. Charging of tax liability is terminated from the day of making decision on recognition or declaring organization insolvent.

3. Tax liability does not evolve regarding an insolvent organization being engaged in the process of bankruptcy with the use of liquidation procedures.

4. If an organization is engaged in the process of bankruptcy with the use of reorganization and rehabilitation procedures, all actions of the tax service body regarding forced collection of tax debts shall be terminated.

In so doing any property demand to such organization may be made by the tax service body only within the framework of reorganization and rehabilitation procedures.

5. Tax indebtedness formed by insolvent organization prior to reorganization or rehabilitation procedures shall be subject to redemption only upon completion of the abovementioned bankruptcy procedures pertaining to this organization and its solvency recovery.

6. Satisfaction of tax liability as well as repayment of debt of an individual entrepreneur regarded as or declared bankrupt shall be done in the order established by this Article for organizations.

#### **Article 65. Satisfaction of the tax liabilities and repayment of tax debts of physical persons who are deceased or recognized as such**

1. The notary, the body for registration of civil acts and the court are obliged to notify the tax service body by place of inheritance assignment within a period of 6 (six) months from the day of inheritance assignment in case of death of a physical person or such an acknowledgment by a court.

2. The tax service body within a period of 5 (five) days from the moment of obtaining notification about opening of inheritance shall be obliged to inform notary about this by place of

opening inheritance, and the tax service body shall also inform heir (heirs) about existence of tax indebtedness of a deceased physical person.

3. The tax service body is eligible to present demands implied by the tax liability of a deceased physical person to executor (inheritance manager) or to heirs.

4. Tax liability of a deceased physical person shall be satisfied by his/her heir (heirs), which have accepted inheritance of a deceased physical person within the limits of the value of the inherited property and in proportion to share in inheritance by not later than 6 months from the time of receipt of the inheritance.

5. At that, the succession to execute tax liability by heir (heirs) to settle tax sanctions imposed on a deceased physical person for tax violation committed ceases to exist.

6. In the absence of an heir (heirs), or disclaimer of the inheritance by heir (heirs), as well if the tax indebtedness of a deceased physical person exceeds the value of the inherited property, an outstanding sum of tax debt shall be regarded as bad debt.

7. Satisfaction of tax liability of a physical person recognized by a court as deceased shall be made in the order established by this Article for a deceased person.

**Article 66. Satisfaction of tax liability and repayment of debt of physical persons who are missing or deemed incompetent**

1. Tax liability of a physical person deemed missing or incompetent is satisfied by a guardian, trustee or the person, who administers the property of this missing or incompetent person at the expense of this property by not later than 6 months from the day of a court's recognition of a physical person as missing or incompetent.

2. The court is obliged to inform the tax service body about recognition of a physical person as missing or incompetent at the place of registration of indicated physical person by means of sending a copy of the court's decision within a period of 10 (ten) working days from the day of making such a decision.

3. The tax service body at the place of registration of a physical person recognized as missing or incompetent, is obliged to inform the guardian, trustee or the person who administers the property, as well as the body for the support of family and children about existence of an outstanding tax liability of a physical person recognized as missing or incompetent. This notification shall be transferred within a period of 5 (five) days from the day of receipt from the property trust of justification information on recognition of a physical person as missing or incompetent.

4. The tax liability debt of a physical person recognized as missing or incompetent is regarded as uncollectible and hopeless in the event that the property of this physical person is lacking and insufficient to satisfy tax liabilities.

**Article 67. Satisfaction of tax liability and repayment of debt in the event of carrying out activity in the Kyrgyz Republic through permanent establishment**

In the event of carrying out activity on the territory of the Kyrgyz Republic through a permanent establishment, responsibility for tax liability satisfaction and debt repayment shall be placed on the subject, which is carrying out such an activity.

**Article 68. Cessation of tax liability**

Tax liability is ceased and tax indebtedness is regarded as settled on the grounds as follows:

- 1) Proper satisfaction of tax liabilities and payment of arrears, fines and tax sanctions;
- 2) Termination of a period of limitation on tax liability established by this Code;
- 3) Recognition a taxpayer as bankrupt;
- 4) Death of physical person in the event of absence of a successor or default of issue;
- 5) Recognition a physical person as missing or incompetent in the absence of or due to insufficiency of his/her property.

**Article 69. Writing off bad tax liability debts**

Tax indebtedness of a taxpayer shall be regarded as bad in cases indicated in Subpara 2)-4) of Article 68 of this Code and shall be a subject to writing off in the order established by the Government of the Kyrgyz Republic.

**Chapter 7. Securing tax liability satisfaction and repayment of tax debt****Article 70. Ways for securing tax liability satisfaction and repayment of tax debt**

1. This Code stipulates ways for tax liability satisfaction and repayment of tax debt by a taxpayer.

2. Tax liability satisfaction and repayment of tax debt may be secured in the following ways:

- 1) By fine charging;
- 2) By a bank guarantee;
- 3) By a taxpayer's bank deposit;

4) By charging of a tax debt, which is recognized by the taxpayer, at the expense of cash monetary resources and (or) monetary resources from the taxpayer's bank accounts and (or) from bank accounts of the third persons.

3. Ways for securing tax liability satisfaction and repayment of tax debt incurred in the process of moving goods through the customs border of the Kyrgyz Republic shall be determined by the customs legislation of the Kyrgyz Republic.

## **Article 71. Charging fines**

1. Fine is a money sum payable by a taxpayer in the event of non-compliance or delay in tax liability satisfaction.

2. Sum of a fine shall be charged and paid for despite enforceable measures and other actions taken for tax violation.

3. Fine is charged for each calendar day of delay in tax liability satisfaction starting from the day following the one established for the tax liability satisfaction by this Code.

4. Total sum of a fine charged may not exceed 100 (one hundred) percent of a sum of taxpayer's arrear.

5. Fine for each day of delay is rated on a percentage basis given a total sum of taxpayer's arrears.

6. Sum of a fine is charged in the amount equal to 0,09 percent of the arrear amount for each day of delay.

7. Fine is not charged on:

- 1) the sum of charged interest, fines and tax sanctions;
- 2) the sum of taxpayer's arrears recognized as bankrupt, -from the moment of coming into effect of the decision on recognition and declaring a taxpayer a bankrupt;
- 3) the sum of arrear of a physical person recognized as missing, -from the moment when the court's decision comes into effect until this decision is canceled;
- 4) the sum of the arrear of a taxpayer, who is the creditor of the bank under forced liquidation in case if the only reason for this arrear generation was liquidation of bank in service, - from the moment of coming into force of the decision on forced liquidation of bank;
- 5) the sum of arrear incurred as a result of untimely funding of goods, works and services delivered by taxpayer, - within the limits of appropriations earmarked for these purposes by the state budget;
- 6) the sum of arrear incurred due to insuperable power;
- 7) the sum of the tax debt delayed or assigned to be paid in installments.

**Article 72. Bank guarantee**

1. Satisfaction of taxpayer's liability on payment of the tax debt sum may be secured by bank guarantee.
2. Bank guarantee is a commitment made by a bank to the tax service body stating that the bank will discharge a taxpayer's duty on payment of a sum of a tax debt in compliance the conditions of this bank guarantee.
3. Bank guarantee is prepared in compliance with the Civil Code of the Kyrgyz Republic.
4. Disputes connected with securing satisfaction by a bank guarantee of the taxpayer's liability to pay out the tax debt sum shall be considered in accordance with the procedures stipulated by the legislation of the Kyrgyz Republic.
5. The provisions of the civil legislation of the Kyrgyz Republic are applied to legal relations in the event of issuance of a bank guarantee considered as a measure to secure execution of duty on tax debt payment.

**Article 73. Taxpayer's deposit**

1. Satisfaction of the taxpayer's tax liability, which may emerge with regard to the taxpayer in future periods in cases established by this Code, may be secured through depositing by a taxpayer of money resources amounted to a sum of tax liability in special bank account of the tax service body—the taxpayer's deposit.
2. The tax body, which has accepted a deposit, provides the taxpayer with a reference note to confirm the fact of entering deposit.
3. Tax service body has the right to use sums retained in deposit accounts only in cases, on the grounds and within timelines stipulated by the decision of the tax service body, which have accepted the taxpayer's deposit.
4. Interest on the amount of tax deposit is not charged.
5. When certain event occurs, as the result of which certain tax liability emerges secured by a bank deposit, the sum of the taxpayer's tax liability shall be credited to the budget from the sum of a deposit.
6. When certain event occurs, as the result of which the taxpayer has no tax liability, and in cases when the sum of due tax liability is less than the deposited sum, the paid money resources or their balance shall be liable to paying back to the taxpayer or, at the taxpayer's will, to offsetting against execution of liabilities on other taxes, or to securing tax liability execution of future periods.
7. Paying back or offsetting deposited amounts shall be carried out in the period of not more than 20 days from the day of presenting application by a taxpayer to the tax service bodies with the submission of documents stipulated by this Code.

**Article 74. Satisfaction of tax liability recognized by a taxpayer**

1. In the event of non-payment or incomplete payment of the sum of a tax debt, recognized by a taxpayer determined in accordance with Subpara 11 of Para 2 of Article 4 of this Code, the tax body has a right to charge without recourse monetary resources of a taxpayer – organization or an individual entrepreneur without their consent to charging and direct monetary resources charged on account of payment of the sum of such debt.

2. The collection of monetary resources on account of payment of a sum of tax debt recognized by the taxpayer-organization and by the taxpayer-individual entrepreneur shall be made from the taxpayer's account by laying down tax payment demands against bank (hereinafter referred to as TPD in this Article).

3. TPD shall be satisfied by the bank by means of writing off monetary resources from the taxpayer's account, including currency account, towards payment of the taxpayer's tax liability at latest within one operational day following the day of receipt of TPD by bank.

4. In case of inadequacy or lack of money resources on the bank account of a taxpayer on day of receipt of TPD by bank, such a demand shall be executed as money resources will be entered on these accounts at latest within one operational day upon entry of every single receipt.

5. In case of inadequacy or lack of money resources on the bank account of a taxpayer, the tax body has the right to charge tax debt recognized by a taxpayer on account of cash money resources based on the document specified for charging cash money resources and prepared in due form approved by an Authorized tax body.

Cash money resources charged in compliance with this paragraph shall be transferred to bank not later than 2 days following the day of charging for entering into the taxpayer's account and further crediting to the budget.

6. In case of inadequacy or lack of money resources the taxpayer suffers from, the tax body has the right within amount of the tax debt recognized by a taxpayer, to charge cash money resources from the bank accounts of the third persons.

Charging from bank accounts of third persons is carried out under condition of existence of the documentary proven debt of the third person before the taxpayer based on reconciliation statement of mutual settlements between the taxpayer and the third person without recourse to court.

7. This Article shall be applied if the taxpayer receives notification on securing satisfaction of an outstanding tax liability, recognized by a taxpayer on account of cash money resources and(or) money resources from the taxpayer's accounts or accounts of the third persons, and in the case that the taxpayer fails to execute this notification within a period of 15 calendar days from the day of presenting of the appropriate notification or the taxpayer does not appeal against such a notice in the order established by this Code.

## **Article 75. Forced satisfaction of the tax debt**

1. Unless otherwise provided by this Chapter, the tax body has the right to appeal to court for restriction in the use of property and (or) charging a tax at the expense of a taxpayer's property within the range of a sum indicated in tax debt payment notification letter in case of an actual tax debt and failure to provide the taxpayer with the deferment or installment in accordance with this Code.

Appealing to court shall be made in accordance with the procedures stipulated by the Civil Procedural Code of the Kyrgyz Republic.

This appeal may stipulate imposing of a tax debt from the third person through the funds of the debtor, the employer, the bank or another organization.

2. During commencement of action indicated in Para 1 of this Article, the tax body has the right to send to the third person of the taxpayer including debtor, employer, bank or another organization, notification with the demand to stop money payments to the address or on instruction of the taxpayer having the tax debt.

In the event of non-execution by a third person of the demand indicated in notification prior to awarding a court's judgment, an equivalent sum of this payment shall be levied from the taxpayer but less than or equal to the sum of the tax debt. Debt collection stipulated by this paragraph shall be carried out upon the decision of a court.

3. Consideration of claims on collecting tax debt on account of taxpayer's property (distrainment) is carried out in accordance with the civil legislation of the Kyrgyz Republic.

4. Collection of the tax debt on account of the taxpayer's property based on the effective court's decision is carried out in accordance with the Civil Code of the Kyrgyz Republic.

5. The collection of tax debt on account of property of the taxpayer-the physical person is not made concerning to:

- 1) Fixed assets amounted to 100000 soms;
- 2) Property unrelated to economic activity, purposed for daily personal use by physical persons or his/her family members, and determined in compliance with the list elaborated by the Government of the Kyrgyz Republic.

When during the tax debt collection on account of taxpayer's property, it is difficult to divide property indicated in Para 1) of this Article, this property shall be liable to selling on the conditions of this Article and further repayment of the amount of property up to established threshold.

6. In case of collection of the tax debt on account of the taxpayer's property, liability to pay tax shall be considered satisfied from the day of its selling and redemption of the tax debt on account of earnings. In case of selling property, which was previously arrested, fine for an untimely tax transfer and tax sanction are not charged from the day of property seizure and prior to transfer to the budget of the sums earned.

7. The tax service official, as well as persons having interconnected relations, has no right to acquire taxpayer's property being sold following the court's decision on collection of tax debt on account of taxpayer's property.

8. This Article shall not be applied to a tax liability appeared in the result of tax inspection and disputed following appeal unless decision on appeal will be provided for.

## **Chapter 8. Changing the terms of tax liability satisfaction and repayment of tax debt**

### **Article 76. General conditions for changing the terms of tax liability satisfaction and repayment of tax debt**

1. Deferral of the term of payment of a sum of tax liability to a later date is regarded as changing of the term of tax liability satisfaction, as well as of fines and tax sanctions (further referred to as tax debt sum in this Chapter).

2. Changing the term of payment of the tax debt sum is exclusively permitted in the order stipulated by this chapter.

The term of payment may be changed in respect of the total sum repayable or its part by charging interest on an outstanding sum of the tax debt, unless otherwise provided by this chapter.

3. Changing the term of payment of the tax debt sum is made in the form of deferral and/or payment by installments.

4. Changing the term of payment of the tax debt sum does not rescind the existing liability and does not create a new liability on its payment.

5. Changing the term of payment of the tax debt sum is exclusively made under a bank guarantee.

6. The provisions of this Article do not apply to the Excise tax debt sum.

### **Article 77. Conditions excluding changing the term of tax debt payment**

1. The term of payment of the tax debt sum may not be changed if in connection with the taxpayer claiming for such changes there exist documentary grounds to presume that this taxpayer will use such a change for hiding money resources or other property subject to taxation, or this taxpayer is planning to leave the territory of the Kyrgyz Republic for permanent residency.

2. When conditions indicated in Para 1 of this Article occur, the decision on changing the term of the tax debt sum payment, which was made at an early date, shall be waived.

If such decision is made, the tax service body shall inform the taxpayer about decision in written form within a period of three days in the order established by this Code.

**Article 78. Bodies authorized to make decisions on changing the terms of tax debt payment**

The bodies, the terms of reference of which cover making decisions on changing the terms of tax debt payment (further referred to as Authorized bodies in this Chapter) are regarded as follows:

- 1) a tax body – to the sum of not more than 100000 soms;
- 2) an Authorized tax body – to the sum of 100000 soms and more.

**Article 79. Order and conditions for granting tax debt deferral or payment of tax debt in installments**

1. Deferral or installments provided to pay out tax debt sum is a change in the term of its payment under condition of existence of grounds stipulated by this Article for a period from 1 month to 3 years by non-recurrent lump-sum payment of the tax debt sum (further referred to as deferral in this chapter) and (or) time-phased payment by the taxpayer of the tax debt sum (further referred to as installment in this chapter).

2. Deferral or installments may be provided to the taxpayer upon application concerning the tax debt sum, which was formed and not paid due to one of the following reasons:

- 1) infliction of damage to the taxpayer due to circumstances of insuperable force;
- 2) delays in provision of funding or payments from the budgets to this taxpayer for goods delivered, works provided and services rendered by this taxpayer;
- 3) in the event that the taxpayer's financial or property status excludes the possibility for a lump-sum payment of the tax debt sum in case if granting deferral and (or) installments will facilitate tax liability satisfaction.

3. Deferral and (or) installments may be granted regarding one or several taxes.

4. If deferral or installment are granted on the grounds indicated in Subpara 3) of Para 2 of this Article, interest shall be charged on the tax debt amount at a twice-more discount rate of the National Bank of the Kyrgyz Republic of the deferred or spread over tax debt sum. Interest shall be charged for each day of a period, in which deferral or installments were provided.

If deferral or installments are provided on the grounds indicated in Subpara 1) and 2) of Para 2 of this Article, then interest is not charged on this tax debt sum.

5. Fine and tax sanctions are not charged on the deferred or spread over tax debt sum.

6. Application for granting deferral or installments with indication of grounds shall be submitted to the appropriate authorized body. Documents certifying existence of grounds indicated in Para 2 of this Article and documents on bank guarantees for payment of the deferred or spread over tax debt sum shall be enclosed to this application. The taxpayer shall send a copy

of indicated application to the tax body within a ten-day period from the day of application submission at the place of taxpayer's registration.

7. Decision on granting deferral or installment, or denial to do so shall be made by an authorized body within a period of 30 calendar days from the day of receipt of the taxpayer's application.

The tax service bodies shall suspend forced collection of the tax debt sum in the period of consideration of applications for granting deferral or installments.

8. In the event of complying with the requirements established by this Article and in the absence of conditions excluding change in the terms of payment of the tax debt sum, an authorized body has no right to deny taxpayer granting of deferral or installments due to reasons indicated in Subpara 1) and 2) of Para 2 of this Article, within the bounds of the sum of a damage inflicted to the taxpayer or the sum of a funding gap or non-payments from the budget for the goods delivered, works provided and services rendered by this taxpayer.

9. Decision on granting deferral or installments shall contain indication on the tax, the payment of which is deferred or spread over, sum of tax debt, terms and order of payment of the sum of tax debt and interests charged, as well as indication on the documents on bank guarantees for payment of the deferred or spread over sums of the tax debt.

Decision on granting deferral or installments shall come into force from the day established by this decision. In so doing, fines and tax sanctions due for the whole period since the day established for payment of the tax debt sum until the day of coming this decision into force, are included into the tax debt sum.

10. Decision on denial of granting deferral or installments shall be justified.

11. An authorized body within a three-day period from the day of making such a decision shall send a copy of the decision on granting deferral or installments or denial in their granting to the taxpayer and the tax service body at the place of registration of this taxpayer.

12. The customs legislation of the Kyrgyz Republic shall determine the procedure and the conditions for granting deferral and installments due to moving of goods through the customs border of the Kyrgyz Republic.

## **Article 80. Cessation of the effect of deferral and installments**

1. Effect of deferral and (or) installments will cease upon termination of the period of validity of the appropriate decision or agreement, or may cease prior to termination of such period in cases stipulated by this Article.

2. Effect of deferral and (or) installments will cease ahead of schedule in the event that the taxpayer pays out full amount of the tax debt sum payable including interest prior to termination of designated deadline.

3. When the taxpayer breaches terms for granting deferral and/or installments, except for cases of violation due to occurrence of the conditions of insuperable power, the tax service body

shall send the taxpayer a written demand for removal of infringement within a period of 10 (ten) days from the moment of receipt such a demand. In case of non-execution by the taxpayer of this demand, an effect of deferral and (or) installments may be ceased before their term ends from the day of actual infringement of the terms of deferral and (or) installments.

4. In the event of pre-term cessation of the effect of deferral and (or) installments according to Para 3 of this Article, the taxpayer needs to pay out within a period of 30 (thirty) calendar days upon receipt of an appropriate decision on payment of outstanding tax debt sum, including fines and tax sanctions equal to the amount of an arrear, starting from the day following the day of decision receipt until the day of payment of this sum inclusive.

At that, the rest unpaid sum of the tax debt shall be defined as a difference between the sum of a debt as specified in the decision on granting deferral and (or) installment, increased to include a sum of interest calculated in compliance with the decision on deferral and (or) installment for the period of validity of deferral and (or) installment, and actually paid sums of tax debt and interest.

5. Notice on revoking of the deferral and (or) installment decision should be sent to the taxpayer by an authorized body, which had made this decision in the period not later than 3 working days after the date of decision-making in the order established by this Code. Notice on revoking of the deferral and (or) installment decision shall be regarded obtained as of date indicated in the registered letter delivery invoice.

## **Chapter 9. Offsetting and refunding of taxes**

### **Article 81. Offsetting and refunding of an excessively paid tax sum**

1. A positive difference between the sum of taxes paid by the taxpayer to the budget and the sum of taxes subject to payment to the budget shall be considered as an excessively paid tax sum except for an excessive sum of the value added tax (further referred to as VAT in this Code) determined by Articles 278 and 279 of this Code.

2. An excessively paid tax sum shall be offset on account of the taxpayer's tax debts paid off in the following order:

- 1) on account of paying off fines, interest and tax sanctions under this type of tax;
- 2) on account of paying off tax arrears on other types of taxes;
- 3) on account of paying off fines, interest and tax sanctions on other types of taxes.

3. In case if the taxpayer has an unsatisfied tax liability, an excessively paid tax sum shall be offset independently by the tax body with notification of a taxpayer within a period of 10 (ten) calendar days from the day of tax offsetting.

4. In case of satisfaction of conditions stipulated by Para 2 of this Article, upon written application of a taxpayer, an excessively paid tax sum shall be subject to offsetting on account of payment of a preliminary sum of a tax or shall be returned to the taxpayer.

5. Refunding of an excessively paid tax sum shall be made by the tax body at the place of registration of a taxpayer or at the place of payment within a period of 40 (forty) calendar days from the date of receipt of an application for refunding.

6. A taxpayer may submit an application for offsetting or refunding of an excessively paid tax sum by not later than 6 (six) years from the date of an overpayment occurrence.

7. An excessive amount of a tax paid by the taxpayer shall not be a subject to offsetting on account of repayment of tax debts of another taxpayer.

8. An excessively paid tax sum shall be subject to refunding to a taxpayer upon his/her written request in case of the lack of the taxpayer's unsatisfied tax liability.

9. In case of violation of terms established by Para 5 of this Article, the fine amounted to 0, 09 percent shall be charged for each day of violation of the repayment term at the expense of budgetary funds.

## **Chapter 10. Notice of tax liability**

### **Article 82. Tax notice and its content**

1. A written demand of a tax authority for satisfaction of the tax obligation by a taxpayer is recognized as a tax notice.

2. Depending on the type of notice, it shall indicate:

- 1) the surname, name and patronymic (or the name) of the taxpayer;
- 2) the taxpayer identification number;
- 3) the date of the notice;
- 4) the due amount of tax, interests, and penalties assessed as of the date of notice;
- 5) description of appropriate taxes, penalties and tax sanctions;
- 6) a demand for execution of the tax obligation within 30 days from the date of notice delivery, unless otherwise provided in this Code;
- 7) tax enforcement measures which shall be applied in case of non-satisfaction of tax liability by a taxpayer;
- 8) a statement of the grounds for issue of notice;
- 9) appeal procedures;
- 10) the place and manner of payment of the tax;

11) other necessary data.

3. A tax notice shall be considered rightly delivered to the taxpayer if it is delivered to the last address at which the taxpayer carried out economic activity or taxpayer's last registered address in the Kyrgyz Republic, or if it is hand delivered to the taxpayer's tax representative against his signature or in another manner acknowledging the fact and date of receipt of such notice.

4. If a tax notice is sent by a registered mail, it is considered to be received as of the date of receipt or the date of refusal to receive the registered letter indicated in the delivery receipt.

5. A tax notice is effective if it complies with this Code, meets the requirements of this Code and is delivered to a taxpayer in the manner prescribed by this Code.

6. A tax notice is considered invalid or ineffective in case of violation of the requirements prescribed in this Code, even if the taxpayer was aware of the notice and its content. A tax authority is responsible for proving the fact of a proper delivery of the notice to a taxpayer.

7. The forms of a tax notice shall be established by an authorized tax service body.

### **Article 83. Types of notices and grounds for their dispatch**

A taxpayer shall be delivered the following notices:

- 1) Concerning the amount of tax liability calculated by a tax authority;
- 2) concerning the accrued or reduced amount of tax liability, fines and penalties contemplated by this Code;
- 3) concerning the delinquent payment enforcement.

## **Chapter 11. Accounting documents and tax reporting**

### **Article 84. Formation and retention of accounting records**

1. Accounting records mean the primary documents, accounting ledgers and other documents that serve as the basis for determining tax liability.

2. Accounting records shall be prepared in the form of paper documents and/or in an electronic form and shall be retained until expiration of the statute of limitations period established by this Code for tax liability, except for the cases contemplated by the legislation of the Kyrgyz Republic.

3. Primary documents and accounting ledgers shall be filled in by the taxpayer in Kyrgyz or Russian languages.

4. If a taxpayer has the accounting records in a foreign language, he/she must, on demand of the tax service body, provide translation of such documents in Kyrgyz or Russian language.

5. In the event of reorganization of a taxpayer, tax records of the reorganized organization are retained by its lawful successor.

6. In the event of liquidation of an organization and cessation of activity by an individual entrepreneur, after their exclusion from State Register accounting records may be destroyed, except for the documents subject to submission to the State Archives.

A taxpayer must notify a tax authority of the place and the date of destroying accounting records no later than 5 working days prior to the date on which the records will be destroyed.

### **Article 85. Tax return**

1. Tax return is a written and(or) electronic document of the taxpayer, submitted to a tax authority according to the procedure established by this Code, which contains the information concerning the amount of tax liability and the data necessary for tax liability calculation.

2. An authorized tax service body shall approve the tax reporting forms.

### **Article 86. Procedure for formation and presentation of tax returns**

1. Unless otherwise prescribed in this Code, tax returns are prepared by a taxpayer or tax representative independently following the requirements of this Code.

2. Tax returns are prepared on paper and/or in electronic form in Kyrgyz or Russian languages

3. Tax returns prepared on paper must be signed by the taxpayer or by the taxpayer official or by the tax representative. The signature of a taxpayer, taxpayer official and tax representative shall be attested with a seal if such requirement is provided for by the legislation of the Kyrgyz Republic.

4. If tax returns are prepared in electronic form, the electronic document must be certified by the taxpayer's electronic digital signature.

5. When forming tax returns, a taxpayer shall be responsible for accuracy of the data given in reports.

6. Tax returns shall be filed with the tax service body at the place of a taxpayer's registration, unless otherwise stipulated by this Code.

7. The taxpayer or tax representative shall have the right to choose how to file their tax returns:

1) in person;

2) by registered mail, with a notification;

3) in an electronic form that allows computer processing of information in the cases established by an authorized tax body.

8. Tax returns shall be accepted without preliminary verification and, at taxpayer's will, with no discussion of its content.

9. The procedure for filling and filing tax returns shall be established by an authorized tax body.

### **Article 87. Deadline for filing tax returns**

1. Deadline for filing tax return is established for each tax separately according to the requirements of this Code.

2. The deadline established for filing tax return may be changed only in the manner prescribed in this Code.

3. Violation of the deadline for filing tax return shall serve as the ground for imposing liability contemplated by this Code and the Code of the Kyrgyz Republic on Administrative Responsibility.

4. Unless otherwise stipulated by the KR tax legislation, tax returns are due:

1) no later than the 20<sup>th</sup> day of the month following the reporting month – for tax returns prepared on the preliminary amount of the tax payable every month;

2) no later than 1 March of the calendar year following the reporting year –for tax returns prepared for the tax period of 1 calendar year;

3) no later than the 20<sup>th</sup> day of the month following the reporting month – for tax returns prepared for the tax period of one month;

4) no later than the 20<sup>th</sup> day of the month following the reporting quarter – for tax returns prepared for the tax period of one quarter;

5) no later than the 20<sup>th</sup> day of the month following the month in which tax liability arose – in the cases not stipulated by Subpara 1), 2) and 3) of Para 4) of this Article.

5. In the event of reorganization or liquidation of the taxpayer, the tax return is due within 15 days after the decision was made on reorganization or liquidation.

### **Article 88. Extension of the deadline for filing tax returns**

1. Upon receipt of a written application from the taxpayer before the date of filing tax returns established by this Code, a tax authority has the right to extend the deadline for filing tax returns for the period no longer than 30 days.

2. Extension of the deadline for filing tax returns does not affect the deadline for tax payment.

**Article 89. Date of execution of the obligation to file a tax return**

1. The date of execution of the obligation to file a tax return is the date of receipt of a tax return by a tax authority or date of the notice of delivery of a tax return sent via e-mail, or the date of delivery of a tax return via registered mail with the return notice of handing over.

2. An obligation to file a tax return shall be recognized as timely satisfied if there is a document indicating the time and date of receipt of the tax return by Communications Office and confirming that the tax return was submitted to Communications Office before close of business on the last day of the time period established by this Code for filing tax returns.

3. The following filing requirements are mandatory for a taxpayer:

- 1) indication of the taxpayer's identification number, his legal and actual address;
- 2) indication of the tax liability and tax period;
- 3) requirements of this Code on signing of a tax return; and
- 4) preparation of a tax return in the established format.

4. Should the taxpayer violate the requirements of Para 3 of this Article, the tax service body shall send a written demand to the taxpayer about elimination of the violation within 10 days after receipt of such demand by the taxpayer. If the taxpayer fulfills the given requirement, the obligation to file tax return is considered satisfied.

**Article 90. Making amendments and additions to tax returns**

1. Amendments and additions to tax returns are allowed during the statute of limitations period contemplated by this Code for a tax liability.

2. Amendments and additions to tax returns shall be made by a taxpayer or tax representative by means of preparing an adjusted tax return for the tax period to which these amendments and additions belong, unless otherwise provided by this Code, as well as by means of providing information on the reasons for changing the amount of tax liability.

3. An adjusted tax return shall be filed if it is found that the tax return does not reflect or partly reflects the operation and if errors are found that lead to changes in the tax amount, unless otherwise provided by this Code.

4. No amendments and additions to tax returns filed for the audited period are allowed during the desk audit.

### **Article 91. Time of retention of tax returns**

1. A taxpayer or a tax representative as well as a relevant tax authority are required to retain tax records for the statute of limitations period established by this Code for a tax liability.

2. In the event of reorganization of a taxpayer its lawful successor shall be responsible for retaining tax records for the period of activity of the reorganized entity.

In the event of liquidation of an organization the tax records may be destroyed by the taxpayer, except for the documents subject to submission to the State Archives.

### **Article 92. Single tax return**

1. A single tax return is the tax reporting aimed at providing financial and other information about economic activity of the subject, objects of taxable property and plot of land.

2. The following persons are obligated to fill and file the single tax return:

- 1) a domestic organization;
- 2) a foreign organization carrying out activity on the territory of the Kyrgyz Republic with the creation of a permanent establishment;
- 3) a physical person – citizen of the Kyrgyz Republic;
- 4) a physical person – resident of the Kyrgyz Republic;
- 5) a physical person – non-resident of the Kyrgyz Republic carrying out activity on the territory of the Kyrgyz Republic with the creation of a permanent establishment.

3. Physical persons shall file one of the following types of a single tax return:

- 1) individual;
- 2) family.

4. A single tax return shall contain:

- 1) the information on objects of taxation;
- 2) the property and financial status of the subject, its subsidiaries, representative offices and other separate divisions.

6. The information concerning the financial status of the subject shall be formed in accordance with this Code and the Law of the Kyrgyz Republic on Accounting.

7. A single tax return shall be filled for the calendar year and filed:

- 1) by an organization - prior to 1 March of the year following the reporting year;
- 2) by a physical person – prior to 1 April of the year following the reporting year

8. The format, manner of filling and filing of a single tax return shall be approved by an authorized tax service body.

## **SECTION IV. TAX CONTROL**

### **Article 93. Concept and forms of tax control**

1. Tax control means the control of observance of the tax legislation of the Kyrgyz Republic exercised by tax authorities.

2. Tax control shall be carried out in the following forms:

- 1) Tax registration and recording of taxpayers;
- 2) Recording of tax collections to the budget;
- 3) Tax audit;
- 4) Field tax audit;
- 5) Opening of a tax post.

## **Chapter 12. Tax registration**

### **Article 94. Concepts and terms used in this Chapter**

This Chapter shall use the following terms and concepts:

- 1) “Taxpayer State Register of the Kyrgyz Republic” is the state database recording the taxpayers.
- 2) “Tax registration” means the entry of a taxpayer data to the Taxpayer State Register of the Kyrgyz Republic.
- 3) “Registration with a tax service body” means the tax registration and recording of a taxpayer.
- 4) “Taxpayer registration data” mean the data stated by a taxpayer at the tax service body during tax registration;
- 5) “Taxpayer registration card” means the document by which the taxpayer identification number is assigned, which is a high security document and is filled at the time of his tax registration.
- 6) “Recording of taxpayers” is the system of measures carried out by tax authorities in case the parameters of the taxpayer’s activity change, including separate subdivisions, composition of the objects of taxation, place of economic activity.

### **Article 95. Taxpayer's tax registration**

1. All the subjects that are the taxpayers under the tax legislation of the Kyrgyz Republic are subject to tax registration.

2. An authorized tax service body shall keep the Taxpayer State Register of the Kyrgyz Republic (hereinafter referred to as the State Register).

3. An authorized tax service body shall establish the procedure for formation and maintenance of the State Register, the format of the registration card and procedure for its issuance to a taxpayer.

4. Tax registration of a taxpayer shall be carried out in compliance with this Code, unless otherwise contemplated by the legislation on state registration of legal persons, subsidiaries, representative offices and individual entrepreneurs.

### **Article 96. Grounds, deadlines and procedure for tax registration**

1. Tax registration of a taxpayer shall be performed on the following grounds:

- 1) a subject's written application for registration;
- 2) on the ground of information provided by the bodies listed in Chapter 17 of this Code certifying that the subject is liable to pay tax.

2. Tax registration of a taxpayer shall be performed within the following time frame:

- 1) for a domestic organization – no later than 15 calendar days from the date of state registration as a legal entity;
- 2) for a foreign organization or an individual entrepreneur registered in a foreign country but carrying out its activity and opening a permanent establishment in the Kyrgyz Republic – no later than 15 calendar days from the date of opening of a permanent establishment;
- 3) for a physical person – the citizen of the Kyrgyz Republic – no later than 15 calendar days from the date of receipt of the status of a Kyrgyz citizen;
- 4) for a physical person, an individual, who is not the citizen of the Kyrgyz Republic – no later than 15 calendar days from the date of registration with the Statistics Bodies of the Kyrgyz Republic as an individual entrepreneur or the date of acquiring a patent.
- 5) for a foreign organization or an individual non-resident carrying out the activity which does not result in the opening of a permanent establishment, other than the persons receiving solely the income taxable at the source of payment in the Kyrgyz Republic – no later than the date on which their activity on the territory of the Kyrgyz Republic begins;
- 6) for a foreign organization or an individual non-resident owning the object of taxation in the Kyrgyz Republic – during 15 calendar days following the date of acquiring the object of taxation in the Kyrgyz Republic.

3. The place of tax registration shall be:

- 1) for a domestic organization – the place of state registration as a legal entity;
- 2) for a physical person not having the status of an individual entrepreneur – the place of residence/place of registration according to the passport data in the Kyrgyz Republic;
- 3) for an individual entrepreneur – place of residence/place of registration according to the passport data of the individual entrepreneur.
4. The place of tax registration for a foreign organization or individual entrepreneur registered in the foreign country but whose activity in the Kyrgyz Republic leads to opening of the permanent establishment shall be:
  - 1) the place where it carries out the economic activity in the Kyrgyz Republic;
  - 2) the place of state registration of its representative office or its subsidiary with the Justice Agencies of the Kyrgyz Republic;
  - 3) the place of establishment of a domestic organization that represents the interests of a foreign organization or an individual entrepreneur registered in a foreign country;
  - 4) the place of residence of a physical person representing the interests of a foreign organization or an individual entrepreneur registered in a foreign country.
5. The place of tax registration for a foreign organization whose activity does not lead to formation of a permanent establishment in the Kyrgyz Republic shall be the place where it carries out its activity.
6. The place of tax registration for a foreign organization or individual non-resident possessing objects of taxation in the Kyrgyz Republic shall be the place of location or registration of the object of taxation.
7. If this Article provides for more than one place of registration for a taxpayer, the taxpayer has the right to choose independently the place of the tax registration from the list of registration places provided by this Article.
8. If a taxpayer has changed the place of his/her stay or the place of his/her residence and is subject to registration with another tax service body, he/she shall be taken off the record by the tax service body he/she has been registered with, within 15 calendar days after submission by the taxpayer of the statement of his/her changed whereabouts.
9. A taxpayer's registration at the new place of his/her stay or new place of residence shall be performed by the tax service body based on the documents received from the tax service body at the previous place of stay or previous place of residence of the taxpayer.
10. An authorized tax service body shall develop the application form for tax registration, the list of documents enclosed, and the procedure for tax registration of a taxpayer.

#### **Article 97. Taxpayer Identification Number**

1. Tax registration shall be performed by a tax authority within 5 working days:
  - 1) after submission of the application by a taxpayer to a tax authority;

2) after receipt of the notice from the government agency acknowledging registration of the taxpayer's right of ownership over the object of taxation;

3) after receipt of the notice from the government agency about the civil status registration.

2. Tax registration shall be performed by assigning an identification tax number to a taxpayer.

3. If a physical person has the identification number assigned by the Kyrgyz Republic Social Fund, this number shall be used as the Taxpayer Identification Number.

4. After assigning an identification tax number, the taxpayer is served or sent the Taxpayer Registration Card.

5. A taxpayer must indicate his identification number in the documents filed with the tax authorities and in his tax returns.

6. A tax authority must indicate the Taxpayer Identification Number in all the documents sent to a taxpayer and relating to his tax liability and arrears.

7. No charge shall be collected for assigning (changing) the identification tax number, taking off the records, re-registration and issuance of the relevant documents to the taxpayer, other than the cost of the registration card.

#### **Article 98. Recording registration of a taxpayer**

1. A recording registration of a taxpayer shall be performed after the tax registration of the subject and in the following cases:

1) for an organization and an individual entrepreneur:

a) at the place of location of a separate subdivision – in case of emergence, liquidation or change of the place of location of a separate subdivision;

b) at the place of location of an object of taxation – in case of changes in the composition of the objects of taxation.

2) for an individual entrepreneur who carries out a patent-based activity, in addition to the cases provided for by Subpara 1), Para 1 of this Article – at the place where he carries out his activity if it is located outside the area of his tax registration;

3) for a physical person - at the place of his/her stay and (or) registration of the objects of taxation.

2. For the purpose of the VAT refund to diplomatic missions and the representatives of the equal status, tax authorities shall perform a recording registration in accordance with the information provided by the authorized government bodies in the manner determined by the Government of the Kyrgyz Republic.

3. A recording registration of a taxpayer shall be performed by a tax authority on the ground of the application and (or) the data provided by the agencies authorized to record and/or register the objects of taxation.

4. For the purposes of this Article, the following shall be recognized as the place of location of an object of taxation:

1) for real property, including lands – the place of their actual location;

2) for vehicles – the place of the state registration of vehicles, and in its absence, the place of stay (residence) of the vehicle owner.

5. When performing a recording registration of a separate division, the application shall indicate the identification number of the taxpayer organization that has created that division.

6. A taxpayer is obligated to file an application for registration with a tax authority at the place of its recording registration:

1) for the recording registration of a taxpayer – before the activity begins and/or during 15 calendar days after acquiring the object of taxation by a taxpayer;

2) for making changes in the registration data – within 15 calendar days from the date on which such changes occur.

7. A recording registration shall not affect the earlier assigned Taxpayer Identification Number.

8. A tax authority shall perform the recording registration of a taxpayer within 5 (five) working days after filing the application by a taxpayer.

9. A tax authority shall, upon the taxpayer's statement, issue within 3 (three) working days the confirmation of his recording registration in the established format.

10. In case of any changes in the taxpayer registration card, a tax authority shall issue a new registration card in place of the earlier issued one, retaining the previous identification number of the taxpayer.

11. If an individual entrepreneur or an organization changes the place of location, place of activity, place of residence, place of stay or place of location and/or registration of the objects of taxation, the taxpayer must get registered within 15 (fifteen) calendar days at the new place of location, place of economic activity, place of residence, place of stay or place of location and/or registration of the objects of taxation with the indication of the earlier assigned identification number of the taxpayer.

12. An authorized tax service body shall develop the registration form and establish the procedure for recording registration.

#### **Article 99. Exclusion from the Taxpayer State Register of the Kyrgyz Republic**

1. A taxpayer shall be taken off the Taxpayer State Register of the Kyrgyz Republic due to termination of his tax liabilities according to the data provided by authorized bodies and/or

based on the application for exclusion from the Register submitted by the taxpayer or his/her representative.

2. Exclusion from the Taxpayer State Register of the Kyrgyz Republic of:

1) non-residents due to cessation of the rights contemplated by this Code concerning the objects of taxation such as the right of ownership, land use, economic and operational management and execution of the tax obligations in the Kyrgyz Republic; and

2) other persons subject to tax registration other than those indicated in Subpara 1) of this Para, shall be taken off from the State Register at their departure from the Kyrgyz Republic and execution of tax liabilities by them in the Kyrgyz Republic.

3. Conditional exclusion of a taxpayer from the Taxpayer State Register of the Kyrgyz Republic shall take place in case the taxpayer has the features of an idle organization and individual entrepreneur as established by an authorized tax service body and provided it has no tax arrears, his identification tax number shall be retained.

## **Chapter 13. Tax audits**

### **Article 100. Concept and types of tax audits**

1. A tax audit shall be carried out solely by the tax service bodies.

The tax official indicated in the prescription and the taxpayer as well as the tax representative shall be the participants of a tax audit.

2. If necessary, the tax authorities may involve experts, not interested in the outcome of the tax audit, in researching certain issues that require special knowledge and skills and for consultations.

3. The goal of the tax audit is to exercise control and help a taxpayer to timely and fully fulfill the requirements of the tax legislation of the Kyrgyz Republic.

4. Tax audits are divided into the following types:

- 1) field audit;
- 2) office audit.

5. Field audit is subdivided into:

1) scheduled audit, i.e. an audit of the satisfaction of all tax liabilities;

2) unscheduled audit, i.e. an audit that takes place in the following cases:

- a. in the event of re-organization of the entity, other than reorganization through transformation;
- b. in the event of liquidation of the organization;
- c. in the event of cessation of the activity of an individual entrepreneur;
- d. upon receipt of the taxpayer's application in the cases provided for by this Code;
- e. in case the tax authorities receive the documentarily supported evidence testifying inaccurate tax calculation by the taxpayer;

3) counter audit is the audit carried out by tax authorities in respect of the third persons, should the necessity arise during the tax audit in verifying certain documents directly relating to transactions between the taxpayer and the given persons, including verifications based on the

queries from tax agencies of other countries, certain documents directly connected with the operations carried out by a taxpayer together with indicated persons;

4) re-audit is the audit carried out by the tax authorities upon receipt by them of the documented evidence showing that the earlier audited taxpayer has the facts of inaccurate tax calculation, not revealed during the scheduled audit, and justified statement from the tax official giving the reasons why the documents were not audited earlier.

A re-audit is carried out solely on this documented evidence for the given period. In so doing, re-audit shall be conducted by the tax body official who has not participated in the tax audit the results of which are re-audited.

A re-audit, which is allowed based on results of the query, expert assessment and cross-audit received after completion of the field audit, can be performed by the same tax body official who held that field audit.

6. The office examination of the tax calculation accuracy is conducted at the place of location of the tax service body based on the taxpayer's reporting documents and the information received by tax authorities from other sources.

7. Tax audit in no event should suspend the taxpayer activity, except for the cases established by the legislation of the Kyrgyz Republic.

### **Article 101. Planning of the field audit**

1. The scheduled audit is carried out selectively no more than once a year upon expiration of the 12 months from the date of completion of the last audit by one of the tax service bodies in accordance with the Audit Schedule.

2. The Audit Schedule is developed by tax authorities for the current quarter; it has the list of the taxpayers subject to audit and is approved by the Head of a Tax Authority no later than 15 days prior to beginning of the quarter.

3. The Audit Schedule consists of 2 Sections.

The 1<sup>st</sup> Section is compiled in respect of all taxpayers selected on the basis of the results of the tax non-payment risk assessment factors which are tested by means of total inspection method.

The 2<sup>nd</sup> Section is compiled on the basis of a random sampling method in respect of the rest taxpayers which shall comprise no more than 5 percent of their total number.

3. The 1<sup>st</sup> Section of the Audit Schedule is a restricted document and shall not be subject to publication.

The 2<sup>nd</sup> Section of the Audit Schedule must be posted in a mandatory way on the open informational web-site of an authorized tax service body or has to be available on paper at the places of open public access in the office of the relevant tax service body.

5. Tax non-payment risk factors include:

1) Data incompatibility with regard to:

- a. the objects of taxation declared by the taxpayer and information of the government agencies in charge of registration;

- b. the amount of taxes declared (paid) and calculated;
  - c. income along with the information received from the bodies of the Social Fund of the Kyrgyz Republic;
- 2) Reflection of the losses in tax returns;
  - 3) taxpayer's tax burden is by more than 25% below the average level estimated for the taxpayers engaged in the similar types of economic activity in the region;
  - 4) Deviation of the declared amount of income and tax liability from the data obtained by the tax authorities through analysis of invoices and based on other kinds of information provided by other taxpayers;
  - 5) failure to submit an adjusted tax return and/or justified explanations to the notice sent by tax authorities on inconsistencies in the taxpayer's data found during the office audit;
  - 6) Other risks covered by the field audit planning methodology approved by an Authorized tax body.
6. The unscheduled audit, counter audit and re-audit shall be carried out at the decision of the tax authorities, should the grounds arise established by this Code.

#### **Article 102. Duration and time of the field audit**

1. The scheduled audit covers the period of no more than 3 previous calendar years expired before the beginning of the scheduled audit.
2. The remaining types of audit may cover any period prior to expiration of the statute of limitations period for a tax liability established by this Code.
3. Duration of the scheduled audit indicated in the prescription should not exceed 30 calendar days from the date of delivery of the prescription to a taxpayer, and 50 calendar days for a large taxpayer, unless otherwise established by this Article.  
A large taxpayer is a taxpayer which complies with the criteria established by an authorized tax body.
4. When conducting the scheduled audit of organizations that have subsidiaries in the regions of the Kyrgyz Republic, the tax audit duration may not exceed 30 calendar days for each subsidiary.
5. The time of the field audit and the audit itself shall be suspended:
  - 1) for the period from the date of delivery to a taxpayer of the demand to provide the documents until the date when the taxpayer provides the documents requested during the field audit, including the date of their submission;
  - 2) because of the illness, death of a close relative of the tax audit participants for the period of no more than 15 calendar days;
  - 3) in case of the circumstances of insuperable force.
6. Duration of the field audit as well as the process of the field audit are not suspended for the time required for receiving response from the foreign state to the letter of inquiry and receipt

of the information under the international agreement, nor is it suspended for conducting the counter audit or expert assessment.

7. If the letter of inquiry is sent to the foreign state, an expert assessment or counter audit are conducted and the results are not received by the date of closure of the field audit, the field audit shall be completed with the indication in the audit report of the letters of inquiry sent, expert assessment held and counter audit initiated.

8. Receipt of a reply to the letter of inquiry as well as receipt of results of the expert assessment or counter audit shall serve as the ground for conducting a re-audit.

9. An unscheduled audit shall be conducted within a time span determined for the scheduled audit.

10. A counter audit shall be conducted within a period of not more than 10 calendar days.

11. A re-audit shall be conducted within a period of not more than 15 calendar days.

### **Article 103. Prescription for a field audit**

1. In order to conduct the field audit, the Head of a Tax Body (Authority) shall sign a prescription in the established format containing the following details:

1) date and number of registration of a prescription by the tax authority;

2) name of the tax authority conducting the audit;

3) full name of the taxpayer;

4) taxpayer identification number;

5) type of audit (control);

6) grounds for the audit;

7) subject of the audit;

8) positions, surnames, names, patronymics of the inspecting persons involved in conducting the audit under this Code;

9) time of the audit;

10) tax period to be audited.

2. The prescription form shall be developed by an authorized tax service body.

3. The prescription must be signed by the Head of a Tax Authority or by the person authorized by the Head of the Tax Authority, certified by the official stamp and registered in a special register following the procedure established by an authorized tax service body.

4. In case of extension of the time of the field audit, an additional prescription shall be issued in which the number and the date of registration of the previous prescription are indicated.

**Article 104. Beginning of the field audit**

1. The date of delivery of the prescription to a taxpayer shall be recognized as the beginning of the field audit.

2. The prescription shall be presented or sent to the taxpayer by the tax service body at the place of the taxpayer's recording registration.

3. The prescription may be delivered to:

1) the Director of the organization, its tax representative, or to

2) the physical person, his/her tax representative

in hand against his/her written acknowledgment or in other manner confirming the fact and date of receipt.

If the persons indicated in this Para refuse to receive the prescription, it shall be sent by a registered mail. In this case, the prescription is considered delivered as of the date of receipt of the registered mail indicated in the delivery receipt.

4. The tax official conducting the field audit must show his official ID card to the taxpayer.

5. The tax official conducting the field audit shall serve the first copy of the prescription to the taxpayer. In the second copy of the prescription the taxpayer or his/her tax representative shall make a note that he/she has read and received the prescription.

**Article 105. Completion of the field audit**

1. Upon completion of the field audit, the tax official shall prepare a report, indicating:

1) the place of field audit, date of the report;

2) type of audit;

3) positions, surnames, names and patronymics of the tax officer or tax officers that carried out the field audit;

4) taxpayer's surname, name, patronymic or the name of the entity;

5) place of location of the taxpayer, its bank details and the taxpayer identification number;

6) surname, name, patronymic of the Head and officials of the taxpayer organization responsible for keeping tax records/accounts and making tax payments;

7) data about the previous audit and measures taken on elimination of the earlier revealed violations of the tax legislation of the Kyrgyz Republic;

8) tax period audited and general description of the documents provided by the taxpayer for audit purposes;

9) a detailed and comprehensive rationale for tax assessment made during the audit with the reference to the corresponding provision of the tax legislation of the Kyrgyz Republic.

2. The date on which the taxpayer is given the audit report shall be considered the date of closure of the field audit.

3. The necessary copies of the documents, calculations made by the tax officer and other materials received during the field audit shall be attached to the field audit report.

4. The field audit report shall be prepared in at least 2 copies and shall be signed by the tax officer who carried out the field audit and by the Director of the organization audited or by the individual entrepreneur or by their tax representatives. If the given persons refuse to sign the audit report, the relevant note shall be made in the report.

5. A copy of the field audit report shall be given to the taxpayer. When receiving the audit report, the taxpayer must make a note to this effect.

#### **Article 106. Decision-making based on results of consideration of the field audit materials**

1. The field audit materials shall be considered by the Head or Deputy Head of the tax body (authority).

If the taxpayer provides written explanations or objections to the field audit report, the audit materials shall be considered in the presence of the taxpayer or his/her tax representative.

The tax body (authority) shall inform the taxpayer about the time and the place of consideration of the field audit materials 5 days prior to the consideration of such materials.

If, despite the notification, the taxpayer fails to appear, the audit materials including objections, explanations, other documents and materials provided by the taxpayer shall be considered in his absence.

2. Given the results of consideration of the field audit materials, the Head or Deputy Head of the Tax Authority shall make decision on:

- 1) accrual and/or reduction of the tax, the penalty;
- 2) bringing the taxpayer to liability for tax violation;
- 3) relieving the taxpayer of the liability;
- 4) extension of time of the field audit.

3. The decision note on bringing the taxpayer to liability for a tax violation shall set forth the following:

- 1) the circumstances of the law offence as they were established during the audit, the documents and other information supporting the given circumstances;
- 2) the arguments given by the taxpayer in his defense and the results of examination of those arguments;

3) the grounds for bringing the taxpayer to liability for the tax offence with the indication of the provisions of this Code violated by the taxpayer and measures of responsibility applied.

4. Based on the decision made, the taxpayer shall be sent the notice of the assessed amounts of taxes, fines and penalties in the manner provided for in this Code.

The taxpayer that received the notice of the assessed amounts of taxes and penalties is required to execute it within 30 days following the date of the notice delivery unless the taxpayer has appealed the results of the field audit in the manner provided in this Code.

5. The decision note of the tax authority and the notice shall be delivered to the taxpayer in the manner provided in this Code.

6. Non-compliance with the requirements of this Article by the tax official may serve as the ground for cancellation of the tax service body decision.

7. The tax officer responsible for conducting the field audit shall draw up an Act of Administrative Offence in compliance with the Code of the Kyrgyz Republic on Administrative Responsibility on the violations revealed, for which the taxpayer – physical person or the official of the taxpayer-organization is subject to an administrative liability.

#### **Article 107. Conducting the office audit**

1. The office audit shall be conducted at the place of location of a tax body (authority), without taxpayer's involvement, on the basis of the tax returns filed by the taxpayer that serve as the ground for tax assessment and payment as well as on the basis of the documents that are in possession of the tax body (authority).

2. The office audit shall be conducted by a tax official in accordance with his official duties with no special decision required from the Head of the Tax Authority.

3. The procedure for conducting the office audit shall be established by an authorized tax service body.

4. If, during the office audit, a tax body (authority) reveals the fact of tax understatement or tax overstatement as well as any other errors made in tax returns, it shall send to the taxpayer a written notification on the errors revealed with the demand to eliminate them within 15 calendar days.

5. If the taxpayer fails to eliminate the errors revealed during the office audit by the established deadline, the tax authority has the right to send the notice in accordance with the requirements of Article 82 and 83 of this Code.

## **Chapter 14. Spot- check tax control. Use of cash registers with fiscal memory. Tax post.**

### **Article 108. Spot-check tax control**

1. The tax service bodies shall exercise the spot-check control of compliance with the following requirements of the tax legislation of the Kyrgyz Republic:

- 1) the fact of tax and recording registration of a taxpayer with a tax body (authority);
- 2) the usage of cash machines;
- 3) verification of fact of tax payment as well as of the physical indicators of a taxpayer working on the patent basis;
- 4) registration of purchases and sales in the ledger by an individual entrepreneur, other than the persons keeping accounts under the accounting legislation of the Kyrgyz Republic;
- 5) marking of excisable goods with excise stamps and their authenticity.

2. The spot-check tax inspection of a certain taxpayer shall be conducted no more than twelve times a year except for a control (sample) purchase.

3. In order to hold a spot-check inspection, a prescription shall be issued to this effect in accordance with the requirements of Para 1, Art. 103 of this Code, except for Subpara 3), 4) and 10). The prescription must indicate the spot or the property to be audited and the issues to be clarified during the inspection.

4. When exercising the spot-check tax control, a taxpayer shall be given the original copy of the prescription to read and/or be served its copy. A taxpayer shall put a note in the prescription acknowledging that he/she has read the prescription and received the copy.

5. The materials of the spot-check inspection shall be registered according to the procedure established by an authorized tax service body.

### **Article 109. Use of cash register with fiscal memory**

1. Cash payments using cash, bank cards and checks in the course of commercial transactions or when providing services shall be made on the territory of the Kyrgyz Republic with the mandatory use of fiscal cash registers (further referred to as CR in this Chapter) and issuance of a receipt.

The provisions of this Para shall not apply to organizations or individuals that, by virtue of their specific activity or specific location, can make cash payments with no use of fiscal CRs according to the list approved by the Government of the Kyrgyz Republic.

2. The procedure for the use of fiscal cash registers, their registration and sealing is established by the Government of the Kyrgyz Republic.

3. A fiscal CR is an electronic device and/or a computer system with the fiscal memory block used for recording cash payments during the sale of goods, performance of works or provision of services and ensuring unalterable shift-time registration and power-independent long-term retention of information.

Fiscal memory is a complex of the soft and hard wares in the fiscal cash registers ensuring unalterable daily (shift-time) registration and power-independent long-term retention of the balance information necessary for the full accounting of money settlements performed through the use of cash registers, for the purpose of accurate tax assessment.

4. An authorized government body shall approve the State Register of Fiscal Cash Registers allowed on the territory of the Kyrgyz Republic (hereinafter in this article referred to as the State Register) as well as the Rules of its compilation.

5. A computer system is included in the State Register and excluded from the State Register on the basis of the decision note issued by an authorized government agency in the field of communication and information technologies.

The decision note is the document certifying the compliance of a computer system with the technical requirements provided in this Article. The procedure for issuing the decision note is established by an authorized government agency in the field of communication and information technologies after coordination with an authorized tax authority.

#### **Article 110. Requirements for using fiscal cash registers**

When using fiscal cash registers, the following requirements are contemplated:

- 1) registration of the fiscal CR for technical maintenance purposes;
- 2) registration of a fiscal CR (recording of registration, change of registration data) and sealing of CR with a tax authority at the place where the business is located with the issuance of a registration card of the fiscal CR as well as its withdrawal from the register.

A fiscal cash machine is registered with a tax authority prior to operation of business, which requires the use of a fiscal CR under this Code.

3) the cash register used for making cash settlements with the population must be intact, sealed in the established manner, registered with the tax bodies and must ensure the proper cash accounting (fixation of cash operations on the control tape and in fiscal memory);

4) issuance of a receipt by a fiscal CR;

5) keeping and retention of the documents related to purchase, registration and exploitation of the CRs in the manner established by the legislation of the Kyrgyz Republic;

6) a tax authority must have access to a fiscal CR;

7) at the first registration and re-registration of the cash registers the information to the fiscal memory of cash registers shall be entered and the accumulated information be replaced in the presence of the tax service representatives;

8) price-tags for the goods (price lists for the services provided) must be easily accessible for a buyer (client) and must correspond to the documents confirming these prices and tariffs.

9) workers of the technical maintenance centers may have access to the inward mechanisms of the cash registers only in the presence of the tax bodies.

### **Article 111. Tax control of compliance with the procedure for application and use of fiscal cash registers**

1. A tax authority shall exercise control of compliance with the procedure for application and use of fiscal CRs.

2. The following shall be inspected during the spot-check control:

- 1) registration of the fiscal cash register and the way it is used;
- 2) intactness of the device;
- 3) issuance of receipts to customers;
- 4) presence of the price tags (price lists) for the goods sold, works performed and services provided;
- 5) presence of the details and the amount of an earlier issued receipt in the fiscal memory block of the cash register.

3. A control purchase shall be made by the tax bodies solely for the purpose of issuance of the receipts to the buyers and shall have no frequency limits.

The procedure for making a control purchase shall be established by an authorized tax body.

4. The tax bodies (authorities) shall have the right to use the data retained in the fiscal memory blocks during the field audits.

### **Article 112. Tax post**

1. For the purpose of complete accounting of the goods turnover and monetary funds, a tax authority has the right to open a tax post on the territory of the taxpayer following the procedure established by the Government of the Kyrgyz Republic.

2. The tax post shall be established for the following subjects:

- 1) Producing excisable goods;
- 2) Having tax debts;
- 3) Systematically presenting tax reports with zero exponents;
- 4) Operating in the field of public catering;
- 5) Engaged in mining operations.

3. An authorized tax body shall elaborate a list of subjects, within which these tax posts have to be opened.

## **Chapter 15. Access, inspection, demand of the documents, expert assessment, drawing up an act during tax activities**

### **Article 113. Access of authorized officials of the tax bodies onto the territory or premises for carrying out a field audit, spot-check inspection or for opening of a tax post**

1. The taxpayer must allow the tax official carrying out a field audit, a spot-check inspection or opening a tax post (hereinafter in this Chapter referred to as an inspection) to enter the territory or premises after the tax official produces his/her official ID card and prescription of the tax authorities to inspect this taxpayer.

2. The official of the tax service bodies directly carrying out the inspection has the right to examine the territory or premises of the taxpayer used for commercial purposes or to examine the objects of taxation in order to determine a consistency between the actual data on the given objects and the documentary data submitted by the taxpayer.

3. In case of unlawful denial of access of a tax body official conducting tax inspection to the grounds or premises of the taxpayer, the tax body official shall draw up an act, which is signed by him and by the taxpayer and serves as the ground for the tax authority to independently determine the amount of tax liability on the basis of indirect methods of assessment.

In case the taxpayer refuses to sign an act a note shall be made to this effect.

4. Unlawful denial of access of a tax body official conducting tax inspection to the grounds or the premises of the taxpayer shall be recognized as a tax offence and shall incur liability provided for by the legislation of the Kyrgyz Republic.

5. A tax authority official must have permission to enter the grounds or premises of the taxpayer, if such permission is required under the legislation of the Kyrgyz Republic.

6. The taxpayer has the right to deny access of a tax authority official to the grounds or premises for conducting tax inspection in the following cases:

1) the prescription is not produced or not delivered, or when the prescription does not comply with the established format;

2) time of inspection given in the prescription has not yet come or has been expired;

3) the given tax authority official is not indicated in the prescription;

4) the documents that have no relation to the indicated audit period are demanded.

7. A tax authority official conducting tax inspection may not enter a private dwelling against the will of the individuals living there, unless otherwise provided for by the legislation of the Kyrgyz Republic.

**Article 114. Inspection**

1. A tax body (authority) official conducting inspection for the purpose of clarifying the circumstances that have importance for receiving a complete picture of inspection is authorized to examine the grounds or the premises of the taxpayer whose documents or property are being inspected.

2. The person audited or his tax representative may be present during the tax inspection.

3. During the tax inspection, photography and filming, videotape recording are allowed, also the copies of the documents can be made and other actions taken.

4. The results of inspection shall be reflected in an act of inspection or in the materials of inspection.

**Article 115. Demand of the documents**

1. A tax authority official conducting a tax inspection is authorized to demand from the taxpayer the documents that are necessary for the tax inspection.

The person to whom such demand is addressed must send or submit them to the tax authorities within 5 working days after delivery of such demand.

In some cases, the documents are provided in the form of the copies certified by the taxpayer.

2. The taxpayer's refusal to provide the documents demanded during inspection or their untimely submission shall be recognized as a tax offence and shall entail responsibility provided for by this Code.

**Article 116. Expert assessment**

1. If necessary, an expert may be involved on a contract basis in the activities for exercising tax control, where the services of the expert are paid from the budget funds.

Expert assessment is assigned in case the special knowledge of researching and assessment of certain aspects of the taxpayer activity is required for clarifying the issues arising during tax audit.

2. For the purpose of this article, an expert means a person possessing special knowledge and invited by the tax authorities for making an expert assessment.

3. The issues posed for an expert and his assessment may not go beyond the frames of the expert's special knowledge.

4. In the cases provided in Para 1 of this Article the decision on conducting expert assessment shall be made by the head of a tax body (authority) at the request of the taxpayer or the tax authority official conducting tax audit.

The decision note shall indicate the grounds for assigning an expert assessment, the last name, first name and patronymic of an organization in which the expert assessment must be held, the issues posed for an expert and the materials provided.

5. The expert has the right to read the audit materials that relate to the subject of the expert assessment and ask for additional materials.

6. The expert may refuse to give an expert opinion if the materials provided are not sufficient or if he does not possess the necessary knowledge for making expert assessment.

7. The tax authority official conducting tax audit is obligated to inform the audited person about the decision made under Para 4 of this Article and explain his rights provided for by Para 9 of this Article, and draw up an act to this effect.

8. The expert provides his written expert opinion note. The expert opinion note describes the research held; conclusions made; and justified answers given to the issues posed. If an expert reveals the circumstances that are important for the audit although no issues were posed on the matters revealed, he has the right to include the opinion on such circumstances into his expert note.

9. The expert opinion note or the note notifying that an expert opinion is impossible shall be submitted to the person under audit, who has the right to provide his own clarifications and file his objections, or ask for posing additional problems for an expert and assigning an additional or a repeated expert assessment.

10. An additional expert assessment is assigned in case of insufficient clarity and lack of completeness of the expert opinion and is assigned to the same or a new expert.

The repeated expert assessment is assigned in case the expert opinion is unjustified or its accuracy causes doubts and the repeated assessment is assigned to a new expert.

The additional and repeated expert assessments are assigned in accordance with the requirements provided in this Article.

### **Article 117. General requirements for an Act prepared in the course of tax activities**

1. In the cases provided in this Code, an act shall be prepared in case the tax actions are taken for the purpose of inspection.

2. The act shall contain the following information:

1) its description;

2) place and date on which the action was taken;

3) time when the action commenced and ended;

4) position, last name, first name and patronymic of the person who prepared the act;

5) last name, first name and patronymic of every person who participated in the action or was present during the action; if necessary – his address, citizenship, the information on whether he speaks the state or the official language;

6) contents of the action, order in which it was performed;

- 7) the important facts and circumstances revealed during the action taken.
3. The act shall be read by all persons participating in the action or present during the action. The given persons have the right to make remarks to be added to the act and attached to the case.
4. The act shall be signed by the tax authority official who prepared the act and by all the persons who participated in the action or were present when the action was taken.
5. The photos and negatives, films, videotapes and other materials obtained during the tax action may be attached to the act.

## **Chapter 16. Specificity of tax control in certain cases**

### **Article 118. Concepts and terms used in this Chapter**

This Chapter shall use the following terms and concepts:

1. “Identical products” are the products that have similar main attributes. When determining similarity of the products, we take into account their physical attributes, quality and reputation in the market, country of origin and a producer. When determining similarity of the products, slight differences in their appearance may be ignored.
2. “Homogenous products” are the products that not being identical have similar characteristics and are composed of the similar components which allow them to perform the same functions and/or be commercial substitutes in the cases when the difference between such products makes no significant impact on their price or it may be accounted through adjustments. When determining homogeneity of the products, we take into account their quality, presence of the trademark, reputation in the market and country of origin.
3. “Market of goods, works and services” is the sphere of circulation of these goods, works and services determined on the basis of a customer’s and a seller’s possibility to, actually and without significant additional costs, buy or sell the product, work or service in the territorial area in the Kyrgyz Republic which is nearest to a buyer or a seller or outside the country.
4. “Market price of a product, work or service” is the price set up as a result of interaction between supply and demand of identical products in the market, and in their absence – of homogenous products, works and services in comparable economic conditions.

### **Article 119. Use of indirect methods of assessment**

In the event of violation of the procedure for accounting of cash transactions with the population, lack of the primary accounting records and loss or destroy of accounting documents, tax authorities shall determine the tax liability on the basis of indirect methods such as the

method of assets, liabilities, turnover, cost, expenditures and/or the data obtained through the established tax post in the manner determined by the Government of the Kyrgyz Republic.

**Article 120. Application of the open market price of goods, works or services for taxation purposes**

1. Unless otherwise provided in this Article, the price of goods (works, services) actually applied by the parties in a transaction shall be accounted for taxation purposes. Unless proved otherwise, it is assumed that this price is compatible with the market prices.

2. When exercising control over completeness of tax assessment, a tax authority has the right to check the correctness of price application in transactions in the following cases:

- 1) transactions between the related parties;
- 2) barter transactions;
- 3) external trade transactions;
- 4) annulment of the VAT registration and/or liquidation of the taxpayer;
- 5) lack of the documents confirming the sale of goods, works or services;
- 6) a significant deviation of the sale price of goods (works, services) from their market price.

3. In the cases provided for by Para 2 of this Article, when the prices of goods (works, services) applied by the parties are lower than the market price by more than 20%, a tax authority has the right to issue a reasonable decision to extra charge tax, penalty and fines which are calculated presuming that the results of the given transaction were assessed on the basis of the market price of a given product, result of work or service.

The market price of a transaction shall apply unless the taxpayer proves that the transaction was actually conducted at the prices given in the documents and their deviation from the market price was economically justified.

4. The market price shall be determined in accordance with the principles of determining the market value of the goods (works, services) for taxation purposes provided for in Article 121 of this Code, each of them applied sequentially in case of the lack of sufficient information for application of the previous principle.

5. When determining the market value, the regular extra charges or discounts applied in the transactions between the non-related parties are accounted. In particular, we take into account the discounts caused by:

- 1) seasonal or other fluctuations in the consumers' demand for goods, works, services;
- 2) loss of the goods quality or other consumer features in the manner established by the Government of the Kyrgyz Republic;
- 3) expiry or approaching the date of expiry of goods or date of their sale;
- 4) marketing policy, including moving the totally new goods into markets as well as moving the goods, works and services into new markets;
- 5) sale of test models and samples in order to introduce them to consumers.

6. When determining the market price of goods (works, services) only transactions between the non-related parties are taken into account. Transactions between the related parties may be taken into account only in those cases when the relationship of such persons had no effect on the outcome of such transactions.

7. When determining and recognizing the market price of goods (works, services), the official sources of information on the open market prices and stock quotes shall be used, including the database of the government agencies and local self-governments, the information provided by the taxpayers to tax authorities and other relevant information.

### **Article 121. Principles of determining the market value of goods, works and services for taxation purposes**

1. The data given in the quarterly Market Price Bulletin of the National Statistics Committee of the Kyrgyz Republic shall be used as the market value of goods, works and services.

When selling the goods, works, and services at the state regulated prices (tariffs) established under the legislation of the Kyrgyz Republic, the given prices (tariffs) shall be used for the taxation purposes.

2. The market value of goods (works, services) shall be determined on the basis of the information on transactions, concluded at the moment of sale of goods (works, services), with identical and/or homogenous goods (works, services) under comparable conditions. The following terms and conditions of the transactions shall be particularly accounted: quantity or volume of the goods supplied (for example, volume of a consignment), dates for execution of obligations, terms of payment usually applied in the transactions of that kind and other reasonable conditions that may affect the price.

Terms and conditions in the market of identical goods, and in their absence, of homogenous goods (works, services) shall be recognized as comparable if the difference between such conditions either has no significant effect on the price of such goods (works, services) or it can be accounted through adjustments.

3. Resale Price Method shall be used for determining the market value, which determines the market value of goods (works, services) sold by a seller as the difference between the resale price of goods (works, services), regular costs incurred by the buyer in the course of resale and moving the goods (works, services) purchased by this buyer to the market and the buyer's profit usual for this type of business activity.

4. In case it is impossible to use the resale price method, the cost plus method shall be applied, which determines the market value of goods (works, services) sold as the total of expenses and profit usual for this type of business activity. Herewith, direct and indirect production costs and sale/purchase costs usual for such cases shall be taken into account, including the usual costs of transportation, storage, insurance and other similar expenses.

5. When considering a taxpayer's appeal against the tax authority decision on the price of a transaction, the Court has the right to take into account any circumstances that are important for determining the results of the transaction, not limiting itself to the circumstances listed in this Chapter.

## **Chapter 17. Interaction between tax authorities and other subjects**

### **Article 122. Interaction of the tax authorities with the customs authorities, financial intelligence and finance police bodies**

1. Tax Service Bodies shall interact with the Customs Bodies, Financial Intelligence and the Finance Police Bodies within the authorities provided for by this Code, the Customs Code of the Kyrgyz Republic, the Law of the Kyrgyz Republic on Operational Investigation Activity, the Law of the Kyrgyz Republic On Counter-acting Terrorism Funding and Legalization of Laundering of Proceeds from Crime and the bilateral (multilateral) agreements concluded.

2. Tax Service bodies shall interact with the Customs bodies, Financial Intelligence bodies and the Finance Police through exchange of information, receipt and provision of information and materials indicated in this Article.

3. Tax Service bodies shall:

1) examine the documented information and materials found and sent by the Finance Police bodies, Financial Intelligence and Customs bodies, which are related to execution of tax liability by a taxpayer, and shall decide on assigning the field tax audit or its denial in the manner established by this Code;

2) at the written request of the Finance Police and Financial Intelligence bodies provide the information available on the taxpayer registration, such as his identification number; his last name, first name, patronymic or the name of the taxpayer entity; place of residence or location; and information on VAT registration;

3) in accordance with the requirements of this Code, send to the Finance Police the field audit materials in which the understated (concealed) tax amount exceeds the threshold from which the criminal liability begins;

4) submit an application with the Finance Police for searching the persons not registering with the tax authorities, not filing tax returns, not reporting on the VAT invoices received, avoiding payment of taxes and start investigation on the facts of loss of the VAT invoices by the taxpayers, use of fake VAT invoices and excise stamps, and receive the justified replies to these request letters by the established deadline;

5) after the Finance Police examines the materials of the official investigation of the violations committed by tax authority officials and if the violation is not referred to a crime, the tax authorities shall take measures against these persons in a disciplinary and administrative manner;

6) receive a complete database on export-import operations from the customs bodies, including the information on imported fixed assets with the VAT pre-accrual;

7) provide the customs bodies with the information on customs violations found during the field audit by sending the relevant materials to them.

### **Article 123. Interaction between tax authorities and justice authorities**

Tax authorities shall interact with the justice authorities by exchanging the databases on the entities registered, re-registered and excluded from the State Register.

### **Article 124. Interaction between tax authorities and national statistics bodies**

1. Tax Service Bodies shall interact with the State Statistics Bodies within the authorities provided for by this Code and the Law of the Kyrgyz Republic on State Statistics.

2. Tax service bodies shall interact with the national statistics bodies by means of:

1) exchange, receipt or provision of the information and materials indicated in this Article;

2) participation in determining the tasks, developing the forms and processing the results of the national statistics observations in taxation sphere for collection of statistical reports, accounting, holding census, polls, samplings and other kinds of surveys;

3) participation in developing statistical methodology and statistical reports and documents on state statistical observations, and standard forms of accounting documents;

4) maintenance and ensuring the informational compatibility of the State Taxpayer Register and the Unified State Register of Statistical Units on the basis of the unity of principles, methods and forms of keeping informational funds.

3. Tax service bodies shall interact with the state statistics bodies in the following cases as well:

1) registration and entry of a new taxpayer into the State Taxpayer Register and the Unified State Register of Statistical Units;

2) re-registration of the taxpayer;

3) exercising control over the taxpayer's activity within the authorities established;

4) cease of activity by the taxpayer.

4. Tax service bodies shall provide the following information to the state statistics bodies:

1) information on the number of the registered taxpayers;

2) information on the number and categories of the taxpayers carrying out a patent-based activity.

5. State statistics bodies shall provide the following information to tax authorities:

1) the database on the entities that completed state registration – every month;

2) reference books and bulletins issued by the state statistics bodies – on a regular basis;

3) following the relevant request, the necessary information (database) on statistical units either on paper or in electronic format.

### **Article 125. Interaction between tax authorities and body in charge of registration of the objects of taxation**

1. Tax service bodies shall interact with the bodies of the Unified System of Real Property Registration as well as with the agencies in charge of registration of the vehicles including tractors, motor boats (water scooters, etc.), self-propelled machines and trailers by receiving the written information on:

- 1) property – objects of taxation registered or withdrawn from registration list in the relevant agencies;
- 2) subjects - owners of that property;
- 3) tax parameters of the property which is the object of taxation.

2. The bodies listed in Para 1 of this Article are obligated to provide information on state registration of ownership or the object of taxation for the previous month to a tax authority before 20<sup>th</sup> of every month.

3. When performing registration or re-registration, issuing certificates or conducting technical examination of the vehicles, the agency in charge of registration of vehicles or tractors, self-propelled machines and trailers is obligated to demand the document of property tax payment.

In the absence of this document, registration, re-registration, issuance of certificates and technical examination is prohibited.

4. Tax service bodies shall interact with the bodies in charge of registration of the deals on transfer of the rights of ownership, including notary deals and transactions at the stock exchange of the Kyrgyz Republic. The bodies indicated in this Para are obliged to send information on registration of the deals to the tax body at the place of their location every quarter before 20<sup>th</sup> of the month following the last month of the reporting quarter.

### **Article 126. Interaction between tax authorities and the bank**

For the purpose of interaction with the tax authorities, the banks are obligated to:

- 1) provide information on opening and closure of the taxpayer account which has to be provided to a tax authority at the place of the bank's registration within 5 days after the opening or the closure of the account;
- 2) provide information on transactions held with the taxpayer accounts, including information on the current condition of the taxpayer account, which is provided on the basis of the written demand from a tax authority;
- 3) open the accounts to organizations and individual entrepreneurs only after the taxpayer shows the tax authority document certifying his tax registration and lack of the tax arrears;
- 4) execute in a top-priority and indisputable way the taxpayer's order to transfer money to the budget against his tax liability;

- 5) transfer tax amounts to the budget on the same date on which the money was withdrawn from the taxpayer account;
- 6) provide information on writing off the debt of a borrower within 30 days calendar days;
- 7) execute, in the top-priority and indisputable way, tax payment demands issued by the tax authorities on repayment of the tax debt recognized by the taxpayer.

**Article 127. Interaction between tax authorities and the bodies in charge of state registration of the civil status acts**

Tax service bodies shall interact with the bodies in charge of registration of the civil status acts, the local self-government authorized to perform civil act registration, the diplomatic missions and consular establishments of the Kyrgyz Republic outside the Kyrgyz Republic by receiving information on state registration of the civil status acts such as birth, death, marriage, divorce, change of surname, first name or patronymic.

**Article 128. Interaction between tax authorities and the bodies authorized to deal with foreign citizens and individuals without citizenship**

Tax service bodies shall interact with the bodies authorized to deal with foreign citizens and individuals without citizenship by receiving information on:

- 1) permits issued to foreign citizens and individuals without citizenship to enter the Kyrgyz Republic, to stay in the Kyrgyz Republic and exit the Kyrgyz Republic;
- 2) foreign citizens and individuals without citizenship arriving to Kyrgyzstan for the purposes of employment.

**Article 129. Interaction between tax authorities and self-regulated taxpayer organizations**

For the purposes of developing and implementing the effective tax policy in Kyrgyzstan, raising the level of interaction and achieving the balance of interests of the taxpayers and the state, tax services bodies shall interact with the self-regulated taxpayer organizations, including business associations and professional unions.

**Article 130. Interaction between tax authorities and diplomatic, consular and other missions of the foreign states or an international organization**

Tax service bodies shall interact with the diplomatic, consular and other missions of foreign states or the international organization given the provision saying that that these subjects enjoy immunity against the tax authority demand to provide information or perform any action in accordance with the provisions of this Code.

**Article 131. Interaction between tax authorities and local self-governments**

1. Local self-government bodies shall interact with the local self-governments by means of:

- 1) Receipt of the following information from a local self-government:
    - a) decisions on introduction of the local taxes;
    - b) decisions (resolutions) on the land plots allotted to legal and physical persons for business purposes and construction of residences;
    - c) information on the lease contracts concluded for the use of state-owned and municipal lands and pastures;
    - d) decisions on the approved rates of coefficients differentiating the base rate of the land tax imposed on the used lands of inhabited areas and determined depending on the specificities of the economic and planning zones of the inhabited areas;
    - e) Decisions on the land tax and property tax exemptions.
  - 2) Joint participation in the work of the Commissions contemplated by this Code;
  - 3) Carrying out joint activities for taxation purposes.
  - 4) Joint forecasting of the local budget revenues.
2. Local self-governments shall provide assistance to the tax service bodies in recording of the taxpayers and tax collection.

**Article 132. Interaction between the tax authorities and the bodies authorized to issue licenses and permits to organizations and physical persons**

Tax service bodies shall interact with the bodies in charge of issuance of licenses and permits by receiving from them information on the subjects [individuals and entities] that received the licenses and permits and other information provided at the request of tax authorities.

**Article 133. Liability for violation of the provisions of this Chapter**

Incompliance with the requirements of this Chapter by the officials of the given bodies shall be a legal offence and incur liability under the law of the Kyrgyz Republic.

## **SECTION V. TAX VIOLATION AND LIABILITY FOR TAX VIOLATION**

### **Chapter 18. General provisions on liability for tax violations**

#### **Article 134. Concept of the tax violation**

1. Violation of the tax legislation of the Kyrgyz Republic or a tax violation is an unlawful act (action or inaction) committed by a participant of tax legal relationships, which possesses no elements of the administrative and/or criminal violation.

2. A liability for violation of the tax legislation of the Kyrgyz Republic possessing the elements of a criminal or administrative offence shall be established by the Code of Administrative Responsibility of the Kyrgyz Republic or the Criminal Code of the Kyrgyz Republic.

#### **Article 135. Liability for tax violation**

1. The liability for committing a tax offence is a legal consequence of the tax offence expressed in conviction and application of the enforcement measures by the Court or by a competent authority (an official) in respect of the participant of tax legal relations culpable in committing the tax offence.

2. The liability for a tax violation shall be established by this Code.

3. It is prohibited to include the provision establishing liability for a tax violation into the laws other than the Tax Code.

#### **Article 136. Participants of tax legal relations subject to liability for tax violation**

1. The following persons shall be held liable for tax violation in the cases provided for by this Code:

- 1) a taxpayer, its officials and/or the lawful representatives (parents, a guardian, a trustee);
- 2) tax service bodies, their officials;
- 3) other participants of tax legal relations.

**Article 137. General principles for bringing to liability for tax violation**

1. A person may be held liable for committing a tax offence only on the grounds and according to the procedure provided for in this Code and the legislation of the Kyrgyz Republic.

2. No person shall be twice held liable for the same tax offence.

3. Liability for the tax offence imposed on a participant of tax legal relations shall not release its [participant's] officials from the liability provided for by the KR Criminal Code or the Code of Administrative Responsibility given that the appropriate grounds exist.

4. Liability for the tax offence shall not release the taxpayer from the obligation to satisfy his tax liability and pay the due amounts of fine and penalty.

5. A participant of tax legal relations shall be considered 'not guilty of a tax offence' until his guilt is proved in accordance with the procedure provided for by the legislation of the Kyrgyz Republic.

6. A taxpayer and its official held liable are not obligated to prove their innocence of committing the tax offence.

7. Tax service bodies shall be required to prove the evidence of a tax offence committed and the person's guilt of committing a tax offence.

**Article 138. Period of limitations for liability for committing a tax offence**

1. A subject may not be held liable for a tax offence if 6 years have passed (the period of limitations) and no corresponding notice has been delivered.

2. If a tax offence relates to tax understatement in the tax return, the statute of limitations period shall be reckoned from the date of delivery of the notice.

**Article 139. Tax penalty for committing a tax offence**

1. Tax penalty is a measure of liability for committing a tax offence.

2. Tax penalty is established and applied in the form of monetary enforcements in the amounts provided for by this Code.

3. If a person commits two and more tax violations, tax penalty provided for by this Code shall be enforced for each violation separately, a more serious offence shall not absorb a less serious one.

**Article 140. Period of limitations for tax penalty enforcement**

1. Tax service bodies may apply to the Court demanding enforcement of a tax penalty during 6 years after delivery of the notification to the taxpayer about his liability for committing a tax offence.

2. In case of refusal to open or close the criminal case, notwithstanding the occurrence of a tax offence, the period for filing a lawsuit shall be reckoned from the date of receipt by a tax authority of the formal refusal to open or close the criminal case.

**Chapter 19. Types of tax offences and liability for committing them****Article 141. Evasion from the tax and (or) recording registration with a tax authority**

A taxpayer carrying out an activity without tax or recording registration is liable for a penalty equal to the amount of taxes accrued and/or subject to accrual for the period of such activity, which should not be less than 50 estimation factors.

**Article 142. Understatement of taxes**

If the tax amount shown on the return understates the amount of tax required to be shown on the return, the following measures shall be taken against the taxpayer:

1) if tax understatement is up to 2% of the gross annual income for the audited calendar year - no fine is imposed;

2) if tax understatement is between 2-5% of the gross annual income for the audited calendar year – the fine is imposed equal to 50% of the understated tax amount;

3) if tax understatement exceeds 5% of the gross annual income for the audited calendar year – the fine is imposed equal to 100% of the understated tax amount.

**Article 143. Failure to satisfy tax obligation by a tax agent**

In case of non-payment or partial payment of the tax withheld and subject to payment, the tax agent shall be penalized in the amount of 10% of the due tax payment and/or after-payment for each month (or portion of the month) beginning from the date determined for its payment, but no more than 50% of the given amount.

**Article 144. Liability of the bank**

Non-compliance with the requirements set forth in Article 126 of this Code shall incur the tax penalty of 100 estimation factors.

**Article 145. Liability of a tax authority official**

1. A tax authority official culpable of violation of the tax legislation of the Kyrgyz Republic shall be held liable according to the procedure established by the legislation of the Kyrgyz Republic.

2. The losses inflicted upon the taxpayer by the action and/or inaction of the tax service official shall be refunded in the manner established by the legislation of the Kyrgyz Republic.

**SECTION VI. APPEAL OF THE DECISION OF A TAX AUTHORITY,  
ACTIONS AND (OR) INACTION OF ITS OFFICIALS****Chapter 20. Procedure for appealing the decision of a tax authority****Article 146. Bodies considering a taxpayer's complaint about the decision of a tax authority**

According to this Section, a taxpayer's complaint against the decision of the tax service bodies shall be considered, upon delivery of the notice, in an authorized tax authority.

**Article 147. Procedure and dates for filing a complaint by the taxpayer**

1. A taxpayer's complaint against the decision of a tax authority shall be filed with an authorized tax body within 30 calendar days from the date of delivery of the notice on the corresponding decision to the taxpayer.

2. If the taxpayer files a complaint against the decision of a tax authority upon expiration of the period established by Para 1 of this Article, this complaint is not subject to consideration.

3. A copy of the complaint must be sent by a taxpayer to the tax authority whose decision is appealed.

4. The complaint filed in violation of the provisions of this Section shall be sent back by an authorized tax body to the applicant with indication of the reason.

5. The taxpayer, upon elimination of the reasons that caused return of his complaint, shall have the right to once again send the complaint to an authorized tax body within 10 days after receiving back his complaint.

6. In the event of tax liability understatement, which initiates a criminal case, the taxpayer's complaint shall not be considered. At that, the taxpayer has the right to apply to an authorized tax body for getting an expert opinion on the matter indicated.

#### **Article 148. Form and content of a taxpayer's complaint**

1. A taxpayer's complaint shall be filed in a written form.
2. A complaint shall indicate:
  - 1) the date of filing a complaint;
  - 2) the name of an authorized tax body to which the complaint is filed;
  - 3) surname, name and patronymic or the full name of the person filing a complaint, his place of residence (location);
  - 4) Taxpayer Identification Number;
  - 5) the name of the tax service body whose decision is appealed;
  - 6) the circumstances that serve as the rationale of the appellant's demands and the proof confirming these circumstances;
  - 7) the list of the documents attached.
3. The complaint may contain other evidence as well that is important for the dispute settlement.
4. The complaint shall be signed by a taxpayer.
5. The following shall be attached to the complaint:
  - 1) copies of the materials and the report on the tax control results;
  - 2) copies of the decision and the decision notice;
  - 3) documents confirming the circumstances serving as the basis for the taxpayer's demands, certified by the taxpayer and other bodies;
  - 4) other documents relating to the case.

#### **Article 149. Consideration of a taxpayer's complaint**

1. A written decision shall be issued with regard to the essence of the complaint, indicating the reason for making that decision, within 30 calendar days.

The period for consideration of an appeal shall be reckoned from the date following the date of registration of the complaint with an authorized tax body and shall expire on the date on which the decision is sent to the taxpayer.

2. If a taxpayer files another appeal in addition to the primary appeal with regard to interrelated taxes and payments, the period for appeal consideration and decision-making on the primary and additional appeals shall be reckoned from the date of submission of an additional appeal.

Consideration of an appeal shall be suspended in case the counter audit is held; the letters are sent to law-making bodies asking for clarification on application of the tax law provisions or the letters are sent to authorized bodies of other states under international agreements.

A taxpayer shall be sent an interim response saying that the final decision on his complaint shall be made after conditions provided for by this part are fulfilled.

3. In case an authorized tax service body fails to issue a decision on the complaint by the dates established by Para 1 of this Article, the complaint shall be considered satisfied.

4. One of the following decisions shall be made based on the results of consideration of a taxpayer's complaint:

- 1) to satisfy the taxpayer's complaint;
- 2) to partly satisfy the taxpayer's complaint;
- 3) to leave the complaint unsatisfied.

5. Based on results of consideration of the complaint, an authorized tax body shall send a written reply determining the set of actions to be undertaken for elimination of the violations.

6. If the appeal contains a question to which an appellant has repeatedly received the written replies to his earlier sent complaints and if the appeal has no new arguments or circumstances, an authorized tax service body has the right to make decision on the lack of grounds for the appeal and cease the correspondence with the taxpayer on the given issue provided that the appeal in question and the earlier sent appeals have been sent to the same tax authority. The taxpayer shall be notified of that decision in writing.

7. A taxpayer disagreeing with the decision of an authorized tax service body on his appeal has the right to appeal this decision in the Court.

#### **Article 150. Contents of the written response to the taxpayer's complaint**

The decision on the complaint must indicate the following:

- 1) the date on which the decision was made and the place;
- 2) the name of an authorized tax service body (an official) that considered the complaint;
- 3) the surname, name and patronymic or the full name of an appellant;
- 4) taxpayer's identification tax number;
- 5) the name of the body (an official) against whom the complaint was filed;

- 6) a brief summary of the decision appealed;
- 7) the essence of the complaint;
- 8) description of the motives and the facts serving as the basis for making decision;
- 9) references to the provisions of this Code, the law or the statutory act;
- 10) the decision made;
- 11) a corresponding instruction to the tax body whose decision was appealed.

#### **Article 151. Consequences of filing an appeal**

1. An appeal filed by a taxpayer in the manner established by this Code shall suspend execution of the decision appealed.
2. Execution of the decision shall be suspended until a written response is dispatched.
3. In the event of full or partial satisfaction of the taxpayer's complaint, the corresponding amendments and additions shall be made to the decision of the tax body on the basis of the written response.
4. If a taxpayer's complaint is satisfied in full or in part, tax sanctions and interests shall be accrued solely to the amount which is recognized as reasonably accrued.
5. If, upon decision-making, the documented evidence is received which has not been accounted and which entail the change of the taxpayer's liability, an authorized tax body has the right to change its decision.

#### **Article 152. Procedure for appealing actions and/or inaction of the tax authority officials**

Actions and (or) inactions of a tax authority official shall be appealed according to the procedure provided for by the legislation of the Kyrgyz Republic.

### **SPECIAL PART**

#### **Article 153. Institutes, terms and concepts used in the Special Part of this Code**

The Special Part of this Code uses the following terms and concepts:

- 1) "Charitable activity" means the voluntary activity of the physical and (or) legal persons aimed at implementation of the charitable goals provided for by the law of the Kyrgyz Republic on charitable activity such as transfer of assets to individuals and legal entities, rendering services and performance of works either on gratis basis and at preferential conditions or for the charge not exceeding the costs of such services provided and works performed.
- 2) "Charitable organization" is a not-for profit organization:

- a. created and engaged in charitable activity in accordance with the laws on not-for-profit organizations and charitable activity;
- b. not engaged in the production and (or) sale of excisable goods or gambling business;
- c. not engaged in the support of political parties or candidates for elected office.

3) “Returnable insurance premium” means the return by an insurer of the insurance premium paid by an insured individual in full or in part in case of a prescheduled denunciation of the contract.

4) “Membership entrance fees” mean the assets transferred to a person when entering a membership-based non-profit organization, in the amount and in the manner provided for in the constituent documents of this organization provided that such transfer is not conditioned by the cross-provision of services to a member of this organization free of charge or at the price lower than the cost price.

5) “Redemption amount for long-term life insurance cases” means the part of reserve contributions payable to the insured individual as of the date of prescheduled denunciation of the contract by him. The redemption amount is determined according to the special tables developed by the insurer and depends on the duration of the expired insurance period and the term of a contract.

6) “Grant” means the assets transferred gratis by the states, international, foreign and domestic organizations to the Government of the Kyrgyz Republic, local self-governance bodies, state organizations and non-profit organizations that do not provide the political parties or the candidates of electoral campaigns with their support.

7) “Humanitarian aid” means the assets provided on a gratis basis by the states and organizations to the Government of the Kyrgyz Republic, local self-governance bodies, government and non-profit organizations, as well as to needy individuals, in the form of food, machinery, equipment, outfit, medical supplies and pharmaceuticals, other property for improving peoples’ living conditions and preventing and liquidating emergency situations of military, environmental and man-caused nature provided their further consumption and (or) gratuitous distribution.

8) “Dividend” means the part of the taxpayer’s profit, including:

- a. increment of value during liquidation of the organization received by a person as the profit from the shares owned, or;
- b. after-tax profit of an individual entrepreneur;
- c. any payments made in proportion to the person’s share in the capital;
- d. payments of the cooperative entity to the members of the agricultural trade and service cooperatives;
- e. payments in proportion to the share in the investment fund.

9) “Documented expenses” mean expenditures supported by the documents, whose list, format and requisites are established by the Government of the Kyrgyz Republic, that allow for determining the size and the nature of a transaction and identifying its participants.

10) “Lottery activity” means the activity of a subject [entity] on organization of the group or mass game, during which a lottery organizer holds a drawing of the prize fund amongst the lottery participants – holders of lottery tickets under the law of the Kyrgyz Republic. Herewith, the winning does not depend on the will and actions of the subject of the lottery activity. Organization of the *pari mutuel* also refers to the lottery activity.

11) “Not-for-profit organization” is an organization that satisfies the following requirements:

- a. this organization is registered in an organizational and legal form provided for by the law of the Kyrgyz Republic for non-profit organizations;
- b. this organization does not consider deriving income as the principal goal of its activity and does not distribute the income derived amongst its members, founders and its officials.

12) “Culture and Sport Organizations” mean commercial and non-commercial organizations, regardless of the form of ownership, whose main activity is to provide services of keeping, creating, developing, spreading and studying cultural values and delivering cultural goods as well as services in the field of physical exercise and sport.

13) “Payment” includes all types of payment to a supplier made directly or indirectly by a consumer or other person for the supplies paid or payable in full or in part, in kind or in money.

14) “Minerals” are the underground natural mineral formations, hydrocarbon and underground waters, whose chemical composition and physical properties allow their use in the field of material production and consumption.

15) “Spoilage of goods” means deterioration of all or some qualities of the product which makes it impossible to use the product for purposes of a taxable supply.

16) “Interest income” means the income from any kinds of debt claims including the income from bonds, promissory notes and other forms of borrowing, including the income received under financial lease agreement.

17) “Field development” means a complex of mining works on opening-up, preparation and extraction of minerals.

18) “Royalty” means any kind of payment received as the premium for:

- a. the use or granting the right to use copyright on any works of literature, arts or science, including computer software, cine-, tele-, video-films or records for radio and television;
- b. any patent certifying the right to the object of industrial property, trade mark, design or model, plan, secret formula or process or to the information (know-how) related to industrial, commercial or scientific experience.

For purposes of Section XI of this Code, "royalty" means the payment for use of minerals by the payer of the royalty.

19) "Agricultural producers" means an organization or an individual producing agricultural products, including their own agricultural processed products other than excisable goods, provided that the earnings from the sale of these products make no less than 75% of the total sales of goods, works, services during the tax year.

20) "Agricultural commodity-service cooperative" means a cooperative society, in which at least 75% of members are agricultural producers and at least 75% of earnings come from sale of goods, works and services produced by this cooperative for the members of this cooperative society.

21) "Insurance premium (contribution)" is the amount paid by an insurant to an insurer for undertaking obligations to pay the insurance amount (compensation) upon emergence of the insurance provided for in the insurance contract. The amount is contributed by an insurant as a onetime payment (insurance premium) or in installments (insurance contributions) on a monthly, quarterly, etc. basis during the period of validity of the insurance contract.

22) "Insurance case" means an event upon occurrence of which an insurer has to pay the insurance amount (compensation) by virtue of the law or an agreement.

23) "Insurance money (compensation)" means a partial or full compensation of the damage within the insurance limits in the insurance cases with the insurant, the third parties or their property, which is paid out by an insurance organization.

24) "Insurer" means a domestic organization licensed under the law of the Kyrgyz Republic to carry out the given insurance activity and, under the insurance contract (policy of insurance) concluded with the insurant, undertaking an obligation, for remuneration (insurance premium (contribution), to reimburse the damage incurred by an insurant or the third person upon occurrence of the insurance case determined in the insurance contract.

25) "Insurant" means an individual or an organization which has interest in the object of insurance and has concluded a contract with an insurer for the purpose of insuring interest of his own or the third person (beneficiary) and paying to an insurer the premium (insurance premium) for the commitment to reimburse the damage upon occurrence of the insurance case provided for in the insurance contract (policy of insurance).

26) "Subsidy" means the aid provided by the Government of the Kyrgyz Republic, the Jogorku Kenesh of the Kyrgyz Republic and Local Keneshes of the Kyrgyz Republic in the form of transfer of assets to a taxpayer in exchange for the past or future fulfillment of certain conditions related to his economic activity.

27) "Loss of the product" means the event resulting in destroy and/or loss of the product. The "loss" shall not include the loss of goods incurred by the taxable subject within the limits of natural losses established by normative and legal acts effective on the territory of the Kyrgyz Republic.

28) "Financial lease" means a special type of lease relations implying transfer of fixed assets under financial lease contract concluded in the manner established by the legislation of the Kyrgyz Republic.

29) “Membership fees” mean assets contributed by a person belonging to a membership-based non-profit organization in the amount and in the manner provided for in the constituent documents of that organization, provided that such transfer is not conditioned by cross-provision of goods, works and services to a member of this organization gratis or at a price lower than the cost price.

30) “Economic (balance) reserves” mean mineral reserves owned by the Kyrgyz Republic, whose extraction and processing into marketable products given the current prices and industrial technologies are economically acceptable for an investor.

## **Chapter 21. Tax accounting**

### **Article 154. Tax accounting rules**

1. Tax accounting is the system for summarizing information for the purpose of determining tax base on the basis of the primary documents grouped in the manner provided for in the Law of the Kyrgyz Republic on Accounting and in this Code.

2. Tax records shall be kept in order to form the complete and reliable accounting information for the purposes of taxation of economic transactions conducted by a taxpayer during the reporting (tax) period and in order to provide information to internal and external users for monitoring the accuracy of calculation, full and timely tax assessment and its payment to the budget.

3. The system of tax accounting shall be organized by a taxpayer independently based on the principle of consistent application of the tax accounting norms and rules, i.e. applies consistently from one tax period to another one. The system for keeping tax records shall be established by a taxpayer in his account policy for taxation purposes, which is to be approved by the corresponding order (resolution) issued by the head [director]. Tax service and other bodies have the right to recommend the forms of tax accounting documents to the taxpayers.

4. The decision on making changes to tax accounting policy in view of the changes in the applied accounting methods shall be made from the beginning of the calendar year, whereas if these changes are due to changes in the tax legislation of the Kyrgyz Republic – the decision shall be made no earlier than upon the tax law amendment comes into effect.

### **Article 155. Method of tax accounting**

1. A taxpayer shall determine the value of assets, the scope of obligations, incomes and expenditures for taxation purposes according to the method and rules applied in accounting and in accordance with the law of the Kyrgyz Republic, unless otherwise provided for by this Code.

A taxpayer shall transfer to a new method of accounting from January 1 with the notification sent to a tax authority.

2. If the accounting method applied by the taxpayer changes, adjustments to records of incomes and expenditures and other elements affecting tax amount must be made in that year in which the accounting method was changed so that none of the above-indicated elements be missed or accounted twice.

3. A foreign currency transaction shall be converted into national currency of the Kyrgyz Republic in compliance with the rules established by the Law of the Kyrgyz Republic on Accounting.

4. Barter transactions, with respect to all taxes, shall be considered as the sale of goods (works, services) at applicable prices accompanied by the mandatory invoice documentation of these transactions.

### **Article 156. Tax records and Tax Accounting Registers**

1. A primary tax document for determining income and deductions shall be the document certifying the amount of income and the amount and nature of expenditures, including the invoice, cash voucher or receipt, document of purchase and registers drawn up in accordance with the Law of the Kyrgyz Republic on Accounting.

In case the accounting ledgers have insufficient information for determining the tax base in accordance with the requirements of the Law of the Kyrgyz Republic on Accounting and this Chapter, the taxpayer shall have the right to either independently include additional requisites to his ledgers, thus forming the tax accounting registers, or keep separate tax accounting registers.

2. Tax records must reflect the way income and expenditures are formed, the procedure for determining the share of expenditures accounted for taxation purposes in the current tax (reporting) year, the balance of expenditures (losses) referable to subsequent tax periods, order of formation of the amounts of reserves created and budget settlements.

The following shall serve as support of tax records:

- 1) primary accounting documents (including the accountant's statement);
- 2) analytical tax accounting registers;
- 3) tax base assessment.

3. Analytical tax accounting registers are meant for systematizing and accumulation of the information contained in the primary documents accepted for accounting purposes, and analytical tax accounting data for reflection in the tax base estimation.

Tax accounting registers are kept in the special paper form, in electronic form and (or) on any other data carriers.

Forms of tax accounting registers and procedure for reflecting analytical tax accounting data and the data of primary tax records shall be developed by the taxpayer independently and they shall be recognized as Annexes to an organization's account policy for taxation purpose.

Herewith, analytical accounting of tax records must be organized by the taxpayer so it showed the way the tax base was formed.

4. The forms of analytical tax accounting registers for determining tax base which are the tax accounting documents must contain the following details in a mandatory way:

- 1) name of the register;
- 2) period (date) of its compilation;
- 3) measurements of the transaction in kind (if possible) and in cash;
- 4) name [description] of economic transactions;
- 5) signature (signature decoding) of the person responsible for register keeping.

5. The persons who kept tax records and signed them shall ensure the accuracy of reflection of the economic operations in the tax accounting registers.

Correction of an error in tax records must be justified and certified by the signature of the authorized person who made correction, with the indication of the date and justification of the correction made.

#### **Article 157. Simplified tax accounting method for small businesses**

1. A small business which has not registered as the VAT payer and which selected the regular tax regime has the right to assess and pay taxes based on the simplified tax accounting method.

2. Unless otherwise provided for by this Code, an authorized tax service body shall determine the simplified method of accounting and the procedure for its application.

#### **Article 158. Separate accounting and rules for separate accounting**

1. The taxpayers who are engaged in the activities taxed differently under this Code are obligated to have a separate accounting of the objects of taxation.

2. A separate accounting shall be kept by the taxpayers on the basis of accounting records.

All income and expenses referred to a particular activity must be supported by the corresponding accounting records.

3. In case it is impossible to refer some expenditure to a certain activity, an authorized tax service body shall determine where to refer such expenditures.

#### **Article 159. Financial leasing**

1. The value of fixed assets transferred and/or received under financial leasing shall be determined as the moment of signing the financial lease contract.

2. For taxation purposes, financial leasing is recognized as the purchase of the fixed assets by a lessee.

3. A lessee shall be treated as the owner of fixed assets whereas the lease payments shall be considered the payments against the loan extended to a lessee.

## **SECTION VII.PERSONAL INCOME TAX**

### **Chapter 22. General provisions**

#### **Article 160. Terms and concepts used in this Section**

This Section uses the following terms and concepts:

1) “Winnings” mean any types of payments, prizes and other income in kind and in cash received by the taxpayers from participation in games, lotteries, gambling houses, contests, competitions, Olympiads, festivals and other similar events.

2) “Income” means any inflow of money, receipt of material goods possessing the money value and/or receipt of material benefits as well as reduction of taxpayer’s liabilities.

3) “A dependent” is a close relative of the taxpayer who earns no income and depends on the taxpayer.

4) “Tax agent” is the organization or the individual entrepreneur paying out income to a physical person who is not an individual entrepreneur.

#### **Article 161. Payer of the Personal Income Tax**

1. The payer of the personal income tax shall be:

- 1) a physical person –citizen of the Kyrgyz Republic receiving income;
- 2) a resident physical person who is not the citizen of the Kyrgyz Republic but receives income;
- 3) a non-resident physical person who is not the citizen of the Kyrgyz Republic, receiving income from the source in the Kyrgyz Republic;
- 4) a tax agent paying income to a physical person from the source in the Kyrgyz Republic.

2. An individual entrepreneur is not the payer of the personal income tax except for the case when this individual entrepreneur is a tax agent.

**Article 162. Object of taxation**

The following is the object of PIT taxation:

- 1) the economic activity, other than entrepreneurial activity, resulting in receipt of income:
  - a) from the source in the Kyrgyz Republic and (or) from the source outside the Kyrgyz Republic – for a citizen of the Kyrgyz Republic and a resident physical person, who is not Kyrgyz citizen;
  - b) from the source in the Kyrgyz Republic – for a non-resident physical person;
- 2) receipt of any other income.

**Article 163. Tax base**

1. The PIT tax base is the income calculated as the difference between the gross annual income received by the taxpayer for the tax period and deductions provided for by this Section, unless otherwise provided for in this Article.

2. The tax base may not be less than the amount of the minimal alternative income for the PIT tax period.

3. Minimal estimated income per month is established by an authorized tax body annually based on the data of the Statistical Body of the Kyrgyz Republic on the regional average monthly wage rate as of 1 October of the previous year given the standard deductions provided by Subpara 1) and 3) of Article 170 of this Code.

4. Minimal estimated income shall not apply to the following categories of physical persons:

- 1) persons receiving remuneration from budget funds;
- 2) concurrently employed persons;
- 3) hired junior servicing personnel;
- 4) working in the building societies, condominiums, housing associations, garage and fruit-and-vegetable cooperatives;
- 5) disabled persons of Groups I, II and III of the Kyrgyz Society for Blind and Deaf.

5. For taxation purposes, the janitors, cleaners, yard-cleaners, hospital attendants and stokers are recognized as the servicing junior personnel.

**Article 164. Tax period**

A calendar year is the tax period for the personal income tax.

## Chapter 23. Gross annual income

### Article 165. Composition of the gross annual income

1. Gross annual income includes all types of income received by a taxpayer in a given tax period in cash or in kind, in the form of works or services, including:

- 1) income of the worker, including:
  - a. payment for work, including remunerations, the guaranteed, compensatory and other payments contemplated by the labor legislation of the Kyrgyz Republic;
  - b. benefits received by the worker as labor compensation:
    - i. goods;
    - ii. works performed in the interests of the worker;
    - iii. services provided to the worker;
  - c. payment made by an employer for goods, works, services received by the worker from the third persons;
  - d. income in the form of bonuses or compensations received for participation in organization management;
  - e. amounts of insurance premiums paid by an employer under agreements for insurance of their workers.
- 2) income received in the form of material benefit;
- 3) cost of assets received gratis;
- 4) interest income, including the income received under insurance contracts, other than non-taxable incomes and the income taxed earlier at the source of payment in the Kyrgyz Republic;
- 5) dividends;
- 6) increment of value from the sale of a vehicle owned for less than one year from the date of its purchase;
- 7) value increment from the sale of immovable property referred to the housing fund in accordance with the data of the Unified System of Real Property Registration and owned for less than two consecutive years from the date of purchase of the real property;
- 8) income from the sale of securities or from the sale of the share in the organization less the purchase cost;
- 9) subsidy;
- 10) income received as compensation for moral damage;
- 11) pensions;

- 12) scholarships;
  - 13) benefits;
  - 14) any income received as the winning;
  - 15) income from cessation of the taxpayer's liabilities as a result of:
    - a. debt forgiveness by a creditor;
    - b. writing off of the taxpayer's liabilities due to expiration of the statute of limitations period established by the Civil Code of the Kyrgyz Republic;
    - c. satisfaction of the taxpayer's obligation, including his tax liability, by the third person.
  - 16) insurance sum (redemptions) under insurance agreements;
  - 17) royalty;
  - 18) income paid out through the accumulative types of insurance (interest income under insurance and re-insurance contracts).
2. The income expected but not actually received is not considered the income and not included in the gross annual income.
  3. Gross annual income shall not include non-taxable income.

**Article 166. Income received in the form of a material benefit**

1. Gross annual income includes receipt of the following kinds of a material benefit:
  - 1) the loan or credit provided interest free or at the interest rate lower than the discount rate of the National Bank of the Kyrgyz Republic (hereinafter referred to as the NBKR) as of the moment of debt formation;
  - 2) goods provided gratis;
  - 3) discount given by the employer when selling goods to the employee.
2. When the loan is extended, the income from material benefit shall be the sum of the loan multiplied by the discount rate of the NBKR as of the moment of debt formation.
3. When the borrowing or the credit is extended, the income from material benefit shall be the positive difference between the product of the sum of the borrowing/credit and the NBKR discount rate as of the date of receipt of borrowing/credit and the product of the sum of the borrowing or credit and the interest rate fixed by the subject extending the borrowing or credit.
4. When goods are provided gratis, the income from material benefit shall be the accounting price of goods.
5. When discount is given, the income from material benefit shall be a positive difference between the balance sheet value of the product and its actual sale price.

6. The taxpayer shall be responsible for assessment and payment of the personal income tax on income received in the form of a material benefit, except for the material benefit provided to the employee by the employer.

### **Article 167. Non-taxable income**

The following income is non-taxable:

- 1) state benefits established in accordance with the legislation of the Kyrgyz Republic;
- 2) payments from the President's Fund of the Kyrgyz Republic and Reserve Fund of the Government of the Kyrgyz Republic;
- 3) benefits and compensations under state social insurance;
- 4) pensions paid out under the legislation of the Kyrgyz Republic;
- 5) benefits and compensations paid from the budget;
- 6) scholarships paid out to students of educational institutions at the rates established by the law of the Kyrgyz Republic;
- 7) material aid received because of the natural disaster or other emergency circumstance in order to indemnify against the material damage or harm to health based on the decision of executive government bodies and local self-governments;
- 8) sums of compensation payments and benefits paid from the budget because of decease of the servicemen, national security officers and government officials on duty;
- 9) material aid provided by the employers to close relatives of the deceased worker or to the worker who lost his close relative;
- 10) sums of indemnification for harm to health, as well as the sums paid out under the laws of the Kyrgyz Republic in case of severe injury or decease of a worker on duty;
- 11) sums of bonuses and rayon coefficients for work in high altitudes and remote zones in accordance with the legislation of the Kyrgyz Republic;
- 12) cost of the uniform, special footwear and other means of individual protection, soap and disinfectants; cost of milk and other equivalent food products for curative-preventive nutrition provided to workers working in harmful or hazardous labor conditions in accordance with the list of such works and at the rates established by the law of the Kyrgyz Republic;
- 13) cost of compulsory medical examination and medical –preventive treatment of the workers under the law of the Kyrgyz Republic;
- 14) reimbursement of travel expenses and of expenses incurred by the members of the management body of an organization during performance of their duties:
  - a. pertaining to travel to and from destination point – based on submitted documents;
  - b. pertaining to house/room rent - based on submitted documents;
  - c. per diems – within the limits established by the Government of the Kyrgyz Republic.

In the absence of the documents specified in Subpara a) and b) of this Para, reimbursed travel expenses shall be tax exempt within the limits established by the Government of the Kyrgyz Republic.

15) sums of insurance premiums paid by the employer under agreements on mandatory insurance of his workers, as well as payments under such agreements implemented in the manner prescribed by the law of the Kyrgyz Republic;

16) employer's expenses spent on training and re-training of the workers under Article 195 of this Code;

17) interest on deposits with the banks of the Kyrgyz Republic received by the pensioners, disabled people, participants of the Civil War and Great Patriotic War, servicemen participated in the war in Afghanistan and in other countries under inter-state agreements, persons awarded with the USSR medals for selfless work and irreproachable military service on the home front during the Great Patriotic War, participants of events in Batken, persons participated in liquidation of the accident at Chernobyl Atomic Station, disabled persons of the I and II Groups;

18) dividends received by resident physical persons of the Kyrgyz Republic from the share in domestic organizations;

19) income received from the third party:

- a. by disabled persons as payment for technical aids for the disabled;
- b. by disabled persons to take preventive treatment and rehabilitation, to keep guide-dogs for the disabled persons;
- c. by disabled persons, retirees, orphans, families having 4 and more children under age 16 in the form of benefits;
- d. by socially protected persons – in the form of free lunches.

20) payments by trade union bodies to the disabled persons, pensioners, orphans, mothers and fathers having many children;

21) sums received for blood donation, for other types of donorship provided for by the legislation of the Kyrgyz Republic;

22) income of the disabled persons and participants of the Civil War and Great Patriotic War, servicemen who participated in war in Afghanistan and in other countries under inter-state agreements, persons awarded with the USSR medals for selfless work and irreproachable military service on the home front during the Great Patriotic War, participants of the events in Batken, persons participated in the liquidation of the accident at Chernobyl Atomic Station, widows (widowers) of the servicemen perished in the Civil and Great Patriotic Wars, except for the incomes derived from entrepreneurial activity, unless otherwise provided by this Article;

23) alimonies received under the legislation of the Kyrgyz Republic;

24) any income from transfer of property between the spouses or between ex-spouses as a result of divorce;

25) cost of property, works or services received by a physical person from close relatives through inheritance or gift procedure, except for the property, works or services received when carrying out economic activity;

26) cost of property received by a physical person as the humanitarian aid;

27) income from the sale of agricultural products grown on the homestead land;

28) any types of income received in the form of winnings, whose amount does not exceed 10 estimation factors;

29) income received from the sale of movable and (or) immovable property used by the taxpayer for personal purposes and purchased for the purposes other than business activity, except for the cases when:

- a. income received from the sale of vehicles owned under the right of ownership for less than 1 year from the date of its purchase;
- b. income received from the sale of immovable property referred to the housing fund according to the data of the Unified System of Real Property Registration and which is in the owner's possession for less than 2 consecutive years from the date of purchase of this immovable property;

30) income in the form of New Year gifts presented by the employer to the employees' children (dependents) under age of 16, the sum of a gift should not exceed 10 estimation factors;

31) refunds in the amount of the participant's contribution or share or from equity securities;

32) returnable insurance premiums and redemptions, as well as insurance sums and refunds paid upon occurrence of the insurance case under insurance agreement concluded by the physical person not connected with the business activity, except for the cases indicated in Subpara 18, Para 1 of Article 165 of this Code.

33) interests and income from the increment of value of the securities ranking in the highest and the subsequent categories of the Kyrgyz Stock Exchange Listing as of the sale date;

34) interests on deposits to the banks of the Kyrgyz Republic;

35) income of the officers of the Ministry of Interior Affairs, State Committee for National Security, Defense Ministry, employees of the institutions and bodies of the penitentiary system, Agency for Drug Control, Fire Fighting Service, forces of the civil defense received in the form of money allowance and compensation against the food ration;

36) Scholarships to Olympic Games champions and prize-winners being paid from the state budget;

37) assets being transferred by the state and by the not-for-profit-organizations to persons requiring social rehabilitation, adaptation and medical assistance and possessing income below subsistence minimum:

- a. Refugees;
- b. Seriously ill persons.

**Article 168. Date of emergence of the income**

For purposes of this Chapter, the date of emergence of the income shall be:

1) the date of income payment, including transfer of income to the taxpayer's bank accounts or upon his/her authorization to the accounts of the third persons – where the income is received in a monetary form;

2) the date of transfer of the right of ownership of goods – where the income is received in the form of goods;

3) the date on which the whole work or its part is completed or services rendered – where the income is received in the form of works, services.

4) the date of payment by the taxpayer of the principal sum and (or) interests against the received loan, borrowing or credit, and on the purchased property – where the income is received in the form of a material benefit;

5) the date on which liabilities are ceased – in case of cessation of the taxpayer's liabilities.

**Chapter 24. Deductions from gross income for the purpose of determining the tax base****Article 169. General provisions**

1. The taxpayer is entitled to deductions provided for in this Chapter.
2. The taxpayer has the right to make deductions in that tax period to which these deductions refer.
3. The taxpayer is entitled to the following deductions:
  - 1) standard deductions;
  - 2) social deductions;
  - 3) property deductions.

**Article 170. Standard deductions**

Standard deductions include:

- 1) personal deduction – in the amount of 6,5 estimation factors per each month of the tax period;
- 2) deduction for the taxpayer's dependents – in the amount equal to one estimation factor per each dependent person for each month of the tax period;

- 3) deduction of the state social insurance contributions;
- 4) deduction of the contributions to the Non-State Pension Fund, which should not exceed 8 percent of the taxpayer's tax base.

#### **Article 171. Social deductions**

1. The taxpayer is entitled to the social deduction of education expenses of the taxpayer and his/her dependents whose age is under 24.
2. The amount deductible for pre-school, school, special secondary and higher professional education is equal to the documented amount paid by the taxpayer to the Kyrgyz educational institution, which is licensed by an authorized government body, but such amount should not exceed 10% of the taxpayer's tax base, less the educational tax deduction.
3. The social deduction under Para 1 of this Article is claimed when filing the tax return, based on the taxpayer's written statement and the documents certifying such expenses.
4. If the social deduction sum exceeds the limit specified in Para 2 of this Article, such excess shall not be deducted in the subsequent tax periods.

#### **Article 172. Property tax deductions**

1. The taxpayer is entitled to the property tax deduction equal to the amount of funds actually spent by the taxpayer to repay the mortgage loan, but no more than 230000 soms per annum.

A mortgage loan is the loan for the purchase and/or construction of the residential buildings and houses, which is given against the mortgage of that property.

2. The property tax deduction is claimed when filing the tax return, based on the taxpayer's written statement and the documents certifying repayment of the mortgage loan and interests on such loan by the taxpayer.
3. The property tax deduction herein provided shall not apply when the taxpayer's expenses for construction or purchase of the residential house (apartment) are covered by the employer or other subject, or when the sale-purchase deal on the house, apartment, room or a part of it is concluded between the interdependent individuals.

## **Chapter 25. Personal income tax rate. PIT calculation procedures**

### **Article 173. Personal income tax rate**

Personal income tax rate is 10 percent.

### **Article 174. PIT calculation**

Personal income tax is calculated by multiplying the PIT tax base by the PIT rate.

### **Article 175. Tax calculation procedures, payment deadlines and place of payment**

1. The PIT payer shall make the final calculation and pay personal income tax before filing a uniform tax return. The final sum of the personal income tax is determined as the difference between the tax amount calculated and the amount of current payments made for the reporting tax period.

2. Personal income tax shall be paid at the place of the taxpayer's tax and/or recording registration.

## **Chapter 26. Satisfaction of the PIT tax obligation by a tax agent**

### **Article 176. Tax obligation of a tax agent**

1. A subject who is a tax agent is obligated to calculate, withhold and transfer the personal income tax to the budget, unless otherwise provided for in this Section.

2. For the purpose of calculation of the PIT payable by a tax agent, the tax base is the difference between the income paid and the amount of standard deductions, unless otherwise provided for in the Section.

3. In case the PIT tax base is less than the minimal estimation income for the calendar month, the PIT tax base shall be considered equal to the minimal estimation income and shall serve as the base for PIT withholding by a tax agent.

4. Calculation of the PIT withheld by a tax agent shall not account the non-taxable income.

5. A tax agent shall be authorized to make a standard deduction only with regard to payments under labor contracts and only in case if these labor relations between the physical person and the tax agent were in effect for no less than 15 days during the month in which the payments were made.

**Article 177. Procedure for satisfaction of the tax obligation by a tax agent**

1. Personal income tax withheld by a tax agent shall be paid to the budget no later than the 15<sup>th</sup> day of the month following the month in which income was paid out.

2. Personal income tax withheld by a tax agent shall be paid at the place of the tax agent's tax recording, and if it has separate subdivisions – at the place of recording registration of a separate subdivision.

The tax payable to the budget at the place of location of a separate subdivision is determined based on the income paid out to the workers of that subdivision.

3. The tax at the source of income in the Kyrgyz Republic shall be calculated and paid to the budget by a tax agent regardless of the form and place of income payment.

4. If a tax agent fails to withhold or partially withholds the tax on incomes paid out to a physical person, other than the income paid to an individual entrepreneur, this due tax liability shall be satisfied by the tax agent.

**Article 178. Filing PIT reports by a tax agent**

1. According to Para 2), Article 182 of this Code, a tax agent is obligated to file the PIT reports with the tax office at the place of PIT payment no later than the 20<sup>th</sup> day of the month following the month in which income was paid out.

2. A tax agent is obligated to submit the information on the fact and amount of remuneration paid to a physical person, including the income paid in the form of a material benefit, to the tax office at the place of its tax and/or recording registration:

1) annually, before 20 February of the subsequent year – in respect of the people working under contracts concluded in accordance with the labor legislation of the Kyrgyz Republic;

2) quarterly, not later than the 20<sup>th</sup> day of the month following the quarter – in respect of all other persons not specified in Subpara (1), Para 2 of this Article.

**Chapter 27. Specificity of taxation of certain categories of physical persons****Article 179. Taxation of a worker of the diplomatic mission and consular office of a foreign state or representative office of an international organization**

The income of the following persons shall be PIT exempt:

1) Heads and the personnel of a diplomatic mission and consular office, family members staying with them unless they are citizens of the Kyrgyz Republic, except for the income received from the source in the Kyrgyz Republic, which is not related to the diplomatic and consular service of these physical persons;

2) administrative-technical and maintenance personnel of a diplomatic mission and consular office of a foreign state and family members staying with them unless they are citizens of the Kyrgyz Republic, except for the income received from the source in the Kyrgyz Republic and not related to the work of these physical persons in these missions;

3) physical person, unless he(or she) is a citizen of the Kyrgyz Republic, who works in the international organization under the international agreement the Kyrgyz Republic is a party to.

**Article 180. Calculation and payment of the personal income tax levied on the income received by a resident physical person who is not Kyrgyz citizen**

When paying income to a resident physical person who is not Kyrgyz citizen, the PIT liability shall be calculated by a tax agent accounting only the personal deduction herein provided.

**Article 181. Calculation and payment of the personal income tax levied on the income received by a non-resident physical person who is not Kyrgyz citizen**

1. The PIT liability on the income paid out from the source of the Kyrgyz Republic to a non-resident physical person who is not Kyrgyz citizen shall be calculated by a tax agent with no deductions herein provided.

2. Income is considered to be received from the sources in the Kyrgyz Republic regardless of the place where the income was paid, including its payment outside the territory of the Kyrgyz Republic.

**Article 182. Elimination of double taxation**

1. The tax amount paid by a taxpayer in a foreign state shall be accounted during PIT liability assessment in the Kyrgyz Republic, provided there is a Double Taxation Agreement concluded between the Kyrgyz Republic and this foreign state effective in the manner provided for by the law, where such income is subject to taxation in this foreign state under the Agreement.

2. The tax amount credited under Para 1 of this Article may not exceed the tax amount that would have been paid in the Kyrgyz Republic at the rates effective in its territory.

3. An authorized tax service body shall establish the procedure for crediting personal income tax paid in a foreign state.

## **SECTION VIII. PROFIT TAX**

### **Chapter 28. General provisions**

#### **Article 183. Concepts and terms used in this Section**

This Section uses the following terms and concepts:

1) "Geologic preparation of a deposit" means a set of searching, assessing and exploring works, including estimate and geologic and economic assessment of the deposit reserves in the breakdown of an industrial category.

2) "Permanent mining works" means a set of mining and construction works ensuring the opening and preparation for the field development or the part of it.

(1) Should it be the quarry operation, the mining and capital works include:

- holding and equipping of the opened (permanent trenches) and split (working trenches) excavations;
- removal of rocks (permanent stripping) covering and bearing mineral deposits to the waste mounds as of the moment of putting the mine into commission;
- works on drilling and equipping the unwatering bore holes, construction of the underground drainage drifts and others.

During the permanent mining works, the stocks of mineral deposits that guarantee achievement of the planned capacity within 4-6 months of the mine operation shall be opened and prepared for the development. In case mineral deposits are deep under earth, the permanent mining works shall include the works that are necessary to be performed for achieving at least 15% of the planned production capacity of the mine.

(2) Should it be the underground development, permanent mining works include:

- construction and equipping of the bore holes, galleries and the adjacent bords, deepening of the holes, construction and equipping of the bords and excavation of the shaft bottom;
- holding and equipping of the main permanent mines (crosscuts, intake entries and air drifts, slopes, inclines, ore passes and others).

When constructing a new mining enterprise, the scope of permanent mining works shall be predetermined by its full planned production capacity or the capacity of its certain stage (should a new mining enterprise be put into operation stepwise).

3) "Mining pre-works" means a set of the mining and construction works on modern reproduction of mineral extraction at the mines and quarries, protection from gas-dynamic

developments, including coal bursts, rock outbursts and gas kicks, rock bumps, and supplementary exploration of the developing stocks. The main essence of mining pre-works is holding preparatory mine activities, delimitating the excavation grounds of the mining enterprise.

4) “A mining enterprise” is an enterprise exploring a mineral deposit.

5) “Discount on debt securities” means the difference between the nominal value and the cost of the first placement (less coupon) or cost of purchase (less coupon) of the debt securities.

6) “Debt securities” mean the securities of internal national government and local government loans, other securities issued and guaranteed by the KR Government, the KR National Bank or local governments.

7) “Contribution” means the share holding of the property by physical and legal persons in the joint ventures, other than joint-stock companies and investment trusts.

8) “Income” means the inflow or increment of assets (cash or other assets) or reduction of liabilities resulting in increase of the taxpayer’s equity, other than stakeholders’ contributions.

9) “Income from debt securities” means the discount or coupon (with discount) or premium from the cost of first placement and/or cost of purchase); payments on the promissory note.

10) “Coupon against debt securities” (hereinafter referred to as a coupon) is the sum paid (or payable) by the issuer in excess of the nominal value of debt securities under terms and conditions of the issue;

11) “Fixed assets of the mining and/or mining-processing enterprises” mean the property produced and (or) purchased under the technical project and (or) feasibility report of these enterprises, including:

(1) held and equipped permanent and preparatory mining works (mine bore holes, galleries, cross-cuts, main intake entries and air drifts, slopes and inclines, underground bords of central and district dewatering, energy supply and ventilation, technological mainline roads of the mines, permanent stripping, opened and split trenches and other permanent and pre-works providing access, opening and preparation of the deposit stocks, mining equipment, technological equipment, motor transport, other than light cars);

(2) mining and transport machines, technological equipment for the field development and processing mineral raw material, and other equipment of the main and support function;

(3) buildings and constructions of the main and support function;

(4) transport ways.

12) “Premium against debt securities” is the difference between the cost of first placement (less coupon) or the purchasing value (less coupon) and the nominal value of debt securities, whose terms of issuance provide for the payment of a coupon.

13) “Derivative securities” are securities whose value derives from the underlying security. Derivative securities include options, swaps, futures, depositary letters, warrants and other securities that are recognized as derivate securities under the law of the Kyrgyz Republic.

The base assets may be standardized consignments, securities, foreign currency and financial instruments;

14) “Securities” mean shares, debt securities, derivative securities and other objects of property ownership recognized as securities under the law of the Kyrgyz Republic.

#### **Article 184. Payers of Profit tax**

1. The following shall be the payers of profit tax (hereinafter referred to as a taxpayer):

- 1) a domestic organization;
- 2) a foreign organization carrying out its activity through a permanent establishment in the Kyrgyz Republic;
- 3) an individual entrepreneur;
- 4) a tax agent paying income from the source in the Kyrgyz Republic to a foreign organization not connected with a permanent establishment in the Kyrgyz Republic.

2. For purposes of this Section, an organization or an individual entrepreneur paying out income to a foreign organization shall be a tax agent.

3. The National Bank of the Kyrgyz Republic, Agency for Deposit Protection, Fund for Deposit Protection and the Social Fund of the Kyrgyz Republic shall not pay a profit tax.

#### **Article 185. Object of taxation**

The object of taxation for a profit tax shall be the economic activity resulting in receipt of income:

- 1) by a domestic organization or an individual entrepreneur - from the source in the Kyrgyz Republic and (or) source outside the Kyrgyz Republic;
- 2) by a foreign organization or a physical person who is not Kyrgyz citizen - from the source in the Kyrgyz Republic.

#### **Article 186. Tax base**

1. The tax base for the profit tax is the income assessed under the rules established by the Law of the Kyrgyz Republic on Accounting given specificities provided for by this Section.

2. For purposes of this Section, income means a positive difference between the taxpayer’s annual gross income and expenses deductible under this Section for the tax period.

3. The tax base for foreign organizations receiving income from the source in the Kyrgyz Republic and not connected therein with a permanent establishment is the income with no deductions allowed.

4. Income and expenses arising as a result of evaluation of the assets and liabilities under the Law of the Kyrgyz Republic on Accounting shall not increase or decrease the tax base for the profit tax.

### **Article 187. Tax period**

1. A calendar year is the tax period for the profit tax.

2. If a taxpayer is registered after commencement of the calendar year, the first tax period for such taxpayer shall be the time period beginning from the day on which it was established through the end of the calendar year.

Herewith, the date of a taxpayer's registration is deemed the date of its state registration with an authorized government body.

3. If a taxpayer is liquidated or restructured before the end of a calendar year, the last tax period for such taxpayer shall be the time period from the beginning of the year through the day on which liquidation or restructuring is completed.

4. If a taxpayer registered after beginning of a calendar year has been liquidated or restructured before the end of that year, the tax period for such taxpayer shall be the time period beginning from the day on which it is established through the day on which its liquidation or restructuring is completed.

## **Chapter 29. Annual gross income**

### **Article 188. Structure of the annual gross income**

1. Annual gross income includes all types of income determined in accordance with the rules established by the Law of the Kyrgyz Republic on Accounting, including:

1) proceeds from the sale of goods, works, and services other than proceeds from the sale of fixed assets included into the tax group for depreciation purposes;

2) income from the sale of non-depreciable assets, including proceeds in the form of the cost of materials or other property received upon dismantling or liquidation of the fixed assets withdrawn from operation;

3) income received for agreeing to limit or cease economic activity;

4) value of assets received gratis;

5) excess of the positive exchange rate over the negative exchange rate;

6) interest income;

7) dividends;

8) royalty;

9) income in the form of remuneration and compensation for participation in the organization management;

10) income from leasing movable and immovable property;

11) income from value increment at the sale of movable and immovable property which is not used in entrepreneurial activity, other than the property of an individual entrepreneur included in a uniform personal income tax return;

12) income from the sale of:

(1) shares, less the purchasing cost;

(2) derivative securities;

(3) debt securities, not accounting coupons, less the purchasing cost and given premium and/or discount depreciation as of the date of sale;

(4) other objects of ownership recognized as securities under the KR law, less the purchasing cost.

13) subsidies;

14) negative sums of tax calculation on the group of depreciable assets as of the end of the tax period;

15) value of excess assets revealed after inventory;

16) income from cessation of the taxpayer's liabilities arisen from:

(1) writing off liabilities by the creditor;

(2) writing off liabilities upon expiration of the statute of limitations period established by the KR civil legislation;

(3) writing off liabilities by the Court's decision;

(4) fulfillment of the taxpayer's liability, including his tax liability, by a third party;

17) income from assignment of debt;

18) insurance payments (compensation) under insurance agreements, other than compensation for the insured fixed assets;

19) compensation received against expenses that were recognized as deductible earlier;

20) excess of income over expenses during operation of the social infrastructure objects.

2. Annual gross income shall not include the non-taxable income.

### **Article 189. Non-taxable income**

1. The following shall be exempt from profit tax:

1) value of property received as the share and (or) contribution to an authorized capital;

2) value of objects (for social-cultural and housing-communal-domestic purposes, roads, electric networks, substations, boilers and heating networks, water inlets, mining equipment, and objects of civil defense) transferred gratis to the specialized organizations that use and operate these objects for specific purposes, as well as the value of the fixed assets and funds transferred gratis to enterprises, institutions and organizations for investing into development of their production base at the decision of the KR Government of the Kyrgyz Republic or local self-governance bodies (hereinafter referred to as “social and cultural objects transferred gratis”);

3) received by noncommercial organizations:

a) membership and entrance fees;

b) humanitarian aid and grants, provided they are used for charter purposes;

c) value of the assets received gratis, provided they are used for charter purposes;

d) payment for the services of technical maintenance of apartment houses and servicing buildings and structures.

4) dividends received by the taxpayers from their share in domestic organizations;

5) value of property received by a simple partnership as copartners' contributions;

6) value of property received by a trust manager for trustful (asset) management;

7) exceeding value of the shares owned over their nominal value;

8) income from value increment at the sale of the shares owned;

9) interests and income from increment of value of the securities that belong to the highest and next to the highest categories in the stock exchange listing as of the date of sale.

2. Non-taxable income shall be deductible from the annual gross income.

### **Article 190. Income adjustment**

1. Income from the sale of goods, works and services shall be adjusted in case of:

1) full or partial return of goods;

2) change of the terms of a deal.

Income adjustment shall change the annual gross income for that tax period in which the goods were returned or terms changed.

2. Proceeds from the sale of depreciable fixed assets, including insurance payments received under insurance agreements for these fixed assets, are not included into the income from sale of goods, but are accounted when determining tax value of the group in accordance with this Section.

### **Article 191. Compensated deductions**

1. Where the earlier deducted expenses, losses or bad debts are reimbursed, the received amount shall become the income for that tax period in which reimbursement took place.

2. Where the reserves deducted earlier under provisions of this Section are reduced, such reduction shall either be included in income or it shall reduce costs under the KR Law on Accounting.

#### **Article 192. Income and deductions under long-term contracts**

1. For purposes of this Article, a long-term contract means a contract for the production, installation or construction or provision of associated services, which is not completed during the tax period in which the works under contract started, other than the contracts that are supposed to be completed within 12 months after beginning of the works under the contract.

2. Where the taxpayer uses the accrual method for determining incomes and expenses, the income and deductions incidental to long-term contracts shall be accounted during the tax year based on percentage implementation of the contract.

The value of the fulfilled part of the contract shall be determined by cross-comparison of expenses incurred before the end of the tax year with the total expenses incurred under this contract.

3. Where the taxpayer uses the cash method for determining income and expenses, the income and deductions incidental to long-term contracts shall be determined based on the works and services actually performed and paid during the tax year.

### **Chapter 30. Deductible costs**

#### **Article 193. Deduction of costs of gaining income**

1. Unless otherwise provided for by this Code, a taxpayer has the right to deduct only the documented costs of gaining income under this Code and the excess of the negative exchange rate over the positive exchange rate.

2. Costs of future periods shall be deductible in the tax period to which they belong.

3. Should the same costs be written in several expenditure lines, such cost shall be deducted only once.

4. Specificity of determining the costs accounted for taxation purpose for specific taxpayer categories or the costs incurred due to special circumstances shall be established by the provisions of this Section.

#### **Article 194. Deductible costs of business trips and representation costs**

1. Deductible business trip costs include:

- 1) actual cost of travel to the place of assignment and back, including reservation costs;
- 2) actual rental cost, including reservation costs;
- 3) per diems paid out for the business trip period inside and outside the Kyrgyz Republic at the rates set by the Government of the Kyrgyz Republic.

2. Deductible representation costs include the incurred costs of gaining income earmarked by the taxpayer for arranging reception and (or) servicing persons participating in negotiations aimed at establishing or supporting mutual cooperation and the participants arriving to the meeting of the Board of Directors for holding the stockholders' meeting.

Representation costs include expenses on transportation and hotel service of the indicated persons, payment for the services of interpreters who are not on the permanent staff of the organization.

#### **Article 195. Deductible costs of training and re-training personnel**

1. Taxpayer's costs of training and re-training of personnel shall include costs of gaining income earmarked for training and qualification upgrade and re-training of personnel.

2. Expenses specified in Para 1 of this Article shall be deductible provided that:

- 1) training and/or re-training program promotes qualification upgrade or more efficient use of the trained or re-trained specialist within the taxpayer's activity;
- 2) training and/or re-training is for the workers permanently employed by the taxpayer; and
- 3) educational services are provided by domestic organizations.

3. This article defines qualification upgrade as a refresh of theoretical and practical knowledge of the specialists necessitated by the raised qualification requirements and necessity to learn modern methods to solve professional problems. Professional re-training means obtaining by a full-time worker aged 23 and above of additional knowledge and skills required to perform a new type of professional activity.

#### **Article 196. Deductible costs of interest payments against credits and loans**

1. A taxpayer's interest payments against credits and loans shall be deductible in the amount of accrued or paid interests, depending on the tax accounting method applied by the taxpayer under this Code, and given the restrictions provided for in this Article where the debt amount was used for carrying on the economic activity.

2. Interests on debt liability paid out due to the purchase or creation of depreciable fixed assets or incidental to expenses impacting the change of their value prior to their operation shall be non deductible and increase their value.

**Article 197. Deductible costs of scientific research works, experiment-constructive and project-exploration works. A discount for mineral depletion.**

1. The taxpayer's costs of scientific-research, experiment-constructive and project-exploration works incidental to his economic activity shall be deductible.

2. Deduction of the aforesaid costs incidental to purchase and (or) production of fixed assets shall be performed in the manner established by this Code with regard to fixed assets.

3. The taxable base of the mining enterprise shall be reduced by 5% with the reservation of this amount at the special reserve fund of the enterprise for reproduction of the exhausted mineral deposits.

4. The Special Fund reserves indicated in Para 3 of this Article must be reinvested by the enterprise within 5 years in geologic exploration works within the boundaries of the mining and geologic sites.

5. A profit tax shall be paid on the Special Fund reserves that are not used during 5 years for the specified purposes before expiration of the 5-year period.

6. Expenses on geologic exploration works within the boundaries of the mining and geologic sites covered from the Special Fund in the manner herein established shall be non-deductible.

**Article 198. Value of fixed assets, intangible assets and inventories**

1. The original value of fixed assets includes the actual costs of their purchase, production, assembling, installation, interests on credits and loans, cost of elaboration of the assets to make them suitable for use, customs duties and fees, insurance costs of transportation of the fixed assets received for personal use and other expenses increasing their value, other than the taxes accounted in the group of expenses deductible under this Code.

2. The value of fixed assets shall change in the event of reconstruction, expansion, modernization, technical re-equipping, partial liquidation of the corresponding objects.

3. Where fixed assets are contributed by the participants/founders to an authorized fund, the primary value of these assets shall be the value shown in the taxpayer's accounts as of the date of contribution of these assets, which may not exceed the market value.

Where fixed assets are received gratis, the primary value shall be determined based on acceptance acts, but no less than their balance sheet value.

4. The balance-sheet value shall be accepted as equal to zero in the following cases:

- 1) receipt of the objects of social and cultural purpose transferred gratis;
- 2) receipt by not-for-profit organizations of the property in the form of:
  - a) membership and entrance contributions;
  - b) humanitarian aid and grants;

c) assets received gratis.

5. The primary value of intangible assets includes the cost of their purchase and/or creation, interests on credits and loans and costs of their elaboration to make them usable.

The value of intangible assets transferred by the founders as their contribution to an authorized fund shall be determined upon agreement between the parties in compliance with the Kyrgyz law requirements.

The value of intangible assets purchased from other organizations and individuals shall be determined based on the actual costs of purchase and of their elaboration to bring them into operational condition.

The value of intangible assets created by the organization itself shall be determined as the total of actual costs of their creation or production, including costs of purchase of inventories, remuneration costs, costs of services provided by other organizations, duty payments for the issuance of patents, certificates.

6. The value of fixed assets and intangible assets shall be deductible through calculation of depreciation deductions following the procedure and under conditions established by this Code.

7. The value of inventories shall be determined based on the cost of their purchase, including commissions paid to the broker organizations, import customs duties and charges, transportation costs and other expenses incidental to the purchase of inventories.

8. The value of fixed assets, intangible assets and inventories includes the VAT on acquired material resources not allowed for credit.

### **Article 199. Depreciable fixed assets**

1. Depreciable fixed assets are the fixed assets of the taxpayer, including intangible assets possessed under right of ownership, unless otherwise provided for by this Code, put into operation and used for the purpose of gaining income, whose value exceeds 100 times estimation factor.

2. The following shall be non-deductible: land and other objects of nature such as water, deposits and other natural resources, as well as inventories, objects of construction-in-process, securities, financial instruments, uninstalled equipment, fixed assets and intangible assets that are not used by the taxpayer in production and(or) sale of goods, performance of works and provision of services, and the assets whose value is fully transferred in the current tax year into the value of finished products, performed works and services.

3. For purposes of this Section, depreciable property shall not include:

- 1) fixed assets transferred gratis under agreements;
- 2) fixed assets transferred for conservation (laying up);
- 3) fixed assets that are under reconstruction and modernization for more than 12 months.

## **Article 200. Classification of fixed assets and determining depreciation sums**

1. Depreciable fixed assets are classified into six groups at the following depreciation rates:

1) group 1: cars, automobile and tractor equipment for use on roads, special instruments, sundries and accessories; computers, telephone sets, peripherals and equipment for data processing – at 30%;

2) group 2: automotive transport rolling stock: trucks, buses, special automobiles and trailers; construction equipment; machines and equipment for all sectors of industry, including the foundry; smith-pressing equipment; electronic and simple equipment, agricultural machines. Office furniture, intangible assets – at 25%;

3) group 3: depreciable fixed assets not listed in sub-paragraphs 1, 2, 4, 5 and 6 of this Para and expenses equated to them – at 20%;

4) group 4: railroad, sea and river transport vehicles, power machines and equipment: thermal-engineering equipment, turbine equipment, electric motors and diesel-generators, electricity transmission and communication facilities, pipelines – at 10%;

5) group 5: buildings and constructions – at 10%;

6) group 6: taxpayer's costs of geological preparation of deposit reserves, design and engineering-research works and obtaining the license for the use of deposits, as well mining-capital and mining pre-works aimed at further extraction of minerals, as well as the fixed assets of the mining and(or) mining-processing enterprises put into operation and actually used in deposit exploration – at 50%. Herewith, a reduced depreciation rate may be applied. In the subsequent tax periods, the taxpayers applying the reduced rates of depreciation may not change such reduced rates.

Capital investments in mining pre-works shall be depreciated at the rate determined as the ratio of the mineral reserves exhausted during the tax period to the balance mineral reserves at the mining site as of the beginning of the tax period.

2. The depreciation amount for taxation purposes shall be determined by the taxpayer annually in the manner herein established. Depreciation shall be accrued separately for each group by applying depreciation rates indicated in Para 1 of this Article to the tax value of the group as of the end of the year.

3. With regard to buildings and constructions (hereinafter referred to as “buildings”), depreciation shall be accrued on each building separately. Upon expiration of 20 years from the day on which it was put into operation and further used, each building shall be depreciated based on the straight line depreciation method at 20 % per year.

4. The taxpayer-lessee receiving the fixed assets under financial lease agreement shall calculate depreciation in the manner established in this Article.

5. Fixed assets subject to depreciation for tax purposes for each group determine the tax value of the group.

The tax value of the group as of the end of the year shall be calculated as follows:

1) tax value of the group as of beginning of the year determined as the tax value of the group as of the end of the preceding year, reduced by depreciation amount calculated for the previous year,

plus

2) cost of fixed assets added to the group during the year under Para 6 of this Article,

plus

3) balance sheet value of the fixed assets added to the tax value of the group previous year,

minus

4) fixed assets disposed during the year, whose cost is determined in accordance with Para 7 of this Article,

minus

5) balance sheet value of the fixed assets disposed during the previous year

6. The value of fixed assets added to the tax value of the group shall be determined based on the following formula:

$$B * (A + 0,5) / 12 \quad \text{where}$$

A is the number of full months in which the fixed asset was actually used for gaining income;

B is the value of fixed assets determined in accordance with Para 1 of Article 201 of this Code.

7. The value of fixed assets disposed during the current year, subtracted from the tax value of the group, shall be determined based on the following formula:

$$D * (C + 0,5) / 12 \quad \text{where}$$

C is the number of full months remaining in the year, following the month in which these fixed assets were disposed;

D is the value of fixed assets determined in accordance with Para 2 of Article 201 of this Code.

8. If the tax value of the group as of the end of the year is below zero, it shall be equated to zero. Herewith, the taxpayer shall include such negative balance into his income.

9. For purposes of this Article, revaluation of fixed assets under the Law of the Kyrgyz Republic on Accounting shall neither increase nor decrease the tax value of group.

10. The KR Government upon agreement with the KR Parliament shall have the right to set the rates of accelerated depreciation for specific types of fixed assets.

### **Article 201. Receipt and disposal of fixed assets for depreciation purposes**

1. Unless otherwise provided for by this Code, the purchased and received fixed assets shall be regarded as the fixed assets added to the group during the year and shall increase the tax value of the group:

- 1) by the value determined under Article 198 of this Code - where the fixed asset is received as a contribution to an authorized capital;
- 2) by the tax value of the fixed assets earlier removed from the group for conservation purpose – where such fixed assets are transferred from conservation regime into operational fixed assets;
- 3) by the disposal cost - in case of return of the fixed asset earlier disposed for gratis use;
- 4) by the value of the fixed asset removed from the group, increased by the taxpayer's cost of reconstruction and modernization of this fixed asset – where the fixed asset is received back after reconstruction or modernization;
- 5) by the value of the fixed asset determined in accordance with Para 3, Article 198 of this Code – where the fixed asset is received on a gratis basis and its value is included in income;
- 6) by their original cost - in case of purchase of the fixed assets or when the fixed assets are put into operation upon completion of the construction;
- 7) by the excess sum of costs - in case of excess of the renovation cost limit established by Para 3 of Article 203 of this Code.

2. Fixed assets that are disposed shall decrease the tax value of the group:

- 1) by its sale value – in case of the sale of a fixed asset or financial lease transfer;
- 2) by the value determined under Article 198 of this Code - in case of transfer as a contribution to an authorized capital;
- 3) by a zero value - in case of loss of the fixed assets in the absence of the insurance agreement;
- 4) by the amount of insurance payments paid out by the insurer to the insured under the insurance agreement - upon occurrence of the insurance event;
- 5) by the balance sheet value determined in accordance with the Law of the Kyrgyz Republic on Accounting - in case of transfer on a gratis basis, transfer for the purpose of use on gratis basis and in case of conservation;

- 6) by the sale price - in case of sale of the fixed assets that are under liquidation;
- 7) by the value of inventory stocks determined in accordance with the Law of the Kyrgyz Republic on Accounting - in case of transfer of the liquidated fixed assets to the category of inventory stocks;
- 8) by the balance sheet value determined in accordance with the Law of the Kyrgyz Republic on Accounting – in case of the damage.

### **Article 202. Deduction of depreciation sums**

1. Depreciation sums of the depreciable fixed assets determined under Article 200 of this Code shall be deductible from the taxpayer's income.
2. If the tax value of the group at the end of the year is less than 100-times estimation factors this amount is considered as the depreciation sum and the full tax value of the group shall be deductible from the taxpayer's income, unless otherwise provided for in this Code.
3. If all fixed assets in the group were disposed, transferred to another person or liquidated, the residual tax value of the group is considered as the depreciation sum and is deducted from the taxpayer's income.

### **Article 203. Deductible costs of repairs**

1. Costs of repair of the fixed assets owned by the taxpayer including those that are the object of financial leasing shall be deducted in respect of each group determined under Article 200 of this Code.
2. The sum of repair costs deductible under Para 1 of this Article for every tax period is limited to 15% of the tax value of the group as of beginning of the year, which is determined as the tax value of the group at the end of the previous year reduced by the depreciation sum for the previous year
3. The amount exceeding the limit established by Para 2 of this Article is considered as the value of the fixed assets added to the value of the group during the tax year and it shall increase the tax value of the group as of the end of the current (reporting) year.
4. The actual repair costs incurred by a lessee on the leased fixed assets shall be deductible in the manner determined in this Article.
5. Where the repair cost is not referred to deductions under this Article, a lessee is required to form a group and deduct the incurred costs during the term of the contract as depreciation sums determined under this Section at the rate established for the group the asset under repair refers to. Upon expiration of the lease agreement, a lessee has the right to deduct the balance tax value of the group formed under this paragraph.

**Article 204. Deductible Social Fund contributions**

The taxpayer's annual gross income shall be reduced by the sum of contributions to the Social Fund of the Kyrgyz Republic set forth by the legislation of the Kyrgyz Republic.

**Article 205. Losses incurred from the sale of securities**

1. The following shall be considered the loss from the sale of securities:

1) a negative difference between the sale value and purchase cost – with regard to securities, other than debt securities;

2) a negative difference between the sale value and purchase cost given discount depreciation and(or) premium as of the sale date – with regard to debt securities.

2. Losses arising from the sale of securities shall be compensated at the expense of the income received from disposal of other securities.

3. If the losses given in Para 2 of this Article may not be compensated in the year in which they were incurred, they must be extended up to five years and compensated at the expense of the income from disposal of securities over these five years.

**Article 206. Carrying forward losses related to economic activity**

1. An excess of the taxpayer's deductions over its income is considered a loss and carried forward to the period of up to five calendar years as deductions from taxable income in the tax periods following the period in which the loss was incurred.

The losses incurred in the tax period in which the taxpayer was exempt from profit tax payment are not subject to carry over as deductions to the taxable period.

2. If the taxpayer incurred losses in more than one tax period, such losses shall be carried forward to the subsequent tax periods in that sequence in which they took place.

3. If the taxpayer discontinues its activity due to reorganization, a taxpayer-successor has the right to reduce the tax base in the manner and under the terms contemplated by this Article by the amount of losses incurred by the reorganized taxpayers prior to the moment of reorganization.

**Article 207. Reserve funds for covering potential losses and damages. Bank contributions to the Fund for Deposit Protection**

1. The amount contributed by the bank to reserve funds to cover potential credit and lease losses and damages and used solely for the purpose of ensuring the bank loans issued and the assets equated to them – mortgage property – shall be deductible from the gross annual income.

2. The KR National Bank shall set the procedures and rates of reserve contributions.
3. Bank contributions to the Fund for Deposit Protection shall be the operational costs deductible from their gross annual income.

#### **Article 208. Deduction for charity expenses**

The assets donated during the tax year, including cash and property (based on the balance sheet value) to the charitable organizations and cultural and sport organizations regardless of the form of ownership in the amount not exceeding 10% of the taxpayer taxable income shall be deductible, provided that the donor taxpayer receives no benefit from these assets.

#### **Article 209. Non-deductible expenses**

1. The following shall be non-deductible:
  - 1) costs of production, purchase and installation of fixed assets, and other capital costs;
  - 2) tax sanctions, fines and penalty payable to the budget and the Social Fund of the Kyrgyz Republic;
  - 3) taxes payable to the budget of the Kyrgyz Republic, except for:
    - a) land tax;
    - b) real property tax;
    - c) VAT, not allowed for credit under this Code;
    - d) tax for use of mineral deposits.
  - 4) expenses in the form of contributions to Reserve Funds, unless otherwise provided for in this Code;
  - 5) excess of costs incurred in the process of operation of the objects of social sphere according to the list approved by the Government of the Kyrgyz Republic over the income gained from operation of these objects.
  - 6) any costs incurred for another person, other than the cases when there is confirmation of the fact that these costs were incurred to pay for the services provided and were necessitated by the production need;
  - 7) costs of purchase, management or maintenance of any asset (property) that generates income exempt from taxation under provisions of this Code;
  - 8) any losses directly or indirectly related to sale or exchange of property by the taxpayer to his family member or interdependent person;
  - 9) expenses of the taxpayer or his family members, relatives and other persons not related to the economic activity;

10) payment of price differences when goods, works or services are sold to the workers at preferential prices or tariffs, or at prices lower than the market value, other than goods (works, services) PIT taxed by the tax agent;

11) amount of natural losses and decreases in excess of the rates established by the effective laws of the Kyrgyz Republic;

12) expenses whose nature and amount cannot be determined through supporting documents, except for the cases established by this Code;

13) expenses that are not related to gaining income;

14) expenses related to gaining income which is exempt from profit tax;

15) per diems paid for business travel in the amount exceeding the limits set by the KR Government, other than the PIT taxed excess sums;

16) expenses related to organization of banquets, leisure, entertainment or vacation;

17) expenses of the taxpayer – issuer that were incurred upon receipt of the property (assets) as payment for the shares placed by him.

2. Expenses described in Subparagraph 1, Paragraph 1 of this Article shall be refunded through depreciation.

#### **Article 210. Specificity of determining the tax base for the parties to the property trust management agreement**

1. The tax base for the parties to the property management agreement shall be determined:

- 1) according to Paragraph 3 of this Article - where the founder is a beneficiary under the terms of such agreement;
- 2) according to Paragraph 4 of this Article - where the founder is not a beneficiary under the terms of such agreement.

2. For purposes of this Section, the property transferred under the property management agreement is not recognized as the income of the trust manager.

Remuneration received by the trust manager for the period of effect of the property management agreement shall be his income. Herewith, the expenses related to trust management shall be recognized as the expenses incurred by the trust manager unless the property management agreement provides for the refund of such expenses by the founder.

A trust manager is required to determine incomes and expenses for the tax period under the property trust management and provide the founder (a beneficiary) with the data on the income gained and expenses incurred for the purpose of accounting by the founder (a beneficiary) during the tax base assessment in accordance with this Section.

3. The founder's income gained under the property management agreement shall be included in his annual gross income.

The expenses related to implementation of the property management agreement including asset depreciation and remuneration to the trust manager shall be recognized as the expenses related to gaining income and shall be the expenses of the founder.

4. The income of a beneficiary under the property management agreement shall be included in his annual gross income and be subject to taxation in the established manner.

Herewith, costs of implementation of the property management agreement except for remuneration to the trust manager where the agreement provides for remuneration, but not on account of income reduction, shall not be accounted by the founder in his tax base assessment; although such costs shall be accounted for taxation purpose in the group of expenses incurred by a beneficiary.

The losses incurred during the effect of such agreement from the use of property transferred into trust management are not recognized as the losses of the founder (beneficiary) that are accounted for taxation purposes under this Section.

5. Should the trust management agreement be cancelled, the property transferred into trust management can either be returned to the founder or transferred to the other person under the terms of that agreement.

Should the assets be returned, the founder shall not gain income (or incur loss) regardless of the positive (negative) difference between the value of the assets transferred into trust management as of the effective date of the agreement and as of the moment of its termination.

6. This Article shall not apply to the managing company and participants (founders) of the property management agreement which constitute a separate property complex, i.e. an investment trust, except for the case provided for in Subpara 1, Para 2 of this Article.

### **Article 211. Specificities of determining the tax base by the participants of the simple partnership agreement**

1. A subject responsible for keeping records of a simple partnership under the agreement is obligated to keep a separate accounting of the principal activity of its organization and the activity of the simple partnership.

2. A participant of the simple partnership responsible for keeping records is obligated to make assessment of tax liabilities in compliance with the requirements of this Code, except for the profit tax.

3. Before-tax income and losses under simple partnership agreement shall be distributed among participants under the agreement and shall be accounted by each participant separately.

4. Transfer of property by the participants as a contribution to the simple partnership is not considered the sale.

5. Upon implementation of the terms and conditions of the simple partnership agreement, the contributions shall be returned to participants either in cash or in kind. Such refund equal to the amount of a contribution is not recognized as the income of a participant.

## **Chapter 31. Tax preferences**

### **Article 212. Tax exemption**

1. The income of the following organizations shall be tax exempt:
  - 1) charitable organizations;
  - 2) societies of the disabled persons of the I and II group and organizations of the Kyrgyz Society of the Blind and Deaf, where at least 50% of the employed are disabled, blind and deaf and their wages account for at least 50% of the general wage fund. The list of such organizations is determined by the Government of the Kyrgyz Republic;
  - 3) agricultural producers;
  - 4) institutions of the penitentiary system of the Kyrgyz Republic;
  - 5) agricultural commodity and service cooperative societies;
  - 6) taxpayer's income received from the sale of fruits, vegetables and berries (other than excisable goods) that were industrially processed at the production facilities owned by such taxpayer, to the extent that was earmarked by the taxpayer for the purchase, reconstruction, and modernization of the main production facilities.
2. Exemption from Profit tax shall not exempt the taxpayer from filing a profit tax return.

## **Chapter 32. Tax rates. Procedures for Profit tax calculation, filing and payment**

### **Article 213. Profit tax rate**

The rate of the Profit tax is 10 percent.

### **Article 214. Profit tax calculation**

The Profit tax shall be calculated in the manner provided for in Paragraph 1 of Article 37 of this Code.

### **Article 215. Dates for filing reports on the tax withheld at the source of payment**

A tax agent is obligated to file report on tax withheld at the source of payment of income in the Kyrgyz Republic no later than the 25<sup>th</sup> day of the month following the reporting quarter.

**Article 216. Procedures for tax assessment, deadlines and place of profit tax payment**

1. A payer of the profit tax shall make final tax assessment and pay profit tax before filing a uniform tax return. The final tax sum shall be determined as the difference between the tax amount calculated and the tax amount preliminarily estimated for the reporting tax period.

2. Profit tax shall be paid at the place of the taxpayer tax registration.

**Article 217. Profit tax pre-payment**

1. A taxpayer is obligated to make a quarterly profit tax pre-payment to the budget no later than the 20<sup>th</sup> day of the second month of the current quarter of the tax period.

2. Profit tax pre-payment due for the first quarter of the tax period shall be determined as 1/3 of the pre-payment accrued for 9 months of the previous tax period.

3. Profit tax pre-payment payable for the quarters following the first quarter shall be equal to 1/4 of the profit tax shown in the profit tax return for the previous tax period.

4. If a taxpayer fails to file the tax return at the due date, tax pre-payment from April of the current year through 1<sup>st</sup> day of the month following the month of filing the tax return shall be assessed and paid at the rate given in Paragraph 2 of this Article.

5. A taxpayer who has incurred losses based on results of the previous tax period or has no taxable income or a newly created organization shall determine the pre-payment amount based on the taxpayer's forecasting data and shall file a relevant estimate to a tax authority within 30 calendar days from the moment of filing or from the date of tax registration of a newly created organization.

6. Where the tax amount calculated based on financial performance for the first half-year differs by more than 30% from the preliminarily estimated tax payable for that period, the taxpayer is obligated to adjust correspondingly the preliminarily estimated tax amount payable in the third and fourth quarters.

7. The preliminarily estimated tax amount shall be adjusted based on the tax rate and the income assessed under the Law of the Kyrgyz Republic on Accounting.

8. A taxpayer shall adjust himself the pre-payment tax amount by no later than 30 July of the tax period by filing the corresponding estimate to the tax office.

9. The taxpayer who fails to make or untimely makes tax pre-payment, including on the reason of failure to make adjustment and/or incorrect adjustment of the preliminarily estimated tax under Para 8 of this Article, shall be penalized under this Code for non-payment or untimely tax payment.

## **Chapter 33. Specificity of taxation for certain categories of taxpayers and income**

### **Article 218. Deductible contributions to Insurance Reserve Funds formed by insurance organizations**

When estimating the tax base, a domestic organization engaged in insurance activity shall have the right to deduct contributions to insurance reserve funds at the rates approved by the Government of the Kyrgyz Republic.

### **Article 219. Specificities of taxation of foreign organizations carrying out economic activity through a permanent establishment in the Kyrgyz Republic**

1. The tax base for foreign organizations carrying out the economic activity through a permanent establishment in the Kyrgyz Republic shall be determined based on incomes and expenses related to the permanent establishment.

2. Where a foreign organization has more than one separate subdivision in the territory of the Kyrgyz Republic, whose activity results in the creation of a permanent establishment, the tax base and tax amount shall be calculated separately for each subdivision.

3. Where the permanent establishment of a foreign organization discontinues its activity prior to the end of the tax period, a tax return for the last reporting period shall be filed by such organization within a month from the day of closure of such subdivision.

### **Article 220. Avoiding double taxation**

1. The tax amount paid by a taxpayer in a foreign state shall be credited during the tax liability assessment provided there is an Agreement on Avoiding Double Taxation concluded between the Kyrgyz Republic and the foreign state which came into effect in the manner established by the law and in case the income is subject to taxation in the foreign state under such Agreement.

2. The amounts credited under Para 1 of this Article should not exceed the tax amount that would have been paid in the Kyrgyz Republic at the rates effective on its territory.

3. An authorized tax body shall establish the procedure for crediting profit tax paid in a foreign state.

### **Article 221. Rate and dates for payment of the tax levied on interests**

1. Interests paid out to the taxpayers shall be taxed at the source of income in the Kyrgyz Republic at 10% of the amount paid.

2. Paragraph 1 of this Article shall not apply to interests received by the Social Fund of the Kyrgyz Republic, resident banks, and to interests received by a resident lessor under financial lease agreements.

3. Interests earlier taxed at the source of income in the Kyrgyz Republic shall not be included in the taxable amount of interests provided that the documents are available confirming tax withholding.

4. Payment of tax on interests withheld by the tax agent shall be payable to the budget no later than 15<sup>th</sup> day of the month following the month in which interests were paid out.

## **Chapter 34. Specificities of taxation of foreign organizations' income received from the source in the Kyrgyz Republic**

### **Article 222. Assessment and payment of the tax levied on income received by a foreign organization not connected with a permanent establishment from the source in the Kyrgyz Republic**

1. Incomes received from the sources in the Kyrgyz Republic by a foreign organization not connected with a permanent establishment shall include incomes listed in Article 223 of this Code.

2. Tax on income received by a foreign organization not connected with a permanent establishment from the source in the Kyrgyz Republic shall be calculated and withheld by the organization and individual entrepreneur paying out the income to the foreign organization at every such payment at the rates and in the manner prescribed by Article 223 of this Code, except for the case when the recipient of income notifies the tax agent that the paid income belongs to the permanent establishment of the recipient of income and provides him with the copy of the registration card and tax registration certificate.

3. The tax withheld shall be transferred to the budget by the tax agents consistent with paragraph 2 of this Article by the 20<sup>th</sup> day of the month following the month, in which income arose under provisions of Article 168 of this Code.

4. If the tax agent fails to withhold or withholds partially the tax on income paid out to a foreign organization, the due tax liability shall be satisfied by the tax agent.

### **Article 223. Procedure for tax withholding and rate of tax on incomes received from the source in the Kyrgyz Republic by foreign organizations not connected with a permanent establishment in the Kyrgyz Republic**

1. Incomes derived from the sources in the Kyrgyz Republic by the foreign organization not connected with a permanent establishment in the Kyrgyz Republic shall be taxed by tax agents at the source of payment of such income without deductions at the following rates:

1) dividends and interest – 10%, other than the interests received from securities listed at the stock exchange of the Kyrgyz Republic at the highest and next to highest listing categories;

2) insurance premiums received:

a) under insurance or re-insurance agreement, except for mandatory insurance contracts, - 5%;

b) under mandatory insurance and reinsurance agreements – 10%;

3) royalties – 10%;

4) income from management and consultation services – 10%.

2. Incomes earned for the works and services performed and provided by the foreign organization not connected with a permanent establishment in the Kyrgyz Republic shall be taxed by the tax agents at the source of payment, with no deductions provided. Such income shall include the following income taxable at the following rates:

1) income derived from telecommunication or transportation services in the field of international communications and transportation between the Kyrgyz Republic and other countries – at 5%;

Transportation between the Kyrgyz Republic and other countries means any transportation by sea, river or air craft, vehicle or railroad transport, other than transportation that takes place solely between the destination points located outside or in the territory of the Kyrgyz Republic.

2) proceeds from other services, works – at 10%.

3. Payment of income means transfer of money in cash and(or) non-cash forms, in the form of securities, shareholding, goods, property, works performed, services provided, writing off or credit of the outstanding income payment claimed by a non-resident recipient from the source in the Kyrgyz Republic.

4. Taxes payable at the source of income shall be applicable regardless of whether the payment is made in or outside of the Kyrgyz Republic.

## **SECTION IX. VALUE ADDED TAX**

### **Chapter 35. General provisions**

#### **Article 224. Definitions and terms used in this Section**

The following definitions and terms are used in this section:

1) Taxable import means importation of goods to the customs territory of the Kyrgyz Republic, except for importation of goods exempt from VAT on imports.

2) Taxable supplies mean supplies of goods, works and services made by the taxable subject, including:

- a. supplies of goods in the Kyrgyz Republic;
- b. supplies of works and services in the Kyrgyz Republic made for payment;
- c. export of goods.

Taxable supplies do not include supplies exempt from VAT under this Section.

3) Export of goods and services means supply of works carried out and services rendered by the taxable subject in case if the place of supply of works and services in accordance with this section is located outside of the Kyrgyz Republic.

#### **Article 225. Value added tax**

The value added tax (hereinafter referred to in this section as the VAT) means the form of withdrawal to the budget of the portion of the value of all taxable supplies on the territory of the Kyrgyz Republic, including taxable imports.

#### **Article 226. Taxpayer of the VAT**

A taxpayer of the VAT is a taxable subject, including the subjects making taxable imports.

#### **Article 227. VAT Rate**

1. Unless otherwise provided by this article, the rate of the VAT shall be set at 12 percent on all taxable supplies and taxable imports.

2. The rate of the VAT shall be set at 0 percent with respect to supplies defined by articles 261-263 of this Code.

### **Chapter 36. Taxable subject**

#### **Article 228. Taxable subject**

A subject shall become taxable if he is registered or is required to register with tax authorities as a VAT taxpayer in accordance with this section.

#### **Article 229. Requirements and registration procedure for the VAT**

1. A subject carrying out economic activity shall register as a VAT taxpayer, if for a period of 12 consecutive months or the period of less than 12 months he made taxable supplies

of goods, works and services on the territory of the Kyrgyz Republic with a total value exceeding 4000000 soms (hereinafter in this section referred to as the VAT registration threshold).

For purposes of this section, the value of taxable supplies shall be defined as follows:

1) for domestic organizations by taking into account the value of taxable supplies of all separate subdivisions of this subject on the territory of the Kyrgyz Republic.

2) for foreign organizations and individual entrepreneurs carrying out activities through a permanent institution by taking into account registration in accordance with paragraph 4 of Article 96 of this Code;

3) for the subject responsible under a special partnership agreement for managing the affairs of this partnership by taking into account activities carried out under the partnership agreement.

2. Should the property be transferred for trust management, the trust manager shall register as a VAT taxpayer on activities carried out under the trust management agreement in accordance with the requirements of this article. In this case trust management shall be considered as an independent VAT taxpayer separately from the founder of the trust.

3. A taxable subject is required to register as a VAT taxpayer by filing an application within a month upon expiration of the period in which the total value of taxable supplies exceeded the VAT registration threshold.

Registration comes into effect on the first day of the month following the month when the subject filed an application for registration.

In case the subject required to register in accordance with the requirements of paragraph 1 of this Article failed to file a registration application or in case of untimely application, he shall be considered as a taxable subject from the first day of the month following the month when the taxable subject was required to register as a VAT taxpayer.

4. A subject that is not required to register shall have the right to register as a VAT taxpayer voluntarily:

1) if he makes supply of goods, works and services, other than supplies that are VAT exempt under this Code;

2) prior to making any supply, if he intends to make taxable supplies in future.

In the cases herein provided, registration comes into force on the first day of the month following the date of filing a registration application and obtaining a registration document of the VAT payer (hereinafter in this section referred to as a registration document).

5. A subject whose VAT registration has been cancelled may register as a VAT payer only after the taxable value of supplies exceeds the VAT registration threshold.

6. The VAT registration shall be executed at the place of tax registration of a taxable subject.

7. Should the subject register as a VAT payer, the tax body shall issue a registration document within ten days from the date of filing a registration application by the subject, which shall indicate the following:

1) first name, the last name and middle name, or full name, legal address of a subject;

- 2) date of effect of the VAT registration;
- 3) taxpayer identification tax number;
- 4) other necessary information as determined by an authorized tax body.

8. A registration document is a high security form and a taxable subject is required to ensure its safety.

Where the data of a taxable subject specified in subparagraph 1) of paragraph 8 of this Article change, the registration document shall be replaced.

In case of loss or damage of the registration document, a copy shall be issued.

9. An authorized tax body shall set the form and procedures for issuance and replacement of a registration document.

### **Article 230. Cancellation of the VAT registration**

1. Where the taxable value of supplies does not exceed the VAT registration threshold for the past 12 months, a VAT registered taxable subject shall have the right to file an application to cancel registration in the manner established by an authorized tax body.

Where the VAT registration is cancelled, a registration document shall be returned to the tax body.

Cancellation of the registration shall come into effect on the first day of the month following the date of filing an application and making changes to the registration document.

2. In the event of the taxable subject's bankruptcy through liquidation and restructuring, the VAT registration shall be cancelled. Registration shall be cancelled upon the application by a special administrator who is required to submit it within 10 days after commencement of the bankruptcy procedure.

Cancellation of registration shall come into effect on the first day of the month following the month of filing an application and making changes to the registration document.

3. Where the taxable subject ceases to make taxable supplies due to liquidation, he is required to apply to the tax bodies for cancelling his registration within a month following the month when the decision about liquidation was made.

4. At the taxpayer's request tax authorities shall cancel the voluntary VAT registration in case the taxpayers ceases to have an intention to make supply of goods, works and services prior to making such supplies.

5. Should registration be cancelled the excess of the VAT amount on acquired material resources over the VAT amount on taxable supplies shall be reimbursed or refunded in the manner herein provided.

6. Tax authorities shall have the right to cancel the VAT registration with a subsequent notification to a taxable subject if this taxable subject fails to file the VAT tax reports during two tax periods in succession after the due filing date set by this Code.

Cancellation of registration shall come into effect on the date of publication in official print media of the tax body's decision about cancellation of the VAT registration.

VAT invoices issued by the tax body to the previously taxable subject whose registration is being cancelled in accordance with this paragraph shall be considered void from the date of publication of the information about cancellation of its registration in official print media.

7. Except for the provided by paragraphs 2, 3, 4 and 6 of this Article, registration of a subject voluntarily registered as a VAT payer may not be cancelled earlier than after 24 months from the effective date of such registration.

8. When filing an application to cancel VAT registration or to cancel registration by the tax body, a taxable subject or a special administrator shall attach to the VAT tax report the unused blank VAT invoice forms that were registered under paragraph 9, Article 282 of this Code.

9. Cancellation of registration on the grounds provided by p. 6 of this Article shall not exempt the taxpayer from discharge of VAT liability accrued and/or subject to accrual as of cancellation date, including penalties and tax sanctions.

10. Information about cancellation of registration on the grounds specified in p. 6 of this Article shall be placed on the open informational web-site of an authorized tax body and published in official print media.

## **Chapter 37. Object of taxation**

### **Article 231. Object of Taxation**

1. The object of VAT taxation shall be:

- 1) taxable supplies;
- 2) taxable imports.

2. The following shall not be the object of VAT taxation:

1) Sale of the enterprise or an independently operating division of an enterprise by a VAT payer to another VAT payer or to a subject who is becoming a VAT payer at the moment of transfer.

For purposes of this paragraph an independently operating division of the enterprise is a separate subdivision of an organization.

- 2) Transfer of property from the owner who is a VAT payer:
  - a. to a trust manager who is a VAT payer under the trust management agreement;
  - b. to a taxable subject responsible for managing the affairs of the partnership under the partnership agreement;
- 3) Transfer of property to the owner upon termination of the trust management agreement or partnership agreement, if the owner is a taxable subject.
- 4) Supplies of the KR National Bank (NBKR) except for supplies of works and services in the sphere of rest, recreation and entertainment;
- 5) Sale by bank of property pledged up to amount of a loan debt.

**Article 232. Supply of goods, works and services**

1. A subject shall make a supply of goods, if he:

1) transfers property rights for goods to another person, including transfer of goods by the employer to the employee as remuneration, or other payments provided by the Labor Code of the Kyrgyz republic, transfer of the pledged property to discharge debts by the pledgor under the debt liability;

2) transfers property under financial lease (leasing) agreement;

3) makes supply of electricity, natural and condensed gas, heat, water, refrigerator and air-conditioning services.

2. A subject shall supply works and services if he performs for payment any other activity, including:

1) transfer of property into temporary possession and use under property lease contracts;

2) works performed and serviced rendered by an employer to an employee as remuneration under the Labor Code of the Kyrgyz Republic.

3. Supply of works or services incidental to supply of goods made by the subject shall be the part of a supply of goods in case the supply of goods is principal against the supply of such works or services.

4. Where the supply of works and services is principal against supply of goods, the supply of goods incidental to supply of works or services made by the subject supplying these works and services, shall be part of that supply of works or services.

5. Works performed or services rendered in connection with the import of goods shall be part of the imports of goods.

6. Supply of goods, works, services made in violation of the KR law shall be considered as taxable or exempt supplies in accordance with this Section.

7. As of the date of cancellation of the VAT registration, the balance of inventories, fixed assets and intangible assets acquired during the period of effect of the VAT registration shall be considered as supply of goods at their book value.

8. Loss of goods as a result of force majeure events shall not be considered as supply of goods. The value of the lost goods must be documented; but if the documents are lost the value must be confirmed by the expert assessment of an independent expert commission composed of the representatives of the Chamber of Commerce and relevant bodies in accordance with the procedure established by the Government of the Kyrgyz Republic.

**Article 233. Supplies by Agents or Employees**

1. Supply of goods, works, services made by an agent shall be considered as the supply made by the subject itself, unless otherwise provided by this Article. The transfer of goods from

a subject to an agent shall not be considered a supply, except for the case when goods are transferred as an agent's remuneration.

2. Supply of works or services by an employee to an employer within the framework of his job responsibilities shall not be a taxable supply.

3. Supply of goods, works, services by an agent on behalf of the subject that is a foreign organization or a non-resident individual who is not a VAT payer shall be included into the agent's supply in case if a supply is taxable under this Code.

#### **Article 234. Date of tax liability**

1. Unless otherwise provided by this article, the date of supply shall be the date of tax liability.

2. The date of supply shall be:

1) for goods – the date of transfer of ownership rights to a consumer;

2) for performed works or rendered services – the date when all works are completed or services are rendered, unless otherwise provided by this article.

3. With regard to the construction-assembling works, the date of supply shall be the date when the works are completed and paid.

4. If the VAT invoice is issued or the payment is received prior to the date of a taxable supply, the date of tax liability shall be the date of issuing VAT invoice or the date of receiving payment whichever is earlier.

5. If goods, works or services are supplied for a long period of time (more than a year), the date of tax liability shall be the date of issuance or regular transfer of VAT invoices or the date of receipt of every regular payment whichever is earlier.

6. The date of VAT liability when importing goods shall be determined in accordance with the Customs Code of the Kyrgyz Republic.

#### **Article 235. Place of Supply of Goods**

Unless otherwise provided by this Section, a place of supply of goods shall be the place where the supplier transfers goods or if the delivery involves transportation, the place of supply of goods shall be the place of location of goods at the time when transportation starts.

#### **Article 236. Place of supply of works and(or) services**

1. Location of movable and immovable property shall be considered the place of supply of works and/or services if works and/or services are directly related to this property. Such works and/or services shall include construction works, building-assembling works, repair, restoration, works on gardening, technical maintenance and similar works and/or services involving direct

exposure of such property, and transfer of immovable property into temporary use under the property lease contract, unless otherwise provided by this Article.

2. The place of a supply shall be deemed the place of economic activity, location of a permanent office of a buyer of works and/or services to which these works and/or services are related, in the following cases:

1) transfer into ownership or assignment of patents, licenses, brands, copyrights or other similar rights;

2) processing of goods placed under customs regime of goods processing in the customs territory and under customs control;

3) provision of personnel;

4) services of an agent who on behalf of the principal contract participant involves a person to carry out works and services contemplated by this paragraph;

5) consulting, legal, advertising services, conducting laboratory tests, providing auditing services;

6) engineering and consulting services in preparation of production process and sale of products of manufacturing, agricultural and other objects, pre-designing and designing services, services on preparing feasibility reports, business-plans, research and development works and similar services;

7) services on collection and summarization of information, systematization of information files and presenting the products of information processing to the user.

8) transfer of movable property for temporary possession and use, except for means of transportation.

3. If services are provided in the field of health service, culture, art, scientific research, education, tourism, physical culture and sport, the place of supply shall be the place where such services are actually rendered.

4. With regard to supply of works and services not listed in p. 1 and 2 of this Article, the place of supply shall be the place of economic activity of the subject performing these works and providing these services.

## **Chapter 38. Exempt Supplies and Zero-Rated Supplies**

### **Article 237. Exempt supplies**

A supply shall be exempt from VAT under this Code if it belongs to the group of supplies defined by Articles 238-256 of this Code.

**Article 238. Supply of land, residential buildings and premises**

1. A supply of residential buildings attributed to the housing stock in accordance with the documents of the state registration body or the lease of residential buildings shall be a VAT exempt supply, except for the lease of hotel type accommodation, resorts and sanatoriums for medical treatment and rest.

2. A supply of land including leasing shall be a VAT exempt supply, except for the places provided for sales premises, parking, and parking of transportation vehicles.

**Article 239. Supply of agricultural produce and products of industrial processing of berries, fruit and vegetables**

1. A supply of agricultural produce of own production by an agricultural producer, including the processing products, shall be a VAT exempt supply.

2. A supply of the products of industrial processing and industrial conservation of berries, fruit and vegetables (other than excisable products) processed by the supplier himself shall be a VAT exempt supply.

3. A supply of agricultural produce and products processed by agricultural trade-commodity cooperative societies out of raw materials received from the agricultural producers that are the members of that society shall be a VAT exempt supply.

4. A supply of goods, works, services by the agricultural trade-commodity cooperative society to the members of such cooperative society shall be a VAT exempt supply.

**Article 240. Supply of public utility services**

1. A supply of the services on the use of sewerage system, elevators, removal of hard and liquid wastes, as well as a supply of hot and cold water, heating, electric power, gas, including liquefied gas-cylinders to physical persons for household purposes shall be a VAT exempt supply.

2. A supply of goods of their own production, works and services provided by correction facilities and penitentiary institutions of the Justice Ministry of the KR shall be a VAT exempt supply.

3. A supply of goods by the subjects carrying out their activities in the territory of correction facilities and penitentiary systems, provided that the number of the employed convicts serving sentence in these penitentiaries is no less than 60% of the total number of the employed at these enterprises, shall be a VAT exempt supply.

**Article 241. Supply of fixed assets under a financial lease agreement (leasing)**

1. Unless otherwise provided by this article, transfer of fixed assets under the financial lease agreement shall be an exempt supply with respect to interests receivable by the lessor.

2. Transfer of fixed assets and payments receivable by a lessor under financial lease agreement shall be an exempt supply provided compliance with one of the conditions below:

1) if the import of transferable fixed assets is VAT exempt in accordance with this Section;

2) if a lessor has acquired the given fixed assets from the business entity which is not a taxable subject.

#### **Article 242. Goods and services in the sphere of medical activity**

A supply of prosthetic – orthopedic items, supplies of specialized goods for invalids according to the list determined by the KR Government, including their repair, and supply of medicines shall be exempt from VAT.

#### **Article 243. Financial services**

1. The supply of financial services shall be exempt from VAT.

2. For purposes of this Article financial services shall mean:

1) accrual and charging of interest on credits, loans, extension of loans, credits, issuance of warranties and (or) guarantees, including issuance of banking guarantees that provide for execution in monetary form, management of loans, credits or credit guarantees on the part of creditors;

2) acceptance of deposits, opening and maintenance of bank accounts of organizations and physical persons, including accounts of correspondent banks;

3) transactions with payments, remittances, debt liabilities, checks and commercial means of payment in circulation, transactions on collection of payments;

4) opening and maintenance of metal accounts of physical persons and organizations, which reflect physical quantity of refined precious metals belonging to this person;

5) transactions with currency, banknotes and money resources being a lawful payment means, except for gold coins and collection items;

6) transactions with shares, bonds and other securities, charge cards as well as excise stamps, except for services on ensuring the safety of securities; transactions with participating interests in the capital of business partnerships and companies;

7) investment funds' management;

8) clearing transactions, including collection, verification, classification, and confirmation of payments, as well as their offsetting and determining net positions of clearing participants that are banks and organizations carrying out certain types of banking transactions;

9) Opening and servicing of letters of credit.

**Article 244. Insurance services**

The supply of insurance, co-insurance and re-insurance services shall be a VAT exempt supply. Services by brokers or agents incidental to such services shall be VAT exempt supplies.

**Article 245. Pension security services**

The supply of pension security services, services incidental to payment of pensions and services on fiduciary management of pension funds property, except for the property lease, shall be a VAT exempt supply.

**Article 246. Transportation services**

1. Transportation of passengers on the territory of the Kyrgyz Republic, other than transportation by automobiles with the number of passenger seats not less than 6, shall be a VAT exempt supply.

2. International transportation of passengers, luggage and cargo transportation by railroad shall be a VAT exempt supply.

**Article 247. Roaming, network interconnection services and international transit traffic communication services**

1. The supply of roaming services, network interconnection services by communication operators of the Kyrgyz Republic to the subscribers of foreign communication operators, the supply of services on international transit traffic by communication operators of the Kyrgyz Republic to the subscribers of foreign communication operations shall be VAT exempt supplies.

2. For purposes of this Article:

1) Traffic means the aggregate of messages communicated through telecommunication network;

2) Roaming means the mobile communication service provided to the subscriber by the mobile communication operator with whom he has contractual relations while moving from the area of its coverage to the coverage area of another mobile communication operation both inside Kyrgyzstan and outside;

3) Network interconnection is a physical and logical connection of telecommunication networks in order to provide the possibility to the subscribers of one service provider to connect with subscribers of another service provider or to obtain access to services rendered by another service provider;

4) Transit traffic means the traffic through the network of the telecommunication operator, if its source and recipients are users of other telecommunication networks.

**Article 248. Supply of textbooks and school supplies, scientific publications in the state language**

The supply of textbooks, readers, scientific literature, fiction books, magazines, publications for children in the state language shall be exempt from VAT.

**Article 249. Processing of goods placed under the tax regimes of “Processing goods in the customs territory” and “Processing of goods under customs control”**

The services on processing goods imported to the customs territory of the Kyrgyz Republic and placed under the customs regimes “Processing of goods in the customs territory” and “Processing of goods under customs control” shall be exempt from VAT.

**Article 250. Privatization**

The supply of state property through privatization shall be a VAT exempt supply.

**Article 251. Supplies by Charitable Organizations**

The supply of services by charitable organizations for charitable purposes in accordance with the KR law on sponsorship and charitable activities shall be VAT exempt.

**Article 252. Supplies by not-for-profit organizations**

Chargeable supplies by the not-for-profit organizations that do not exceed expenses for making these supplies shall be VAT exempt, if these are supplies:

- 1) for the purpose of social security and protection of children or low income senior citizens;
- 2) in the field of education, health service, science, culture and sport.

**Article 253. Supply on gratis basis**

Transfer on a gratis basis of objects for social-cultural and housing-communal-domestic purposes, objects of roads, electric networks, substations, boiler-houses and heating networks, water inlets, mining equipment, and objects of civil defense to specialized organizations that use

and operate these objects according to their purpose, the value of fixed assets transferred gratis to enterprises, institutions and organizations pursuant to the decision of the KR Government or local governments shall be a VAT exempt supply.

**Article 254. Supply of ritual goods and ritual services by government or municipal organizations**

The supply of ritual goods by government or municipal organizations and ritual services to the population incidental to burial shall be exempt from VAT.

**Article 255. Supply of mineral fertilizers and plant protecting chemicals, veterinary vaccines and medicines**

The supply to agricultural producers of mineral fertilizers and plant protecting chemicals listed by the Government of the Kyrgyz Republic shall be VAT exempt supplies.

**Article 256. Supply of gold**

Supply and exports of gold alloy and refined gold shall be VAT exempt.

**Article 257. Exemption of imported goods from VAT**

1. The following goods imported to the territory of the Kyrgyz Republic shall be exempt from VAT:

1) securities, forms of passports and identification cards of the citizen of the Kyrgyz Republic of the standard form in accordance with the law of the Kyrgyz Republic;

2) specialized goods for disabled persons;

3) educational supplies and school accessories, scientific publications;

4) goods exempt from VAT under the customs regimes as defined by the KR customs legislation;

5) laboratory equipment of the geologic (geophysical, geodesic) expeditions for measuring and monitoring the seismic environment;

6) excise stamps, latent stamps and currency for numismatic purposes;

7) goods for providing assistance in liquidation of the consequences of natural calamities, war conflicts;

8) goods imported as humanitarian aid; grants extended in accordance with the procedure determined by the Government of the Kyrgyz Republic;

9) goods intended for official use by foreign missions and consular offices of the foreign states and international organizations, and goods intended for personal use by diplomatic agents, including members of their families, pursuant to international agreements;

10) infant food;

11) natural gas;

12) medicines.

2. Import of goods listed in subparagraphs 2, 3 and 10 of paragraph 1 of this Article shall be exempt from VAT according to the list approved by the Government of the Kyrgyz Republic in accordance with the Commodity Nomenclature of Foreign Economic Activity of Eurasian Economic Community (hereinafter referred to as the CNFEA).

### **Article 258. VAT exemption of pedigree cattle and seed materials, mineral fertilizers and plant protecting chemicals imported to Kyrgyzstan**

1. The pedigree cattle and seed materials, mineral fertilizers and plant protecting chemicals, including veterinary vaccines and medicines imported to the territory of the Kyrgyz Republic shall be VAT exempt.

2. The goods imported under this Article shall be VAT exempt pursuant to the list approved by the KR Government in accordance with the Commodity Nomenclature of Foreign Economic Activity of Eurasian Economic Community (CNFEA).

### **Article 259. VAT exemption of fixed assets imported to the customs territory of the Kyrgyz Republic**

1. Fixed assets imported to the customs territory of the Kyrgyz Republic by business entities registered as the VAT payers for their own production purposes shall be VAT exempt.

2. Exemption herein provided shall apply to fixed assets classified under commodity headings of the Commodity Nomenclature of Foreign Economic Activity of Eurasian Economic Community (CNFEA) 8401-8406, 840710, 8410-8414, 8416-8447, 8449-8465, 8471, 8474, 8475, 8477-8480, 8504, 8505, 8514, 8515, 8525, 8526, 8529, 8530, 8601-8606, 8608, 8609, 8701, 8702 (except for minibuses), 8704, 8705, 8709, 8716, 8802, 9018, 9022.

3. Imports of fixed assets specified in p. 2 of this Article by an agricultural producer and by an agricultural trade-commodity cooperative society directly for its own production purposes or for the members of such cooperative society and (or) by a business entity under financial lease agreement shall be exempt from VAT regardless of the fact of registration of this business entity as a VAT payer.

4. In case of alienation of the fixed assets herein provided upon expiration of a 12-month period from the date of conditional issue, such alienation shall be considered a supply and the VAT shall be paid to the tax body.

5. In case of alienation of the fixed assets herein provided prior to expiration of a 12-month period from the date of conditional release, such alienation shall be a taxable import and a

preliminarily accrued amount of the VAT and penalties shall be paid to the customs body. The customs body shall calculate penalties from the date following the date of conditional release to the date of discharge of VAT liability at the rates set forth in the Customs Code of the Kyrgyz Republic.

6. For purposes of this Article, a fixed asset is an asset that is intended for use in entrepreneurial activity, which gradually transmits its value to goods, works and services created by it, the useful life or operation life of which shall be more than a year and the customs value of which shall not be less than 200,000 soms.

#### **Article 260. Exports of works and services**

Export of works and services shall be a VAT exempt supply.

#### **Article 261. Export of goods**

Export of goods and services except for export of gold alloy and refined gold, shall be a zero-rated VAT supply.

#### **Article 262. International transportation**

1. International transportation of passengers, luggage and cargo, except for railroad transportation, shall be a zero-rated supply.

2. Transportation shall be considered international if transportation is carried out from the territory of the Kyrgyz Republic to the territory of another state, or from the territory of another state to the territory of the Kyrgyz Republic.

#### **Article 263. Transit flight services and services incidental to international transportation**

1. Transit flight services and services incidental to international transportation, except for the services incidental to international railroad transportation, shall be a zero-rated supply.

2. For purposes of this Article, services incidental to international transportation of passengers, luggage and cargo shall include:

- 1) loading; unloading; transshipping, pouring in/out;
- 2) freight forwarding;
- 3) aviation fuel refilling and (or) unloading;
- 4) air-navigation, meteorological, ground-based navigation, airport and ground service;
- 5) technical maintenance;
- 6) supply and delivery of on-board meals and beverages;

- 7) aircraft cleaning;
- 8) sale and reservation of air tickets for international transportation and transportation outside the territory of the Kyrgyz Republic.

## **Chapter 39. Taxable base**

### **Article 264. Taxable base**

1. The taxable base for the VAT levied on a taxable supply shall be the taxable value of a supply determined in accordance with Article 265 of this Code.
2. The taxable base for VAT levied on a taxable import shall be the taxable value of imported goods determined in accordance with Article 267 of this Code.

### **Article 265. Taxable value of supplies**

1. Unless otherwise provided in this Code, the taxable value of a supply is the total amount paid or payable by all subjects for such supply, less the VAT and sales tax.
2. In those cases when the payment is made in kind, the market value of the goods, works and services supplied, less the VAT and sales tax, shall be the taxable value.
3. The taxable value may not be lower than the book value, except for the cases provided in paragraph 3 of Article 120 of this Code. Provisions of this paragraph shall not apply to the cases when the supply of goods, works and services shall be made at the government controlled prices.
4. If goods, works and services are supplied at the prices below the market ones, the value of a taxable supply shall be determined in accordance with Articles 119, 120 of this Code.
5. The taxable value of a supply also includes:
  - 1) the amount of taxes payable for the supply or in connection with the supply, except for the VAT and sales tax;
  - 2) the amount of subsidies allocated from the budget in connection with application of the government controlled prices by the taxpayer or the preferences provided under the KR legislation to specific consumers when selling goods, works and services.
6. The taxable value of a supply does not include state duties paid under the legislation of the Kyrgyz Republic.
7. In this section, the book value means the following:
  - 1) with regard to inventories - purchase and production costs;
  - 2) with regard to fixed assets and intangible assets - purchase and production costs;

8. Where the goods, works and services supplied to a taxable subject for purposes of his economic activity were supplied gratis to the employees of this subject or to other subjects, the taxable value of a supply shall be the market value of goods, works and services.

9. Where the property is transferred into financial leasing, the taxable value of a supply shall be the amount paid or payable by a lessee to a lessor of the property which is the subject of financial lease.

### **Article 266. Adjustment of the value of a taxable supply and VAT subject to credit**

1. If the value of the goods, works and services supplied changes, the value of a taxable supply shall be appropriately adjusted.

2. The value of a taxable supply shall be adjusted in case of changes in the terms and conditions of a deal, including:

- 1) full or partial return of goods;
- 2) price change;
- 3) refusal of the works performed and/or services rendered;
- 4) return of payment for goods, works and services.

The taxable supply, including VAT, shall be adjusted in that tax period in which events herein indicated took place.

3. If the total value of the supply of goods, works and services or a portion of it is a bad debt, a taxable subject shall be entitled to claim the amount of VAT subject to credit, but not earlier than 12 months upon completion of the tax period from the date the VAT is accrued on a supply incidental to occurrence of this bad debt.

For purposes of this paragraph, a bad debt is the amount receivable by a taxable person which can no longer be collected by him fully because of the cease of a liability upon court decision or bankruptcy, liquidation or death of the debtor, or when the statute of limitations period expires as provided for by the civil legislation of the Kyrgyz Republic.

4. If payment is received for the supplied goods, works and services after the VAT payer uses the rights provided to him in paragraph 3 of this Article, the value of a taxable supply shall be increased by the value of the specified payment in that tax period in which this payment was received.

5. If a taxable subject's liability with regard to acquired material resources is recognized doubtful, the VAT amount included in such liability shall be excluded from credit in that tax period in which the liability is recognized doubtful.

If the doubtful liability is discharged in full or in part, the VAT on acquired material resources referred to the paid portion of liability shall be subject to credit in that tax period in which the payment was made.

For purposes of this paragraph, the doubtful liability is the due amount which the subject failed to pay because of the cease of the liability upon court decision or due to bankruptcy,

liquidation or death of the creditor, or when the statute of limitations period expires as provided for by the civil legislation of the Kyrgyz Republic.

6. The VAT on acquired material resources credited earlier shall be adjusted in the following cases:

- 1) when using acquired material resources for making exempt supplies;
- 2) when using acquired material resources for the purposes other than production of exempt supplies;
- 3) in case of changes in the tax legislation of the Kyrgyz Republic under which the taxable supplies receive the status of exempt supplies;
- 4) when writing off the material resources due to expiration of their useful life, service life;
- 5) in case of damage and loss of material resources, except for the force-majeure events.

7. The VAT on acquired material resources shall be adjusted in that tax period in which the events herein specified took place.

8. In case of changes in the value of acquired material resources in the cases specified in this article, the VAT on acquired material resources shall be appropriately adjusted. The amount of adjustment shall be credited or excluded from crediting in that tax period in which events herein specified took place.

9. The value of a taxable supply and the VAT on acquired material resources shown on the VAT invoices that are recognized invalid and lost under this Section shall not be adjusted.

## **Chapter 40. Tax period. Procedures for VAT assessment, payment and refund**

### **Article 268. Tax period**

A calendar month is the tax period for VAT assessment on taxable supplies.

### **Article 269. Procedures for VAT assessment**

1. The VAT shall be calculated in the manner provided for in paragraph 1, Article 37 of this Code.

2. The VAT amount payable to the budget on taxable supplies shall be determined as the difference between the amount of VAT accrued on all taxable supplies made by a taxable subject in the tax period and the amount of VAT on acquired material resources subject to credit for the same tax period.

### **Article 270. VAT crediting procedure**

1. When paying VAT to the budget, a taxable subject shall have the right to credit the VAT paid or payable for acquired material resources used to produce taxable supplies, unless otherwise provided in this Section. In case the acquired material resources are used by a taxable subject partially for the production of taxable supplies and partially for exempt and non-taxable supplies, a taxpayer shall account the amount of VAT for acquired material resources which is determined on the basis of the share of their use in taxable supplies.

2. For purposes of this section, acquired material resources are fixed assets, goods, including raw materials, materials, fuel, complementary articles, and also performed works and rendered services that are received or imported by a taxable subject for the purpose of making supplies.

3. Entitlement to credit under paragraph 1 of this Article arises provided that:

1) to the taxable subject:

- a. goods, works and services are actually supplied by the subject registered as a VAT payer; and
- b. the taxable subject was given the VAT invoice of the standard format in accordance with this Section, which has been issued by the tax body to the taxable subject issuing such invoice, and/or;
- c. the taxable subject was issued a register receipt and/or a sales receipt which includes the following: the name and identification tax number of the taxable supplier subject; the name, quantity and the cost of goods by separating the VAT amount in cases envisaged by paragraph 3 of Article 288 of this Code.

2) Goods were imported by a taxable subject to the territory of the Kyrgyz Republic and VAT was paid on them.

4. The VAT for acquired material resources shall be credited within the limits of natural losses (loss ratio) set by the applicable rules and regulations in the Kyrgyz Republic for taxable supplies.

5. A taxable subject carrying out building and assembling works shall have the right to credit the amount of VAT paid for acquired material resources used for production of taxable supplies.

### **Article 271. VAT paid on acquired material resources and not allowed for crediting**

1. No input tax credit shall be allowed with respect to material resources purchased for purposes other than production of taxable supplies.

2. No input tax credit shall be allowed with respect to material resources purchased for the purpose of organizing leisure, entertainment, except for the inputs purchased by a taxable subject for carrying out entrepreneurial activity in the sphere of entertainment and leisure.

3. No input tax credit shall be allowed if such input tax has been credited in violation of provisions of this Code.

4. No input tax credit shall be allowed with respect to the amount exceeding the inputs natural loss limits (loss ratio).

5. No input tax credit shall be allowed against the VAT invoices recognized invalidated and lost under this Section.

6. No input tax credit shall be allowed against the VAT invoices that were not completed fully as is required by the VAT invoice format.

7. The input tax which is not subject to crediting shall be included into the book value of material resources, except for the cases indicated in p. 3 and 6 of this Article.

### **Article 272. Apportionment of VAT paid on acquired material resources**

1. When a taxable subject makes both taxable and exempt supplies and if the value of exempt supplies for the tax period does not exceed 5% of the total value of supplies then the amount of VAT paid on acquired material resources shall be credited in full.

2. Except for the cases provided for in p. 1 of this Article, the VAT on acquired material resources subject to crediting shall be computed as follows:

- 1) the VAT on inputs purchased for production of taxable supplies shall be taken as credit;
- 2) the VAT on inputs purchased for production of exempt supplies shall not be taken as credit;
- 3) the remaining undistributed portion of VAT shall be credited in the following way:

$$\text{amount of undistributed VAT} \times \frac{A}{A+B} = \text{amount subject to credit}$$

where,

A is the total value of taxable supplies;

B is the total value of exempt supplies made for the tax period.

3. The VAT taken as credit according to subparagraph 1, paragraph 2 of this Article upon purchase of inputs that later were not used for production of taxable supplies shall be adjusted in that period in which these inputs were used to produce exempt supplies and/or supplies which are not the object of VAT taxation.

**Article 273. Specific features of VAT computation on lottery activity**

1. The tax base for lottery business shall be the difference between proceeds from the sale of lottery tickets and the amount of the prize fund accounted for those proceeds, plus the VAT amount assessed on that base.

2. The VAT paid on inputs purchased for the purpose of formation of a prize fund shall not be credited.

**Article 274. Dates for tax reporting and VAT payment**

1. Unless otherwise provided for in this Article, the VAT payer shall file VAT tax returns in the established format by the 25<sup>th</sup> day of the month following the reporting tax period.

A large taxpayer shall file VAT returns no later than the last day of the month following the reporting tax period.

2. The VAT shall be paid before the 25<sup>th</sup> day of the month following the reporting tax period.

3. The VAT on imported goods shall be paid in the manner and at the due dates specified in the customs legislation of the Kyrgyz Republic unless otherwise provided for in this Code.

**Article 275. Specific features of introducing changes and additions to tax returns**

1. No changes and additions shall be made by the taxpayer in the VAT tax return with regard to the taxpayer's failure to account or incomplete account of transactions or the errors based on the VAT invoices recognized invalidated and lost in accordance with this Section.

2. Para1 of this Article shall not apply to the cases when changes and additions shall result in increase of the VAT liability.

**Article 276. Procedures for VAT payment by the subject carrying out industrial processing of agricultural produce**

1. Unless otherwise stipulated by this Section, a taxable subject carrying out industrial processing of agricultural produce shall pay the VAT in accordance with this Article of the Code.

2. A taxable subject as specified in paragraph 1 of this article means a subject carrying out industrial processing of agricultural produce using his own manufacturing capacity, except for agricultural produce used for manufacturing excisable goods.

3. For purposes of this section, the industrial processing means the processing in the course of which goods have the code of CNFEA different from the one used for raw materials at the level of any first four digits.

4. Industrial processing of agricultural produce shall not include:

- 1) preparation of agricultural produce for sale and transportation (division of consignment, formation of shippings, sorting, repackaging), sorting and package assembling;
- 2) mixing agricultural produce (components) that does not result in material difference of the received product from its original components;
- 3) cattle slaughtering, meat sorting and its further processing;
- 4) exfoliation, partial or complete whitening, grinding and polish of grain and rice;
- 5) rinding, seed extraction and cutting of fruit, vegetables and berries (nuts);
- 6) bolting, sorting, classifying, selecting (including preparation of sets of agricultural produce);
- 7) bottling, packaging into tins, bottles, sacks, boxes and other packaging operations.
- 8) division of agricultural produce into components that does not result in a significant difference of the received components from original goods;
- 9) combining two or more of the above-listed operations; and
- 10) other operations that do not result in changes of the CNFEA codes in accordance with Para 3 of this Article.

5. The amount of VAT payable to the budget by a taxable subject as specified in this article and computed in accordance with Para 2 of Article 269 of this Code shall be reduced by 35 percent.

6. A taxable subject specified in Para 2 of this Article and making other taxable supplies shall be entitled to credit only provided that he keeps separate accounting of inputs and taxable supplies for purposes of this Article.

7. The undistributed portion of the VAT paid on inputs meant for production of taxable supplies under this Article and for other taxable and(or) exempt supplies shall be distributed in accordance with the procedure set by Article 272 of this Code.

#### **Article 277. Procedure for VAT payment when making supplies under the special partnership agreement**

1. A taxable subject responsible for keeping records under the special partnership agreement shall compute and pay VAT in the manner herein established.

2. A taxable subject specified in Para 1 of this Article and making other taxable supplies shall be entitled to crediting the VAT paid on inputs only provided that he keeps separate accounting of inputs and taxable supplies for purposes of the special partnership agreement.

**Article 278. Procedures for reimbursement of the input VAT excess over the VAT**

Except for the cases provided for in Article 279 of this Code, the excess of the input VAT subject to credit over the output VAT for a certain tax period shall be used exclusively to pay his fines and tax sanctions on the VAT, the VAT of the next tax period, including the VAT arrears on import of goods.

**Article 279. Reimbursement and refund of the excess VAT on inputs over the zero-rated supplies**

1. If a taxable subject makes zero-rated supplies and the value of these supplies during six consecutive calendar months is not less than 50 percent of the total volume of supplies for this period, and the VAT on inputs subject to credit exceeds the total of output VAT, such subject shall be entitled to reimbursement and refund of such excess amount from the budget.

2. For purposes of this Article, the excess amount of the VAT shall be reimbursed and refunded to the taxable subject only in the following order:

1) against discharge of his fines and tax sanctions on VAT or payment of VAT in the next tax period;

2) against discharge of his arrears accrued on other taxes;

3) against discharge of his VAT arrears accrued on imported goods;

4) refund of the excess VAT amount to his bank account.

3. The excess VAT amount shall be refunded to the bank account of the taxable subject making zero-rated supplies only in case of absence of other tax arrears, including the VAT liability on import of goods.

4. No refund shall be allowed to the taxpayer who makes a deferred tax payment or payment in installments.

5. Reimbursement and refund of the VAT excess amount and VAT refund to the diplomatic missions and the representatives of the similar status under Articles 278, 279 and 281 of this Code shall be made out of funds planned in the republican budget in the Kyrgyz Republic.

**Article 280 Procedures for reimbursement and refund of the excess VAT amount**

1. Absence of the taxable subject's application on using the excess amount of VAT specified in Article 278 and Para 1 of Article 279 of this Code shall be considered as its charge against payment of fines and tax sanctions on the VAT and payment VAT in the next tax period.

2. The excess amount of VAT shall be reimbursed and refunded within 60 calendar days from the date on which tax authorities received the refund application and the copies of the documents sent by the taxable subject, including:

1) VAT tax reports for the tax period;

- 2) agreement or contract for supply of goods, works and services;
- 3) VAT invoice;
- 4) payment document confirming the fact of payment for goods, works, services and the VAT amount;

5) with regard to taxable supplies in the territory of the Kyrgyz Republic, in case no confirmation of the payment is available, the statement of settlements verification is required between the taxable subject having the VAT excess and:

- (1) the supplier of goods, works and services;
- (2) the buyer of goods, works and services;
- 6) In case of export of goods:
  - (1) cargo customs declaration for export of goods;
  - (2) cargo customs declaration of the country of destination or another document confirming imports to that country, such as TIR carnet, international commodity and transport consignment note, consignment note formalized under international railroad cargo communication;
  - (3) a payment document confirming the fact of payment for goods and the amount of VAT under the agreement or contract;

7) a field examination report covering the period for which the application for reimbursement or refund is filed, if this period was covered by the previous examination.

3. The decision to reimburse and refund the VAT excess amount shall be made on the basis of mandatory review of the documents filed by the taxpayer with regard to validity of the VAT excess amount:

- 1) territorial and/or functional subdivisions of an authorized tax body shall make a decision;
  - a) on amounts up to Som 300 000 per month by each type of tax separately; and
  - b) regardless of the reimbursement and refund amount in respect of the taxable subjects included in the list;

2) The VAT Reimbursement and Refund Commission shall make a decision on amounts exceeding Som 300 000, except for the amounts claimed by the taxable subjects included into the list.

4. For purposes of this Article, the list mentioned above is the list of the taxable subjects using equipment, raw materials, materials and complementary articles in their manufacturing cycle for production of goods (works and services) for export and for production of the goods for military and technical purpose classified as secret.

The taxable subjects included into the list shall be entitled to a simplified procedure for VAT reimbursement and refund which is determined by the Government of the Kyrgyz Republic.

5. The Commission for VAT reimbursement and refund, the internal procedures of its operation, composition and criteria of selecting taxable subjects for inclusion into the list shall be

approved by the Government of the Kyrgyz Republic based on the recommendation of an authorized tax body.

6. If it is revealed that the VAT excess amount has been reimbursed and refunded in violation of the KR tax legislation, the earlier made decision shall be annulled and the amounts reimbursed and refunded shall be repaid with the accrual of fines, interest and tax sanctions.

7. Reviewing the taxpayer's documents with regard to validity of the VAT excess amount, the tax authority shall have the right to conduct an unscheduled or counter audit of the certain operations of a taxable subject in accordance with the requirements of this Code.

The procedures for review, reimbursement and refund of the VAT excess amount as provided in this Section shall be established by the Government of the Kyrgyz Republic.

#### **Article 281. VAT refund to diplomatic missions and representations of the similar status**

1. A supply of goods, works and services for official use by diplomatic missions and consular offices of foreign states and representative offices of international organizations accredited in the Kyrgyz Republic and for personal use by diplomatic or administrative and technical personnel of such representative offices, including their family members residing with them, shall be subject to VAT taxation with the subsequent VAT refund to specified individuals in the following cases:

1) if legislation of the relevant foreign state provides a similar treatment or exemption to diplomatic, consular or equivalent representations of the Kyrgyz Republic and diplomatic and administrative and technical personnel of such representations, including their family members residing with them; or

2) if a similar treatment or exemption is provided for by the effective international agreement the Kyrgyz Republic is a party to.

2. VAT refund procedure provided for by Para 1 of this Article shall be established by the Government of the Kyrgyz Republic.

#### **Article 282. VAT invoice and documentation**

1. VAT invoice is a high security document form which is issued by the tax bodies and serves as the ground for acceptance of the VAT claimed on inputs as credit in the manner provided for by this Section.

2. A taxable subject making a taxable supply is required to issue a VAT invoice for this supply to a recipient by filling in all the details specified in the established VAT invoice form.

3. Issuance of VAT invoices is not mandatory and it shall be issued at the buyer's request in the following cases:

1) when cash sales are made from retail outlets provided the following terms are met:

a) a registered subject must have a cash register and a cash book at each trade outlet for entering all data on trading transactions that take place when cash is received and payments are made, and prepare a cash statement at the end of the day;

b) at the end of each month the data on the VAT collected from the supplies delivered shall be entered into the relevant book of records;

2) in performing works and rendering services to the public for cash based on the high security forms in case of compliance with the requirements of the KR rules and regulations on application of high security forms;

3) when registering passengers' transportation through travel tickets.

4. The VAT invoice shall be executed once at the end of the month when a taxable subject sells goods from retail trade outlets for cash and when he performs works and renders services under paragraph 3 of this Article.

5. The VAT invoice for exported goods, works and services shall include the following:

1) a record that this invoice relates to export;

2) exports destination.

6. When adjusting the size of a taxable supply an additional VAT invoice shall be issued indicating the following details in a mandatory way:

1) series and number, the date of issuance of the VAT invoice to which an additional VAT invoice is issued;

2) description of goods, works and services whose size of supply is adjusted;

3) the size of adjustment of quantitative and cost indicators provided for in the VAT invoice form depending on reasons for adjusting the size of the supply.

7. A taxable subject shall account for the entire taxable volume of the supplied goods, works and services, and also for acquired material resources.

8. In case of a loss of the VAT invoice, a taxable subject shall publish appropriate information about the loss in official print media and present it to the territorial tax body at the place of registration the next day.

9. A damaged VAT invoice form with the inscription "damaged" on all its copies and certified by an authorized official of a taxable subject together with the VAT tax reporting shall be presented to the tax body at the place of location of the tax office.

10. The VAT invoice shall be recognized invalid from the date of placing the appropriate information in official print media.

11. An authorized tax body shall establish the following:

1) the form of the VAT invoice and procedures for its issuance, application, accounting, safe keeping and invalidity;

2) requirements to the documentation on record keeping of supplies of goods, works and services (the supply book), and also on acquired material resources (the procurement book).

## **SECTION X. EXCISE TAX**

### **Chapter 41. General Provisions**

#### **Article 283. A payer of Excise tax**

1. A payer of Excise tax (hereinafter referred to in this section as excise tax) shall be a subject that produces, including the give and take basis, excisable goods in the territory of the Kyrgyz Republic and (or) imports excisable goods to the territory of the Kyrgyz Republic unless otherwise provided in this section of the Code.

2. Payer of Excise tax shall be a subject that sells goods specified in subparagraph 5, Para 1 of Article 285 of this Code in the territory of the Kyrgyz Republic.

#### **Article 284. Object of taxation**

The following shall be the object of excise taxation:

1) excisable goods produced in the territory of the Kyrgyz Republic and (or) imported to the territory of the Kyrgyz Republic as specified by subparagraphs 1-4, 6 of paragraph 1 of Article 285 of this Code.

2) retail sale of goods in the territory of the Kyrgyz Republic under subparagraph 5, Para 1 of Article 285 of this Code.

#### **Article 285. List of excisable goods**

1. The following goods are excisable:

1) ethyl non-denatured spirit with the concentration of the spirit 80 percent or more, classified under commodity heading 2207 of the Commodity Nomenclature of Foreign Economic Activity (CNFEC);

2) malt beer; natural wines including fortified wines; must other than the one indicated under commodity heading 2009, vermouth and other natural wines having vegetative and aromatic substances, other fermented beverages (such as cider, poire or pear cider, honey beverage); mixtures of the fermented beverages and mixtures of the fermented beverages and alcohol-free beverages that are not indicated or are not included under other headings; ethyl non-denatured spirit with the concentration of the spirit less than 80%; alcoholic tincture, liqueur and other alcoholic beverages classified under commodity headings 2203, 2204, 2205, 2206, 2208 of CNFEC;

3) tobacco goods such as cigars, cigars with cut ends, cigarillos (thin cigars) and cigarettes produced out of tobacco or its substitutes classified under commodity heading 2402 of the CNFEC;

4) other goods containing tobacco such as other kinds of manufactured tobacco and manufactured tobacco substitutes; "homogenized" or "restored" tobacco; tobacco extracts and essences classified under commodity heading 2403 of the CNFEC;

5) jewelry fully or partially made of precious metals or metals clad with precious metals; jewelry items made by the silver and gold master craftsmen and their parts of the precious metals and metals clad with precious metals; other items made of precious metals and metals clad with the precious metals, coins, frames for the watch, wristlets, bands and bracelets for wristwatches meant for wearing or taking and their parts classified under commodity headings 7113, 7114, 7115, 7118 of the CNFEC, under subheading 911310 and subheading 9111100000;

6) Crude oil and crude oil products extracted from bituminous rocks; oil and oil products received from bituminous rocks other than the crude ones; items containing 70% or more of oil or oil products received from bituminous rocks and that are not indicated or not included under other headings and given that these oil products are not the main components of the products; products that are classified under commodity headings 2709, 2710 of the CNFEC;

2. Goods specified in this Article may be marked with excise stamps.

#### **Article 286. Taxable base**

1. The tax base for Excise tax shall be:

- 1) the physical quantity of excisable goods, and/or
- 2) the selling price of excisable goods, excluding VAT, and/or
- 3) customs value of excisable goods determined in accordance with the Customs Code of the Kyrgyz Republic, and/or;
- 4) the market value of goods excluding VAT - in case of transfer of excisable goods by a commodity producer as a payment in kind, a gift, transfer of pledged goods into the ownership of a pledgee or in case of a barter transaction, and in case of transfer on a gratis basis.

2. Provisions of this Article shall apply regardless whether goods are produced from own raw materials or from give and take raw materials.

#### **Article 287. Basic rates of Excise tax**

1. Basic rates of Excise tax shall be set in the following amounts:

<b>Excisable goods</b>	<b>Code of CNFEA</b>	<b>Unit of measurement (taxable base)</b>	<b>Basic rates of the tax</b>
Ethyl spirit and purified ethyl spirit made of food raw materials, other than materials	2207	Liter	Som 70

released to commodity producers or imported by commodity producers for the production of vodka, liquor-alcohol items, fortified beverages, fortified juices, balsams, wines provided they have the license authorizing their production, and released to special representatives within the norms

Vodka	220860	Liter	Som 40
Liquor-alcohol items	220830; 220870; 220890	Liter	Som 40
Fortified beverages, fortified juices and balsams	220840; 220850	Liter	Som 40
Wines	2204, except for 2204101100 and 220430, 2205, 2206	Liter	Som 10
Cognac (other than cognac spirit)	2208201200- 2208202900, 2208206200- 2208208900	Liter	Som 27
Sparkling wines, including champagne	220410	Liter	Som 22
Beer packed and unpacked	2203	Liter	Som 5
Wine materials	220430	Liter	Som 2
Tobacco items:	2402		

Categories of tobacco items	Type (cigarettes)			
I	Filter free, mouthpiece cigarettes	2402	1000 items	Som 13,00
II	With filter	2402	1000 items	Som 32,50
III	With filter	2402	1000 items	Som 91,00
IV	With filter	2402	1000 items	Som 195,50
V	With filter	2402	1000 items	Som 297,00
Cigars and cigarillos (thin cigars)		2402	1000 items	Som 297,00
Other goods containing tobacco, other than fermented tobacco		2403	Kilogram	Som 5
Jewelry made of gold, platinum or silver		7113-7115,	Market selling	5%

	7118, 9111100000, 9113101000	price	
Oil products:			
Petroleum, light and middle distillates and other petroleum	2710111100- 2710119000, 2710191100- 2710191500, 2710192500- 2710192900	Ton	Som 3000
Jet fuel	2710192100	Ton	Som 2000
Diesel fuel	2910193100- 2710194900	Ton	Som 800
Black oil	2710195100- 2710196900	Ton	Som 600
Oils and condensed gas	2709001000 2710197100- 2710199900,	Ton	Som 1400
Crude oil and crude oil products produced from bituminous materials	2709009000	Ton	Som 0

2. The Government of the Kyrgyz Republic may change the excise tax rate which should not exceed the basic rate.

3. The categories of tobacco items shall be formed depending on the market selling price of these items to a final customer in accordance with the procedure determined by the Government of the Kyrgyz Republic.

#### **Article 288. Tax period**

Excise tax period for the excisable goods produced or sold shall be a calendar month.

#### **Article 289. Computation procedure**

Excise tax shall be computed in accordance with the procedure established by Para 1 of Article 37 of this Code.

**Article 290. Due dates for tax payment and filing**

1. Excise tax shall be paid by the following due dates:

1) on produced and/or imported excisable goods subject to excise stamping - before or on the day of purchase of excise stamps;

2) on imported excisable goods not subject to excise stamping - on the day determined by the Customs Code of the Kyrgyz Republic for making customs payments;

3) on excisable goods not specified in subparagraphs 1 and 2 of paragraph - by the 20<sup>th</sup> day of the month following the reporting one.

2. A payer of excise tax shall be required to file an excise tax report with the respective tax body on a monthly basis no later than the 20<sup>th</sup> day of the month following the reporting one.

**Chapter 42. Specific features of taxation****Article 291. Special rules**

1. Articles 292 and 293 of this Code shall apply to excisable goods produced from raw materials supplied by a customer and subject to export shipment.

2. A taxpayer producing excisable goods from raw materials supplied by a customer is obliged:

1) within 3 days from the date of concluding an agreement or contract on rendering services of processing raw materials supplied by a customer, notify a tax body at the place of tax registration about this deal by attaching a copy of an appropriate agreement or contract;

2) deposit to a special account of a tax body at the location of tax registration the amount of excise tax (deposit) computed on the volume of excisable goods subject to production under terms and conditions of a specified agreement or contract prior to commencement of shipment of finished excisable goods to the owner of give and take raw materials and/or for export at the instruction of the owner of give and take raw materials.

**Article 292. Specific features of payment of excise tax on excisable goods made from give and take raw materials**

1. The amount of excise (deposit) deposited by the taxpayer manufacturing excisable goods from give and take raw materials to the special account of a tax body shall be returned to his bank account within 20 days from the date of presentation of a special statement to the tax body, and also of the following documents:

1) Excise tax reports;

2) copies of an agreement between the owner of give and take raw materials and a third party for exporting excisable goods;

3) copies of the invoice or another document for shipment of finished excisable goods, including for exports;

4) payment documents confirming the fact of payment for services on processing give and take raw materials;

5) payment documents confirming the fact of payment for exported excisable goods;

6) cargo customs declaration for export of excisable goods;

7) cargo customs declaration of the country of destination or another document confirming import to the country of destination such as:

a) TIR carnet;

b) international commodity and transport consignment note;

c) consignment note formalized under international railroad communication

8) certificates of a tax body at the place of tax registration of the owner of give and take raw materials about absence of the tax debt.

2. If upon expiration of 90 days from the date of shipment of finished excisable goods to the owner of give and take raw materials and/or for export at the instruction of the owner of give and take raw materials, the taxpayer that manufactures excisable goods from give and take raw materials failed to present or failed to present in full the documents specified in paragraph 1 of this Article, the amount of excise (deposit) shall be credited to the budget and shall not be refunded.

3. In case of failure to confirm the fact of exports of excisable goods, the amount of excise (deposit) deposited to the special account with the tax body shall be credited to the budget and shall not be refunded.

4. The amount of excise (deposit) deposited to a special account shall not be refunded if the owner of give and take raw materials has a tax debt within the limits of such debt.

### **Article 293. Specific features of excise tax payment in certain cases**

1. Should excise tax rates decrease or increase after purchase of excise stamps, the excise tax amount paid for excise stamps shall not be recalculated.

2. Specific features of excise tax payment on excisable goods exported from the Kyrgyz Republic are given in Article 297 of this Code.

3. Specific features of excise tax payment on goods crossing the customs border of the Kyrgyz Republic are determined in the Customs Code of the Kyrgyz Republic.

**Article 294. Deduction of excise amount**

1. The payer of excise tax shall have the right to reduce the excise amount by the amount of excise tax paid when purchasing or importing excisable goods to the customs territory of the Kyrgyz Republic if the given goods were used as principal raw materials for production of excisable goods.

2. Under Para 1 of this Article, the taxpayer shall deduct the excise tax amount against the actually used quantity of excisable raw materials in production of excisable goods for the tax period, which is determined on the basis of output of excisable goods produced from excisable raw materials.

3. Provisions of this Article shall apply when transferring excisable goods produced from give and take excisable raw materials used as the raw materials provided there is confirmation of the excise tax payment by the owner of give and take excisable raw materials.

**Article 295. Excisable goods subject to affixing excise stamps**

1. Alcoholic beverages and tobacco items produced in the territory of the Kyrgyz Republic and imported to the territory of the Kyrgyz Republic according to the list given in Subpara 2) and 3), Para 1 of Article 285 of this Code, except for beer (code 2203 of the CNFEA), shall have excise stamps affixed on them.

2. An excise collection stamp (hereinafter referred to in this section as an excise stamp) is a stamp of an approved format which is glued on the pack, bottle or another container in which excisable goods are sold, thus showing that excise tax has been paid to the budget.

3. No excise stamp shall be affixed on the alcoholic beverages and tobacco items:

- 1) exported from the Kyrgyz Republic in accordance with customs regime;
- 2) imported (shipped) by individuals to the territory of the Kyrgyz Republic within the limits approved by the Government of the Kyrgyz Republic.

4. The format, procedures of issuance and application of excise stamps shall be determined by the Government of the Kyrgyz Republic.

**Article 296. Damage, loss of excisable goods and excise stamps**

1. In the event of the damage and loss of the manufactured excisable goods, the excise tax shall be paid in full and(or) shall not be refunded, except for the force majeure cases.

2. In the event of the loss of excise stamps, the excise tax paid before or at the date of purchase of excise stamps shall not be refunded, except for the force majeure cases.

3. In the event of the damage of excise stamps, the excise tax shall not be paid if the damaged excise stamps are accepted by an authorized bank for destroy based on the write-off act. New excise stamps shall be issued to replace the damaged ones with no payment made provided that the nominal value of stamps is paid.

4. Excise tax for the lost excise stamps intended for affixing on alcoholic products shall be calculated based on the set rates applicable to the maximum allowable size of the container in accordance with the capacity indicated on the excise stamp.

### **Article 297. Excise tax exemptions**

1. Excisable goods imported by individuals within the limits approved by the Government of the Kyrgyz Republic shall be exempt from excise taxation.

2. The following imported goods shall be exempt from excise taxation:

1) goods necessary for operation of vehicles engaged in international transportation of cargoes, luggage and passengers on the way of their running and at intermediate stop points;

2) goods moved across the customs border of the Kyrgyz Republic and exempt under the customs regimes established by the customs legislation of the Kyrgyz Republic, other than "Release of goods for free circulation" regime;

3) forfeited, ownerless valuables, including the valuables transferred under heirship to the state.

3. Excisable goods exported by producers of excisable goods shall be exempt from excise taxation provided they have confirmation of export of such goods.

In order to receive the tax exemption provided herein, the payer of excise tax is required to present the tax body at the place of his tax registration the copies of the documents confirming the export of excisable goods, within 90 days from the date following the tax period in which he exported excisable goods from the Kyrgyz Republic, namely:

1) excise tax report;

2) agreements on the export of excisable goods;

3) invoice;

4) payment documents confirming the fact of payment for exported excisable goods if such agreement provides for the payment prior to the date of presentation of the documents by the taxpayer;

5) cargo customs declarations to export excisable goods;

6) cargo customs declarations of the country of destination or other documents confirming imports to the country of destination such as:

a) TIR carnet;

b) an international commodity and transport consignment note;

c) a consignment note formalized under international railroad communication.

In case of failure to confirm, to present or failure to present in full the documents specified herein, or in case of failure to confirm their authenticity in the process of subsequent tax control, the excise tax shall be computed on these excisable goods in accordance with the procedure established by this section in order to sell excisable goods in the territory of the Kyrgyz Republic.

4. Excisable goods transferred by a structural subdivision of the producer of excisable goods in order to manufacture other excisable goods to another structural subdivision of the same producer shall be exempt from excise taxation.

## **SECTION XI. TAXES ON THE USE OF SUBSURFACE**

### **Chapter 43. General Provisions**

#### **Article 298. Tax regime stabilization**

Should amendments and (or) additions increasing the rates of the tax on subsurface use and (or) changing the taxable base be included into this Code, the payers of the tax on subsurface use shall have the right to keep the procedure of collection of the given taxes which was effective on the date of issuance of the license for exploration of the mineral deposit until expiration of such license, but for no longer than 20 years from the date of its issuance.

#### **Article 299. Types of taxes on use of subsurface**

Taxes on use of subsurface shall include:

- 1) bonuses – one-off payments for the right to use subsurface for the purpose of geological survey and exploration of mineral deposits;
- 2) royalty – recurrent payments for the use of subsurface for exploration purposes;

#### **Article 300. Tax exemptions**

The following persons shall be exempt from the payment of taxes on use of subsurface:

- 1) a landowner or a land user extracting the generally found minerals and withdrawing underground waters for purposes other than business activities on the land plot owned or used by him for his personal use;

2) a subject that received the subsurface plots for creation of the specially protected natural territories of a special ecological, environmental, scientific and historical-cultural importance;

3) a subject engaged in processing of wastes of mining, mineral processing and metallurgical production.

3) subsurface users carrying out the geological, geophysical and other works of subsurface exploration, earthquakes forecasting, engineering and geological researches, geo-ecological researches, monitoring the regime of underground waters and other works that do not break the subsurface integrity.

## **Chapter 44. Bonus**

### **Article 301. Bonus taxpayer**

Bonus taxpayers shall be a domestic organization, a foreign organization carrying out its activity in the Kyrgyz Republic through a permanent establishment, and an individual entrepreneur possessing the license allowing to use subsurface for the purpose of geological survey and development of mineral deposits (hereinafter in this Chapter referred to as a taxpayer).

### **Article 302. Object of taxation**

The object of bonus taxation shall be an activity related to geological survey and development of the mineral deposits.

### **Article 303. Tax base**

The tax base for bonus calculation is the quantity of reserves at the mineral deposit sites, including the quantity of incremental reserves as a result of commercial production of the pool during geological survey and development of the site.

### **Article 304. Rate of bonus**

The bonus rate shall be set by the KR Government for all types of mineral deposits according to the Classification Chart based on the level of exploration and scale of the mineral deposit.

**Article 305. Calculation procedures**

The bonus calculation procedure shall be established by the Government of the Kyrgyz Republic.

**Article 306. Dates of tax filing and payment**

1. The bonus taxpayer shall submit the relevant calculations to the tax body and pay bonus within 30 days from the day of receipt of the license for exploration and development of a mineral deposit, unless otherwise provided herein.

2. Should the originally established volume of mineable reserves increase during the process of additional exploration of the deposits, the bonus tax liability shall be recalculated. In this case, the bonus tax liability shall be discharged no later than the last day of the month following the month in which the increased volume of mineable reserves was registered.

**Chapter 45. Royalty****Article 307. Taxpayer**

The royalty tax payer shall be a domestic organization, a foreign organization carrying out its activity in the Kyrgyz Republic through a permanent establishment, and an individual entrepreneur engaged in mining (extraction) of mineral resources (hereinafter in this Chapter referred to as a taxpayer).

**Article 308. Object of taxation**

The object of royalty taxation shall be an activity related to development (extraction) of mineral deposits.

**Article 309. Tax base**

1. The tax base for the royalty shall be:

- 1) income, less VAT and sales tax, received from the sale of mineral resources and of the products received as a result of mineral resources processing;
- 2) in-kind volume of the products sold;

- 3) volume of the underground water withdrawn, according to water gauges – for the royalty taxpayers other than the specialized water supply organizations.

### **Article 310. Royalty rate**

1. The royalty rate shall be determined based on the volume of sales of mineral products and the in-kind volume of water withdrawn at the following rates:

<b>Mineral resource description</b>	<b>Unit of taxation</b>	<b>Rate, in Soms</b>
Mineral waters and drinking waters for bottling	Liter	0,2
Mineral waters for balneotherapy	m <sup>3</sup>	0.05
Thermal waters to be used for heating	m <sup>3</sup>	0.12
Fresh waters, drinking and industrial	m <sup>3</sup>	0.13

2. The royalty rate shall be established based on the income from sales:

1) of gold, silver and platinum given the incremental reserves:

- a. 5% - for mineral deposits with the reserves exceeding 10 tons;
- b. 3% - for mineral deposits with the reserves from 3 to 10 tons;
- c. 1% - for mineral deposits with the reserves less than 3 tons.

2) 5 % - for the specialized water supplying organizations;

3) 6% - for gypsum;

4) 12% - for natural stones used in production of decorative materials;

5) 1% - for black and brown coal.

3. The royalty rate for other mineral resources and for the products received from processing of these mineral resources, not listed in p. 1 and 2 above, shall be established based on the income from sales of:

- 1) mineral resources – at 3%;
- 2) products of mineral resources processing – at 2%;

### **Article 311. Tax period**

A calendar month is the tax period for royalty.

### **Article 312. Calculation procedures**

Royalty shall be calculated following the procedure given in paragraph 1 of Article 37 of this Code.

### **Article 313. Dates of tax filing and payment**

The taxpayer is obliged to file tax returns and make royalty payments by the 20-th day of the month following the reporting one.

## **SECTION XII. SALES TAX**

### **Article 314. Payer of the Sales tax**

The payer of the Sales tax shall be a domestic organization, a foreign organization carrying out its activity in the Kyrgyz Republic through a permanent establishment, and an individual entrepreneur (hereinafter in this Section referred to as the taxpayer).

### **Article 315. Sales tax exemptions**

1. Sales tax exemption shall apply to the goods, works or services that are sold, performed or provided by:

- 1) an agricultural producer;
- 2) an agricultural commodity and service cooperative society;
- 3) Agency for Deposits Protection, Fund for Deposits Protection, KR National Bank, except for the income received from works and services provided in the sphere of recreation, leisure and entertainment.
- 4) a charitable organization.

2. Sales tax exemption shall apply to the sale of goods, performance of works or provision of services by a not-for-profit organization provided that the payment does not exceed the cost of that sale, performance of works or provision of services:

- 1) for the purpose of social security and protection of the children or low-income senior citizens;
- 2) in the sphere of education, health service, science, culture and sports.

## **Chapter 47. Calculation of the Sales tax**

### **Article 316. Object of taxation**

Object of taxation for Sales tax shall be the sale of goods, performance of works and provision of services.

### **Article 317. Tax base**

1. Unless otherwise provided by this Article, the value of goods sold, works performed and services rendered, less the VAT and Sales tax, shall be the tax base.

2. Where the property is leased, the tax base shall be the rental fee.

3. For the organization dealing with the metallurgical ore treatment, the tax base shall be the difference between the cost of the sold products received as a result of metallurgical treatment and the cost of the purchased ore before its conversion.

4. The tax base for the lottery activity shall be the difference between the income from the sale of lottery tickets and the amount of the prize fund paid out of this income.

5. For a bank, the tax base shall be the income from the sale of goods, works or services, including the interest income of the credits and loans.

6. For an insurance organization, the tax base shall be the income received from the sale of goods, works or services less the amount of insurance premiums payable to a reinsurer under the reinsurance agreement.

As for accumulative types of insurance, the tax base shall be the amount of insurance premiums received less the amount of insurance payments.

### **Article 318. Income adjustment**

1. Income received from sales of goods, works or services shall be adjusted in the following cases:

- 1) full or partial return of goods;
- 2) change of the terms and conditions of a deal.

2. Income adjustment shall change the tax base for the tax period in which the goods were returned or the terms and conditions of a deal changed.

**Article 319. Tax rate**

The Sales tax rate shall be established:

- 1) for the sale of VAT taxable and VAT exempt goods, works or services:
  - a. at 1,5% - for the commercial activities;
  - b. at 2,5% - for the activities not specified in Subpara "a" above;
- 2) for the sale of goods, works or services in the cases not specified in Para 1 of this Article:
  - a. at 2,5% - for the commercial activity;
  - b. at 3,5% - for activities not specified in Subpara "a" above.

**Article 320. Tax period**

A calendar month shall be a tax period for the Sales tax.

**Article 321. Sales tax calculation procedure**

The Sales tax shall be calculated following the procedure specified in Para 1 of Article 37 of this Code.

**Article 322. Dates of tax filing and payment**

A taxpayer is obliged to file tax returns and pay the Sales tax at the place of his tax registration by the 20th day of the month following the reporting month.

**SECTION XIII. PROPERTY TAX****Article 323. Payer of Property tax**

1. Unless otherwise provided by this Article, the payer of the property tax shall be organization or a physical person possessing the taxable property, including the property purchased under financial lease or mortgage lending agreements, registered in the territory of the Kyrgyz Republic.

2. Where it is impossible to determine the property owner's place of location, the payer of the property tax shall be the organization or the physical person using this property.

3. In the absence of the property registration, the actual ownership and use of such property shall serve as the ground for recognizing the owner of the property.

4. Government bodies or local self-government bodies, government or municipal organizations that are fully funded from the budget, including the KR National Bank, the Agency for Deposits Protection and the Deposits Protection Fund, that have the property at their disposal by virtue of the right of operation management and administrative running, shall not be the property tax payers, except for the cases when the property or a part thereof is leased to the self-sustained KR government organization, a private organization or a physical person, or when it is used for recreation, leisure and entertainment purposes.

The tax on the property leased under the terms and conditions herein specified shall be collected by a lesser from a lessee under the lease agreement where the property tax amount is indicated and shall be paid to the budget by a lesser.

### **Article 324. Object of taxation**

1. The object of taxation shall be the property rights or the right to use the taxable property.

2. The following objects shall be considered the taxable property:

- 1) Group 1: dwelling houses, apartments, summer residencies (cottages), other buildings and constructions, annexes to and separately built garages that are not used for entrepreneurial activity;
- 2) Group 2: dwelling houses, apartments, vacation hotels, rest homes, sanatoriums, resorts, manufacturing, administrative, industrial and other buildings and constructions designated or used for carrying out an entrepreneurial activity;
- 3) Group 3: temporary facilities made of metallic and other constructions used for carrying out an entrepreneurial activity such as kiosks, containers and other similar property;
- 4) Group 4: means of transport, self-propelled vehicles and mechanisms, non-self-propelled transportation means (trailers, semi-trailers, barges, carriages, platforms, cisterns and other similar devices).

3. The Government of the Kyrgyz Republic shall approve the list of the property objects exempt from taxation.

### **Article 325. Tax base**

The tax base for the property tax shall be:

1. for the property objects listed under Groups 1, 2 and 3 above (p. 2 , Art. 324), the tax base shall be the taxable value of these property objects determined in the manner herein specified;
2. for the property objects listed under Group 4 above (p. 2, Art 324):
  - 1) for transportation device and/or self-propelled vehicles and mechanisms working on the combustion engine, the tax base shall be the engine capacity or the book value;
  - 2) for non-self-propelled transportation device - the tax for the basic transportation means (bus, motor vehicle, tractor, towboat and other).

### **Article 326. Tax period**

A calendar year shall be the tax period for the property tax.

### **Article 327. Procedure for determining the property's taxable value**

1. The taxable value of the property objects specified in Groups 1, 2 and 3 under Para 2 of Article 324 of this Code (hereinafter in this Article referred to as Groups 1, 2 and 3) shall be calculated based on the following formula:

$$TV = V \times (A + A1 \times 0,3) \times Ki \times K1 \times K2 \times K3,$$

where:

TV – taxable value of the property object (in Soms);

V – taxable value of one square meter of the area of the property object, Som /sq.m.

A – living area of the property object of Group 1 or main area of the property objects of Group 2 and 3, sq/m.;

A1 – uninhabited area of the property object of Group 1 and auxiliary area of the property object of Groups 2 and 3, sq/m (for major and temporary buildings);

For manufacturing and technical facilities, having no area of building, the value ( $V \times (A + A1 \times 0,3)$ ) is taken as equal to the original book value of the property object.

Factor Ki – coefficient of inflation;

Factor K1 – regional coefficient allowing for the change of the property's taxable value depending on its location in the territory of the Kyrgyz Republic;

Factor K2 – zonal coefficient allowing for change of the property's taxable value depending on its location within the inhabited locality;

Factor K3 – sectoral coefficient applied for the property objects of Groups 2 and 3. For the property objects of other Groups, K3 coefficient shall be equal to 1.

2. Coefficient of inflation shall be annually approved by the Government of the Kyrgyz Republic no later than April 1 of the current year based on the actual level of the previous year. In the cases when the inflation coefficient is not established, it shall be equal to the coefficient of the previous year.

3. The taxable value of one square meter of the property area under Groups 1-3 is determined based on the material used for construction of walls and on the year in which the property was put into operation at the following rates:

<b>Wall Material</b>	<b>Operation Life</b>	<b>Assessed Value 1 sq.m/som</b>
	Up to 5 years	20 000
Brick	5-15 years	19 000
	15-30 years	18 000
	More than 30 years	16 000
	Up to 5 years	19 000
Wood	5-15 years	18 000
	15-30 years	17 000
Concrete (cast-in-place and precast), reinforced concrete, concrete blocks	More than 30 years	15 000
	Up to 5 years	18 000
	5-15 years	17 000
	15-30 years	16 000
	More than 30 years	14 000
	Up to 5 years	13 000
Adobe	5-15 years	12 000
	15-30years	11 000
	More than 30 years	10 000
	Up to 5 years	12 000
Breeze Block	5-15 years	11 000
	15-30 years	10 000

	More than 30 years	8 000
Metal	Up to 30 years	10 000
	More than 30 years	8 000
Other materials and materials for temporary premises		4 000

4. Total area of the property shall determined based on the documents certifying the right of ownership, and for purposes of this Code, is subdivided into:

1) *livable and non-livable areas* - for the properties of Group 1.

The property's living area is determined as the total of living areas indicated in the Technical Certificate of the taxpayer's property unit, which is issued by the government body in charge of registration of the property rights.

The property's uninhabited area is determined as the difference between the real property's total area and the total of living areas indicated in the Technical Certificate for the taxpayer's property unit, which is issued by the government body in charge of registration of the property rights.

In the absence of the Technical Certificate for the property unit:

a) the size of an uninhabited area of the property is determined as total of auxiliary rooms such as kitchens, halls, intra-apartment corridors, bathrooms, shower rooms, toilets, storerooms, as well as basement and semi-basement rooms, attics, terraces, porches, lobbies, corridors (in one apartment), galleries, balconies, garages and other annexes or separately built non-livable premises;

b) the size of living area is determined as the difference between the property's total area and an uninhabited area;

2) *basic and auxiliary areas* - for the properties listed in Groups 2 and 3.

Total area of the property is determined as the total area of administrative, manufacturing and storage facilities directly used for entrepreneurial activity: production of goods, rendering services, performance of works, and inventory storage.

Auxiliary area of the property is determined as the total area of the buildings and constructions used for the supply of heating, water and electricity to the main production facilities, such as boilers, heating, electric substations, warehouses and other facilities used for the manufacturing operation, including the areas where the social-and-cultural objects and food catering facilities are located that are not used for entrepreneurial purposes.

5. In the absence of the property registration and (or) discrepancy between the property's tax base determined by the taxpayer and the documentary evidence received from other sources by tax bodies, the material of walls and property's area for purposes of taxation shall be determined in accordance with the measurement of physical parameters by the Committee composed of the authorized representatives of the relevant tax body, government body in charge of real property registration, local self-government body and actual property users, in the manner specified in Subpara 1, Para 4 herein.

The results of such measurement shall be recorded in duplicate, one of the copies being submitted to the relevant territorial body in charge of real property registration for making an appropriate decision.

The second copy of the document shall be given to the relevant tax body for determining the property tax liability.

6. The regional coefficient (Factor K1) for resort zones shall be equal to 1.

7. Except for resort zones, the regional coefficient (Factor K1) is established at the following rates:

Name of Oblasts and Rayons	K1 Value	Name of Oblasts and Rayons	K1 Value
<b>Batken Oblast</b>		<b>Naryn Oblast</b>	
Batken Rayon	0,2	Aktala Rayon	0,1
Lailak Rayon	0,2	Atbashy Rayon	0,1
Kadamjai Rayon район	0,2	Jumgal Rayon	0,1
Kyzil-Kiya town	0,1	Kochkor Rayon	0,2
Sulyukta town	0,1	Naryn Rayon	0,3
<b>Jalalabad Oblast</b>		<b>Osh Oblast</b>	
Aksy Rayon	0,2	Alay Rayon	0,2
Alabuka Rayon	0,1	Aravan Rayon	0,3
Bazarkorgon Rayon	0,2	Karakuldja Rayon	0,1
Nooken Rayon	0,2	Karasu Rayon	0,6
Suzak Rayon	0,3	Nokat Rayon	0,3
Toguztoro Rayon	0,1	Uzgen Rayon	0,3
Toktogul Rayon	0,1	Chonalay Rayon	0,1
Chatkal Rayon	0,1	Osh town	0,9
Jalalabad town	0,8		
Mailysu town	0,1		
Karakul town	0,1	<b>Chui Oblast</b>	
Tashkumyr town	0,1	Alamudun Rayon	0,8
<b>Issykkul Oblast</b>		Jaiyl Rayon	0,4
Aksu Rayon	0,3	Issykata Rayon	0,4
Jetyoguz Rayon	0,3	Kemin Rayon	0,3
Issykkul Rayon	0,3	Moskva Rayon	0,4
Ton Rayon	0,2	Panfilov Rayon	0,2
Tuyp Rayon	0,2	Sokuluk Rayon	0,7
Karakol town	0,6	Chui rayon	0,4
Balykchy town	0,3	Tokmok town	0,6
<b>Talas Oblast</b>		Kara-Balta town	0,6
Manas Rayon	0,1	City of Bishkek	1,0
Bakai-Ata Rayon	0,1		
Kara-Buura Rayon	0,2		
Talas rayon	0,2		
Talas town	0,4		

The list of resort zones with the indication of their exact frontiers in each inhabited locality shall be established by the Government of the Kyrgyz Republic.

8. The values of a zonal coefficient (Factor K2) and the zone boundaries within each inhabited locality shall be established by the KR Government based on the local self-government proposals at the rates from 0,3 to 1,5 not oftener than once a year, within the period of no less than 30 days before the beginning of the next calendar year.

If no changes are made to the K2 value by the due date, the values of the previous year shall apply for the property tax assessment.

9. The sectoral (functional) coefficient K3 is established at the following rates:

<b>Sectoral Affiliation (object functionality)</b>	<b>Value of K3 coefficient</b>
Advertisement constructions	5
Hotels, gambling-houses, banks, pawnshops, exchange offices	1,6
Petrol stations, car service centers	1,4
Mini-markets, markets, trading centers, shopping malls, trading complexes	1, 2
Food catering, trade and services businesses	1,1
Administrative and office buildings, business centers	1,0
Railroad terminals, motor-coach terminals, bus terminals, freight terminals of the railroad transport	0,7
Transportation, construction, communications and power engineering enterprises	0,5
Institutions of science, education, healthcare, culture and sports	0,4
Manufacturing enterprises	0,3
Defense – sport – technical organizations	0,3
Agricultural industrial buildings	0,3

10. Where coefficients (K1, K2, K3) are not fixed, their value shall be equal to 1.

### **Article 328. Tax rate**

The tax rate is established as follows:

- 1) for the property objects of Group 1 - 0,35 percent;
- 2) for the property objects of Groups 2 and 3 – 1,0 percent;
- 3) for the property objects of Group 4:

a) for combustion engine transportation means and (or) self-propelled vehicles and mechanisms:

#	Type of transport	Duration of use, including the year of production by the producer factory	Tax rates in som per 1 cubic centimeter of the engine size
1	Cars, pick-up cars and car vans	Up to 5 years From 5 to 10 years From 10 to 15 years More than 15 years	0,90 0,75 0,60 0,45
2.	Trucks, buses and minivans	Up to 5 years From 5 to 10 years From 10 to 15 years More than 15 years	0,75 0,60 0,45 0,30
3.	Self-propelled vehicles and mechanisms (tractors, combines, road-building machinery)	Up to 15 years More than 15 years	0,30 0,15
4.	Motorcycles, motor scooters, motor bikes, motor-sledges and motor boats, speed-boats, ships, motor vessels.	Up to 10 years More than 10 years	0,15 0,09
5.	Yachts and sea scooters	Up to 5 years More than 5 years	1,8 1,2

b) for other transport vehicles, self-propelled machines and mechanisms – 0,5% of the balance book value;

c) for non-self-propelled transportation devices – based on its duration of use –at the rate of 50 percent of the tax calculated in compliance with subparagraph “a” of paragraph 3 herein for the relevant basic transport vehicle.

#### **Article 329. Tax deduction**

1. When calculating the tax amount for the property objects of Group 1 and if such property is owned by a physical person and is used for his own residence or for personal use, a physical person-taxpayer has the right to deduct from the tax base the amount equal to 5000 estimation factors.

2. Taxpayers – the pensioners have another deduction equal to 2000 estimation factors in addition to the above-given deduction with regard to the property objects of Group1.

3. Every property owner participating in the shared property ownership is eligible for the deduction herein provided with regard to one of the owned property objects at his choice.

**Article 330. Tax preferences**

1. No property tax shall be imposed on:
  - 1) property objects of the diplomatic missions and consular offices of foreign countries and representative offices of international organizations under international agreements of the Kyrgyz Republic;
  - 2) property objects of Group 1 whose taxable value does not exceed 5000 estimation factors;
  - 3) property objects of the Societies of the Disabled of the I and II groups and of the organizations of the Kyrgyz Society of the Blind and Deaf where the disabled, blind and deaf people compose no less than 50 % of the total number of employees and their wages account for no less than 50% of the total wage fund. The list of the above-indicated enterprises shall be determined by the Government of the Kyrgyz Republic.
2. The following persons shall be exempt from payment of the property tax:
  - 1) Heroes of the Kyrgyz Republic; Heroes of the Soviet Union and of Socialist Labor; mothers-heroes; persons awarded the Order of Glory, the Order of Labor Glory of three categories; participants and invalids of the Great Patriotic War or other persons who became disabled after the wound, shell-shock or injuries received while defending the USSR or the Kyrgyz Republic or while performing other military service duties, or those who became disabled by reason of a disease caused by their being in the front; other disabled persons who are considered to be of the same pension status as the above categories of military men; the widows of the invalids of the Great Patriotic War and invalids of Groups 1 and 2 are eligible for a tax preference with regard to one taxable property object of Groups 1 and 4 or a part of the property owned under the KR laws by the person exempt from property tax payment, which should not exceed 100 square meters of livable floor space of the property listed in Group 1;
  - 2) Disabled persons having the motorized wheel chairs and cars with hand steering – with regard to such means of transportation.
3. Tax preferences provided in Para 2 above shall be granted:
  - 1) for the reporting tax period, should the right to such tax preference arise before 1 August of the reporting tax period;
  - 2) for the tax periods following the reporting one, should the right to such tax preference arise after 1 August of the reporting tax period.

**Article 331. Tax calculation procedures**

1. The taxpayer shall calculate the property tax himself/herself in accordance with the procedure provided for in Para 1, Article 37 of this Code.

2. Tax payment liability on a newly constructed object or a part thereof shall arise from the first day of the month following the date on which a constructed object or its part was accepted and put into operation.

3. In case of reconstruction of the property object or its part, the tax payment liability on a new taxable value shall arise from the first day of the month following the date on which a reconstructed object or its part was accepted and put into operation. Until the date of acceptance of the object or the part of it, the previous taxable value shall apply.

### **Article 332. Procedure and dates of tax payment**

1. Taxpayer - a physical person shall pay the tax:
  - 1) on property objects of Group 1 - no later than 1 September of the current year at the place of his registration or property location;
  - 2) on property objects of Group 4 – no later than 1 June of the current year but before the vehicle’s technical inspection; in case of full or partial transfer of property rights by the new property owner during the year at the moment of registration of such transfer – at the place of registration of a property object.
2. Organizations and individual entrepreneurs shall pay the tax:
  - 1) on property objects of Groups 2 and 3 – every quarter by 20th of the third month of the current quarter in equal parts during the current year at the place of the property location; on the property located within the boundaries of Bishkek city – at the place of the taxpayer’s tax registration.
  - 2) on property objects of Group 4 – no later than 1 June of the current year but before the vehicle’s technical inspection – at the place of registration of the object with an authorized government body.
3. The tax due for the actual period of possession and/or use of the property objects of Groups 1, 2 and 3 by the taxpayer who transfers such rights shall be paid to the budget before or on the date of state registration of the rights. At that, the initial owner of the property object shall pay the tax assessed from January 1 of the current year prior to the month in which he/she will transfer the property object.

A subsequent property tax payer shall pay the tax calculated for the period from the beginning of the month in which he/she became the owner of the property object.

During the state registration of the property rights, the annual tax amount may be paid to the budget by either party upon agreement. The tax amounts paid during the state registration of the property rights shall not be paid again.

Where the property tax is not paid before or during the state registration of the property rights as required by this Article, the property tax liability for the full tax period in which the property rights were transferred shall be borne by the subsequent taxpayer.

4. In the remote and hard-to-reach settlements having no banking institutions, a physical person is allowed to pay the property tax to the tax office in the manner established by an authorized tax body.

5. Taxpayers shall provide the property tax estimation:

- 1) by March 1 of the current year – organizations and individual entrepreneurs;
- 2) by May 1 of the current year – physical persons other than individual entrepreneurs.

6. The format and procedures for filling in the Estimation Form shall be established by an authorized tax body.

### **Article 333. Access to the property tax information**

1. Each taxpayer has the right of free access to the information on tax calculation which includes:

- 1) procedure for determining the property's taxable value;
- 2) rates of the regional, zonal and sectoral coefficients;
- 3) breakdown of the territory of an inhabited locality, oblast and rayon into value zones; List of resort zones with the indication of their exact boundaries;
- 4) non-taxable amount deductible from the property's taxable value;
- 5) tax rates.

2. The information listed in Para 1 above shall be placed for the benefit of the taxpayers at the places of open access at the tax bodies of all levels and on the open website of an authorized tax body.

## **SECTION XIV. LAND TAX**

### **Article 334. Payer of the Land tax**

1. A land tax payer is the subject recognized as the land owner or land user whose rights for the land use are certified by the state act of private ownership, certificate of temporary use of the land plot and certificate of private ownership of the land holding under the Land Code of the Kyrgyz Republic (hereinafter referred to as "the certifying documents") unless otherwise provided by this Article, regardless of whether the land plot is in use or not.

2. Where the land plot is in common shared ownership or is used by several individuals, each of them shall be a land tax payer in proportion to his/her share provided in the certifying documents or under the agreement between the parties.

3. In the absence of the certifying document, the actual land ownership and (or) its use shall serve as the ground for recognizing the land user as the land taxpayer.

4. An executive local government body shall be the land tax payer for the lands of the State Fund of Redistribution of agricultural lands, pastures, regardless of whether the land plot is in use or not.

5. Where the government and municipal lands as well as the lands of the Land Redistribution Fund are leased, a government or a municipal user which has leased the land plot shall be the land taxpayer.

6. A government and municipal land user funded from the budget and possessing and using the land where a building and (or) construction is located which has been transferred to such user under the right of operation management and administrative running shall be exempt from taxation, except for the tax to be imposed on the land plot or its part leased to the self-sustained organization and (or) private organization and (or) a physical person.

7. If the owner or user including those exempt from the land tax payment leases the land plot, a lessor shall be payer of the land tax.

8. In the cases listed in Para 5-7 of this Article, the land tax for the land plot leased by a lessor shall be collected by a lessor from a lessee under the land lease agreement where the land tax due is indicated and shall be paid by a lessor to the budget.

### **Article 335. Object of taxation**

1. The object of land taxation shall be the right of ownership, right of temporary possession and use of agricultural lands subject to land taxation, as indicated in this Article.

2. The land tax shall be imposed on the following agricultural plots and lands:

1) settlements;

2) industry, transport, communication and lands for other purposes, including lands for defensive purpose;

3) lands of nature-protection, health, recreational, historical and cultural purpose;

4) forest lands;

5) water fund;

6) reserves.

3. For purposes of this Section, lands shall be classified in accordance with the Land Code of the Kyrgyz Republic.

4. In case of the shared land ownership, the right of land ownership shall be the object of taxation.

### Article 336. Tax base

1. The tax base for the land tax assessment shall be the area of the land plot indicated in the certifying documents.

2. Where the land plot is owned under the shared ownership agreement or is used by several individuals, the tax base for each of the taxpayers shall be his/her share in the land holding according to the certifying documents or under the agreement between the owners (users).

3. Where the land is leased, the tax base shall be determined in accordance with the land lease agreement.

4. For the lands of the Land Redistribution Fund of agricultural lands and village pastures, the tax base shall be determined based on the corresponding normative and legal acts determining the territories managed and used by the corresponding local self-government bodies.

5. In the absence of the certifying documents the tax base shall be determined based on the physical measurements taken by the special Committee composed of the representatives of the corresponding tax body, authorized government agency in charge of real property rights registration and local self-government.

The tax body shall inform the actual land user about the date and the time for measuring the land plot at least 3 days prior to such day.

Should the actual land user be absent at the given time, physical measurements of the land plot shall be taken in his/her absence, provided that he/she has been notified about the day for measuring in the manner prescribed for delivery of notices in accordance with Article 82 of this Code.

The result of measuring shall be recorded in duplicate; one copy is delivered to the corresponding territorial agency in charge of real property registration or to the competent local self-government body for making an appropriate decision, and the second copy is delivered to the corresponding tax body for determining the land tax liability.

## Chapter 49. Land tax rates

### Article 337. Base rates of the land tax for the use of agricultural lands

1. The base rates of the land tax for the use of agricultural lands shall be established as follows:

Names of oblasts and rayons	Base rates of the land tax (Som/hectar)					
	Arable Land (irrigated)	Arable Land (dry)	Perennial Plantations	Hayfields	Pastures	Of them, near-village pastures
1	2	3	4	5	6	7
Batken oblast						

Batken rayon	268	41,3	149	-	7,7	30
Lyalak rayon	268	41,3	149	24,3	7,7	30
Kadamdjai rayon	275	41,3	150	24,4	12,7	48
Jalalabad Oblast						
Aksy Rayon	306	56,7	193	15,9	13,6	53
Alabuka Rayon	306	41,3	204	22,5	9,9	39
Bazarkorgon Rayon	414	41,3	220	30,9	15,4	60
Nooken Rayon	453	41,3	193	24,4	15,4	60
Suzak Rayon	414	41,3	220	30,9	15,4	60
Toguztorouz Rayon	223	62,3	-	33	12,9	50
Toktogul Rayon	239	62,3	201	30,4	12,9	50
Chatkal Rayon	194	62,3	-	26,5	12,9	50
Issykkul Oblast (average)						
Aksu Rayon	373	87,5	173	30,4	10,6	41
Jetyoguz Rayon	305	74,9	168	23,8	7,7	30
Issykkul Rayon	280	68,6	155	23,8	7,7	30
Ton Rayon	236	39,2	119	20,4	7,1	30
Tup Rayon	379	87,5	174	29,1	15	59
Naryn Oblast						
Aktala Rayon	205	37	-	25,1	4,5	16
Atbashi Rayon	191	54,3	-	21,7	4,5	16
Jungal Rayon	196	37	-	25,1	4,5	16
Kochkor Rayon	215	37	-	25,1	4,5	16
Naryn Rayon	196	54,3	-	21,1	5,3	21
Osh oblast						
Alai Rayon	232	62,3	-	27,7	5,3	21
Aravan Rayon	436	41,3	226	15,2	12,7	50
Karakulja Rayon	232	62,3	117	27,7	5,3	21
Karasuu Rayon	453	41,3	246	27,9	12	47
Nookat Rayon	413	62,3	233	27,8	12,7	50
Uzgen Rayon	413	62,3	235	33,7	13,9	54
Chon-Alai Rayon	183	-	-	21,1	5,5	21
Talas oblast						
Bakaiata Rayon	318	52,5	164	-	7,4	29
Karabura Rayon	350	36,4	165	11,2	4,8	19
Manas Rayon	331	36,4	166	11,2	4,8	19
Talas Rayon	297	52,5	164	11	4,8	19
Chui oblast						
Alumudun rayon	400	56,5	209	23,1	10,8	42
Jaiyal Rayon						-
a) Chui zone	329	67,9	213	20,4	10,8	42
б) Suusamyр zone	189	34,5	-	11,3	10	39

Issykata Rayon	400	74,2	213	29,7	10,8	42
Kemin Rayon	354	80,5	211	29,7	10,8	42
Moscow Rayon	392	67,2	215	29,7	7,8	30
Panfilov Rayon	362	67,2	215	23,1	7,8	30
Sokuluk Rayon	407	67,2	211	13,9	7,8	30
Chui Rayon	400	74,9	211	32,4	10,8	42

2. The base rates of the land tax for the use of agricultural lands in cities and settlements shall be established at the rated given in Para 1 of this Article and applicable to the nearby administrative rayons.

3. The base rates of the land tax for the use of reservoirs shall be established at the rates given in Para 1 of this Article, applicable to the irrigated arable lands in the corresponding rayon.

4. The base rates of the land tax for the use of pump-irrigated lands shall be established at the rates given in Para 1 of this Article, applicable to dry arable lands in the corresponding rayon.

5. The land tax payable on agricultural lands of the settlements included by the Jogorku Kenesh (Parliament) into the list of mountainous and remote areas shall be reduced by 50% of the base rate of the land tax established for the given rayon.

6. The Rayon Keneshs shall have the right to increase the base rate of the land tax for the use of agricultural lands given the yield class of the soil and for non-use of agricultural lands except for the force majeure cases, but not oftener than once in a calendar year and not higher than 3 times the base rate.

### **Article 338. Rates of the land tax for the use of homestead lands and garden plots**

1. The rates of the land tax for the use of homestead lands and garden plots shall be established as follows:

<b>Settlements</b>	<b>Land tax rates (Som/m<sup>2</sup>)</b>
1) Bishkek, Osh	1,5
2) Tokmok, Karabalta, Jalalabad, Karakol, Talas, Cholponata	1,0
3) Towns not listed in Sub-para 1 and 2 and villages, except for rural settlements	0,5
4) Rural settlements	0,1

2. Local Keneshs of Bishkek and Osh shall have the right to establish the zone coefficient from 0,6 to 1,5 not oftener than once a year at least 30 days before the beginning of the next calendar year.

3. Where the homestead lands and(or) garden plots or their parts are used for business purposes, the rate of the land tax for such land holdings and their parts shall be calculated in accordance with Article 339 of this Section.

### **Article 339. Base rates of the land tax for the use of lands of settlements and non-agricultural lands**

1. The base rates of the land tax for the use of lands of settlements and non-agricultural lands shall be established as follows:

Oblast	Land Tax Base Rates for the Lands of Settlements with population as listed, 000' people (Som/m <sup>2</sup> )							
	Up to 5	From 5 to 10	From 10 to 20	From 20 to 50	From 50 to 100	From 100 to 200	From 200 to 500	500 and above
Batken Oblast	0,9	1,4	1,5	1,7	1,7			
Jalalabad Oblast	1,2	1,6	1,8	2,0	2,1			
Issykkul Oblast	1,2	1,6	1,8	2,0	2,1			
Naryn Oblast	1,0	1,4	1,6	1,7	1,8			
Osh Oblast	1,3	1,6	1,8	2,0	2,3	2,4	2,6	
Talas Oblast	1,1	1,5	1,7	1,9				
Chui Oblast and Bishkek	1,2	1,6	1,8	2,0	2,3	2,4		2,9

2. For non-agricultural lands located outside the settlements listed in Para 1 above, the rates established for the lands of settlements with the population ranging from 5 100 to 10 000 people in the rayon shall be applicable.

3. The base rate of the land tax established in Para 1 above shall be differentiated by applying the zone factor for economic and planning areas (K1) and a factor of commercial use of lands holdings (K2).

4. The zone coefficient (K1) shall be established by the Local Kenesh based on specific features of economic and planning zones in the settlements as the ratio of the integrated assessment of the zone territory to the overall average weighted assessment of the settlement (1.0).

5. The coefficient of commercial use (K2) shall be established as equal to 1.0 for the lands owned under the right of ownership or the right of use by physical persons and apply to the area where dwellings used for residence are located.

6. The factor of commercial use (K2) for the lands owned by organizations, individual entrepreneurs and physical persons under the right of ownership or the right of use for business activities shall be established at the following rates for the land plots having:

- 1) Shops, kiosks, stalls and other trade buildings, depending on its area:

Area, square meters	Up to 10	From 10 to 20	From 20 to 35	From 35 to 50	50 and above
K2 coefficient	22,5	16,5	10,5	7,5	6

- 2) Mini markets, markets, trade and market centers – 7.5;
- 3) Cattle, fodder markets – 4.5;
- 4) Food catering entities - 3;
- 5) Hotels - 7;
- 6) Banks, pawn-shops, exchange offices - 5;
- 7) Gambling houses and discotheques - 7;
- 8) Offices, business centers, stock exchanges -2.5;
- 9) Petrol stations - 10;
- 10) Petroleum storage depots- 1, 5;
- 11) Parking, car service centers – 4.5;
- 12) Advertising constructions - 50;
- 13) Recreation and entertainment entities; entities providing sports and health services, individual services, unless otherwise provided by this Article– 1.5;
- 14) Administrative buildings of the transport establishments: airports, bus stations, railway stations – 0.9;
- 15) Industry, transport, construction, communication and energy establishments, free economic zones, unless otherwise provided by this Article – 0.5;
- 16) Buildings and constructions of mining enterprises, freight terminals of railway transport, sanitary and protection zones of railway and air transport enterprises - 0,3;
- 17) Deposits under exploration, pits, mines, open casts, gold deposits – 0.05;
- 18) Geological, design and survey, exploration and research works – 0.005;
- 19) Overhead communication lines and electrical transmission lines – 0.01;
- 20) Scientific, educational, health-protection, cultural, children and youth, physical culture and sports establishments – 0.3;
- 21) Agricultural production buildings (garages, repair workshops, grain cleaning complexes, vegetable and potato stores, building and household yards and other agricultural objects) located within the inhabited areas – 0.2;
- 22) Defensive, sports and technical organizations – 0.01.

#### **Article 340. Tax period**

A calendar year shall be the tax period for the land tax.

## Chapter 45. Procedures for tax calculation and payment

### Article 341. Calculation of the Land tax

1. The land tax shall be calculated as follows:

1) the following formula shall apply to agricultural lands:

$$T = R \times A \times K_i, \quad \text{where}$$

T is the land tax due

R is the rate of the land tax established in Art. 337 and 338 of this Code

A is the area of the land plot, in sq. meters

K<sub>i</sub> is the coefficient of inflation

2) the following formula shall apply to the lands of settlements and non-agricultural lands:

$$T = R \times A \times K_1 \times K_2, \quad \text{where}$$

T is the land tax due

R is the land tax rate

A is the area of the land plot, in sq. meters

K<sub>1</sub> and K<sub>2</sub> – coefficients established in Article 339 of this Code.

3) the following formula shall apply to homestead lands and garden plots:

$$T = R \times A \times K_1, \quad \text{where}$$

T is the land tax due

R is the land tax rate

A is the area of the land plot, in sq. meters

K<sub>1</sub> is the zonal coefficient established in Para 2, Art. 338 of this Code.

2. Where the appropriate coefficient is not established, it shall be equal to 1, 0.

3. The inflation coefficient shall be annually approved by the KR Government no later than April 1 of the current year based on the actual indicator of the previous year. If the inflation coefficient is not established by the due date, the coefficient of the previous year shall apply.

4. An organization, an individual entrepreneur and peasant's or farmer's entity shall calculate independently the land tax due in accordance with Para 1 above.

5. The obligation to calculate the land tax payable by physical persons for their homestead lands and garden plots, other than individual entrepreneurs using lands for business purposes, shall be borne by the tax body at the place of location of the land plot.

6. Unless otherwise provided by this Chapter and if the land tax liability is valid for less than a calendar year, the land tax shall be calculated proportionally to the number of months when the tax was valid.

7. Where the land plot has constructions to which different commercial coefficients (K2) apply, the land shares under each such construction shall be determined proportionally to the area of such constructions.

### **Article 342. Dates and place for land tax payments**

1. Land tax for agricultural lands shall be paid as follows: 20 percent - by 25<sup>th</sup> of April, 25 percent - by 25<sup>th</sup> of August and 55% - by 25<sup>th</sup> of November of the current year.

2. The annual land tax payment for the use of homestead lands and garden plots allotted to citizens in urban and rural areas shall be made by 1<sup>st</sup> of September of the current year.

The tax body shall deliver a notification on accrual of the land tax for the tax period to the taxpayer no later than the tax payment due date. The notification shall indicate the date for the tax payment specified herein.

Failure to receive a notification shall not relieve the taxpayer of land tax payment.

3. The land tax payers not listed in Para 1 and 2 of this Article shall pay the land tax every quarter in equal parts no later than the 20<sup>th</sup> of the first month of the current quarter.

4. Land tax shall be paid at the place of registration of a land plot, while in Bishkek it shall be paid at the place of the taxpayer's tax registration.

5. In the remote and hard-to-reach settlements having no banking institutions the physical persons are allowed to pay the tax to a tax body in the manner established by an authorized tax body.

6. The land tax due for the actual period of possession and/or use of the land plot by a taxpayer transferring such rights shall be paid prior to or on the date of the state registration of the rights of ownership or use. At that, the original land taxpayer shall pay the tax amount due for the period from January 1 of the current year until the beginning of the month when he/she transfers his/her land holding.

A successor shall pay the tax amount due for the period from beginning of the month when he/she has received the right for the land holding.

During the state registration of the rights for the land holding the annual tax amount may be deposited to the budget by either party upon agreement. The tax amount paid during the state registration of the rights for the land holding shall not be paid again.

If the land tax is not paid prior to or on the date of the state registration of the rights of ownership or use of the land as required herein, the land tax liability for the whole tax period in which the rights were transferred shall be borne by the successor.

7. The taxpayers specified in Para 1 and 3 herein, shall file the Land Tax Estimation Form before 1 February of the current year.

## **Chapter 51. Tax preferences**

### **Article 343. Tax exemptions**

Unless otherwise provided by this Section, the following lands shall be tax exempt:

1) lands of reserved areas, reservations, nature, national and dendrologic parks, botanic and zoological gardens, wildlife preserves, nature monuments, historical and cultural schemes, non-distributed lands of reserves, lands occupied with observation lines along the national boundaries, lands of common use by settlements occupied with forest plantations, water and forest resources, communication and power lines, land strips along roads and structures operated in order to maintain above-mentioned schemes in the working condition, except for those provided for agricultural purposes and to carry out business activities;

2) cemeteries;

3) cattle-driving and staying areas;

4) lands of the Agency for Funds Protection, Fund for Deposits Protection, National Bank of the Kyrgyz Republic, except for the lands used for recreation, liuzure and entertainment purposes and/or leased;

5) lands owned by organizations for invalids, war veterans and persons of similar status and lands owned by the Society for Blind and Deaf People;

6) lands of the penitentiary institutions;

7) damaged lands (degraded lands with the disturbed soil and other qualitative land indicators) that need re-cultivation, received for agricultural needs by local self-governments, organizations and physical persons for the period established by the Local Kenesh.

### **Article 344. Land tax preferences**

1. Unless otherwise provided by this Section, the following persons shall be exempt from land tax payment for the use of homestead lands and garden plots:

1) invalids and participants of the Great Patriotic War, servicemen who were participating in the war in Afghanistan and other countries under inter-government agreements, people involved in liquidation of the consequences of the accident at Chernobyl Nuclear Power Station, and handicapped people from birth and invalids of Groups I and II;

2) family members of the military and law-enforcement personnel who died or missed when performing his/her duties, including children under age of maturity;

3) retirees;

4) physical persons having 4 and more children under age of maturity.

2. Local Keneshs shall have the right to grant full or partial exemption from land tax payment for agricultural lands up to 3 years should the land user incur material damages as a result of force-majeure circumstances.

## **SECTION XV. SPECIAL TAX REGIMES**

### **Chapter 52. General conditions for discharge of tax liabilities on a patent basis**

#### **Article 345. General provisions**

1. Some taxes may be paid through purchase of a mandatory or a voluntary patent (license).

2. A patent is a document issued by a tax authority and certifying the taxpayer's right to carry out a certain type of activity and pay taxes and confirming receipt of income during the patent period. The patent form and procedure for its issuance shall be established by an authorized tax body. The patent forms are high-security documents and shall be retained for the statute of limitations period provided by this Code.

A patent shall be issued at the place of entrepreneurial activity only provided the taxpayer's tax registration with a tax body, while in case of a voluntary patent, the patent shall be issued at the place of his residence. Entrepreneurial activity carried out without a patent shall be recognized as the activity carried out without registration and shall be considered tax evasion.

A patent shall be valid only in the territory in which it was issued (rayon, town without district division or Bishkek city). It is prohibited to transfer the patent or its copy for carrying out entrepreneurial activity by other person.

3. Taxpayers engaged in patent-based activities shall purchase the patent at a tax authority serving the area where their activity is carried out. The patents for separate subdivisions shall be purchased from the tax body at the place of their location.

4. A patent-based tax shall be paid by the taxpayer to a banking institution, after that the payment receipt along with the bank's note shall be presented to a tax authority and a patent shall be issued. In the remote and hard-to-reach settlements having no banking institutions it is allowed to pay the patent-based tax to a tax authority in the manner established by an authorized tax service body.

5. A patent for carrying out certain types of activity shall not replace licenses and other special permits authorizing such activities and issued by the authorized government bodies.

6. If the patent is lost, a duplicate shall be issued. In this case a taxpayer shall be issued a new patent with a "instead of the lost" note for the remaining tax period. Herewith, the taxpayer shall pay only the cost of issuing a duplicate.

### **Article 346. General requirements**

1. Taxpayers of the patent-based tax shall not be relieved of the tax agent duties in the cases provided for by this Code.

When paying remuneration to workers for one-time works, services under civil legal contracts (labor contracts) in the process of their activity, the personal income tax shall be computed, withheld and transferred to budget in accordance with the requirements of his Code.

2. Taxpayers engaged in other activities that are not subject to patent-based taxation are obliged to keep separate records, file tax returns and pay taxes on these activities in the manner prescribed by this Code. Herewith, the costs of the patent-based activities may not be deductible from annual gross income against other activities that are not taxed on a patent basis.

3. The activity carried out by a taxpayer on a patent basis is not subject to field audits during the patent period, other than counter-audits. Other forms of tax control shall be performed in accordance with this Code.

When availability of the patent and dates of its validity are examined, the taxpayer is required to show a payment receipt.

4. An organization or an individual entrepreneur that carries out a patent-based activity and for some reason suspends its activity for more than 1 month or changes the tax regime shall notify this to the tax authority which issued the patent.

5. A tax authority shall have the right to cancel the patent, withdraw or suspend it in case:

- 1) a taxpayer carries out the activity different from the one indicated in the patent;
- 2) a taxpayer carries out the activity based on the patent issued to another person;
- 3) other violations contemplated by the KR legislation take place.

### **Article 347. Time study**

1. Time study shall be performed by tax service bodies together with the representatives of local self-governments and corresponding business associations accredited to an authorized tax service body for purposes of determining an average income for certain activities and regions necessary for application of special tax regimes. The procedure for conducting a time study shall be determined by the Government of the Kyrgyz Republic.

2. Time study shall be held no more than once a year, while for the activities of seasonal nature – no more than 3 times a year; each such study should not exceed a period of 15 calendar days.

3. Time study may be held either with a notification to a taxpayer and without notification. The instructions issued in accordance with the requirements of this Code shall serve as the ground for a time study.

4. Should a time study be conducted upon taxpayer's notification, the taxpayer is shown the original instructions to read and its copy is given to him. The taxpayer shall make a note in the original instructions acknowledging that he has read it and received its copy.

5. Should a time study be conducted without taxpayer's notification, the taxpayer is shown the original instructions to read and its copy will be given upon completion of the time study inspection along with the statement of inspection.

6. The results of a time study shall not change the tax liabilities of a specific person whose activity is being examined and shall be used solely for the purpose of determining the patent-based tax amount for a specific activity.

7. An access for conducting a time study shall be provided in accordance with this Code.

## **Chapter 53. Tax on the basis of a mandatory patent**

### **Article 348. General conditions for applying tax on the basis of a mandatory patent**

1. Tax on the basis of a mandatory patent (hereinafter in this Chapter referred to as the tax) shall be paid in a mandatory way with regard to the following activities:

- 1) services of saunas and bathhouses other than municipal bathhouses;
- 2) billiard services;
- 3) services on providing game machines;
- 4) casino services;
- 5) services of exchange bureaus;
- 6) services of disco clubs;
- 7) services of the parking lots open 24 hrs.;

Services provided by disco clubs mean provision of dance floors by the taxpayers for a certain charge.

2. Organizations and individual entrepreneurs paying tax in the form of a mandatory patent (hereinafter in this Chapter referred to as 'taxpayers') shall pay taxes established by this Code, except for:

- 1) Profit tax;
- 2) VAT on taxable supplies; and
- 3) Sales tax.

3. Taxpayers are obligated to buy a patent for each worker employed for the activity taxable under mandatory patent in the amount of 7 estimation factors per month, instead of assessment and payment of the personal income tax for these hired workers.

### **Article 349. Object of taxation, tax base and tax rate**

1. The object of taxation for tax assessment shall be economic activities listed in

Para 1 of Article 355 of this Code.

2. The following tax base and tax rates shall apply for tax assessment:

<b>Types of economic activity</b>	<b>Tax base</b>	<b>Tax rate for the tax period</b>
1) services of saunas and bathhouses;	1 sauna or bathhouse with total area of up to 150 sq. meters, more than 150 sq. meters	30 000 soms 50 000 soms
2) services of billiards;	1 table	10 000 soms
3) services on provision of game machines;	1 game machine	10 000 soms
4) casino services;	1 game table	300 000 soms
5) services of exchange bureaus;	1 licensed object	20 000 soms
6) services of a disco club;	1 disco club	100 000 soms
7) services of the parking lots open 24 hrs.	1 parking place	100 soms

3. The KR Government together with the corresponding Parliamentary Committees for economy, budget and finance and for development of industry, commerce, tourism, SME, transport, communications, construction and architecture shall have the right to change tax rates within the limits fixed by Para 2 above, given the place of location and/or cost of the services provided, but no more than once a year.

4. Should a taxpayer carry out two or more activities taxable under mandatory patenting system, the tax rate shall apply to each activity separately.

#### **Article 350. Tax period**

The tax period is 30 consecutive days.

#### **Article 351. Tax assessment procedure**

1. Tax amount shall be determined based on the tax base and tax rate given adjustment coefficients.

2. Unless otherwise provided herein, the following adjustment coefficients shall apply for determining the tax amount due depending on the place of location of an object of taxation:

Coefficients depending on population density in the settlements						
More than 500	250-500	100-250	50 - 100	20-50	10-20	Up to 10
1	0,7	0,6	0,5	0,4	0,3	0,1

3. Regardless of the population density in the inhabited areas, the coefficient equal to 1 shall apply for tax assessment in the following cases:

1) from June 1 through September 1 of the calendar year – for the activities carried out in resort zones whose list is determined by the KR Government; and

2) for provision of game machines and billiard services.

4. In order to calculate the tax for services provided outside the inhabited areas, coefficients of the nearby settlements shall apply.

#### **Article 352. Tax filing procedure. Procedure and dates of tax payment**

1. The tax shall be paid prior to commencement of business operation by purchasing a patent.

2. A patent may be bought for 30, 90 or 180 consecutive days. If the patent is purchased for 90 days the tax amount shall be reduced by 5% whereas the purchase of a 180 day patent shall entail a 10% discount.

3. Tax amount shall be fixed and may not be recalculated; the amount paid for a patent shall not be refunded after the purchase of such patent.

4. A taxpayer carrying out a patent-based activity shall not be relieved from filing a single tax return on the patent-based activity required by this Code, where he indicates actual income gained from such patent-based activity without its confirmation and reassessment of the tax paid.

### **Chapter 54. Tax paid on the basis of a voluntary patent**

#### **Article 353. General conditions for payment of tax through purchase of a voluntary patent**

1. Unless otherwise provided herein, a physical person engaged in the activity given in the list approved by the Government shall have the right to pay the tax on the basis of the voluntary patent.

2. Physical persons paying tax on the basis of the voluntary patent (hereinafter in this Chapter referred to as taxpayers) shall pay taxes contemplated by this Code, except for:

1) profit tax; and

2) sales tax.

3. Taxpayers shall withhold from the wages of the hired workers and pay a fixed

amount of personal income tax for each hired worker which is calculated based on the minimal estimated income determined in accordance with Art. 163 of this Code.

4. The following persons are not eligible for application of the voluntary patenting system:

- 1) Physical persons – VAT payers; and
- 2) Organizations, except for organizations producing and selling clothes, knitted garments and footwear.

#### **Article 354. Procedure for determining tax amount**

1. The base tax in the form of a voluntary patent for each activity shall be established by the KR Government upon presentation by an authorized tax service body.

2. An authorized tax service body shall have the right to adjust the tax amount depending on seasonality, profitability, type and place of entrepreneurial activity but within the limits of the base tax amount.

3. The base tax amount shall be assessed, determined and adjusted based on time study inspections.

4. If a taxpayer carries out two or more activities taxable under voluntary patenting system, the tax amount shall be established for each economic activity separately.

#### **Article 355. Tax filing procedure. Procedure and dates of tax payment**

1. The tax shall be paid prior to commencement of business operation by purchasing a patent.

2. A patent may be purchased for 15, 30, 90 or 180 consecutive days. If the patent is purchased for 90 days the tax amount shall be reduced by 5%, for 180 days – by 10%.

3. The tax amount is fixed and may not be recalculated after the patent was purchased.

4. A taxpayer carrying out a patent-based activity shall not be relieved from filing a single tax return on the patent-based activity as required by this Code where he indicates the actual income gained from the patent-based activity without its confirmation and reassessment of the tax amount paid, unless otherwise provided by this Chapter. The copies of the patents must be attached to a single tax return.

#### **Article 356. Specific provisions**

Should the taxpayer's income from sale of goods, works or services exceed the VAT registration threshold, such taxpayer is not eligible for tax payment in the form of a voluntary patent.

## **Chapter 55. Simplified system of taxation based on a single tax**

### **Article 357. General provisions**

1. Simplified taxation system provides for the payment of a single tax by small businesses in respect of activities taxable under this Chapter in replacement of:

- 1) profit tax;
- 2) Sales tax.

2. Small businesses applying the simplified system of taxation (hereinafter in this Chapter referred to as a taxpayer) are obligated to:

- 1) keep tax accounting based on the cash method of accounting;
- 2) use cash register machines with fiscal memory in the manner prescribed by this Code;
- 3) pay taxes under this Code that are not listed in Para 1 above.

3. Unless otherwise provided herein, taxpayers shall not be relieved of the tax agent duties in the cases provided for in this Code.

4. Taxpayers shall withhold and pay the fixed amount of personal income tax for each hired worker calculated based on the minimal estimated income which is determined in accordance with Art. 163 of this Code.

### **Article 358. Procedure for application of the simplified system of taxation**

1. A taxpayer has the right to choose the system of taxation in the manner prescribed by this Code.

2. A taxpayer intending to apply the simplified taxation system is obligated to submit an application as a payer of a single tax to a tax authority at the place of its tax registration:

- 1) within 5 days from the date of tax registration – for the newly registered subjects;
- 2) by December 1 of the current year – for the working entities.

3. If a taxpayer fails to meet the requirements of this Chapter, it shall transfer to a general procedure of tax assessment and payment beginning from January 1 of the next calendar year.

4. If a taxpayer exceeds the VAT registration threshold, the VAT tax liability shall arise in accordance with the provisions of this Code.

5. In case of voluntary withdrawal from simplified system of taxation, a taxpayer is obligated to inform a tax authority about his decision at least one month prior to withdrawal from this tax system. In this case, a taxpayer's withdrawal from the register as a payer of the single tax shall come into effect on the 1<sup>st</sup> day of the next year.

6. A taxpayer withdrawn from the register as the payer of a single tax under Para 5 above shall have the right to again transfer to a simplified taxation system not earlier than in

three years after his withdrawal from that register.

### **Article 359. Taxpayers**

1. For purposes of taxation, organizations and individual entrepreneurs is considered a small business provided that all below-given conditions are met:

1) number of staff concurrently carrying out activity in organization or under an individual entrepreneur in accordance with labor legislation of the Kyrgyz Republic is not more than 30 people;

2) an organization or an individual entrepreneur is not a VAT payer.

2. The eligibility for application of a simplified system of taxation by the taxpayers is determined based on their gross income for the previous year calculated on the cash basis, while for the newly registered taxpayers – based on the taxpayer’s projected data.

3. A simplified system of taxation shall not apply to:

- 1) subjects paying taxes in the patent form;
- 2) subjects providing financial and insurance services;
- 3) investment funds;
- 4) professional participants of the securities market;
- 5) payers of excise tax.

### **Article 360. Object of taxation**

The taxpayer’s entrepreneurial activity shall be the object of taxation.

### **Article 361. Tax base**

Tax base shall be the income less VAT and sales tax.

### **Article 362. Tax rates**

1. A taxpayer shall pay the tax at the following rates depending on the type of activity:

- 1) 4 percent- for processing of agricultural products; manufacturing, commerce;
- 2) 6 percent- for other types of activity.

2. A taxpayer engaged in several activities shall calculate and pay the tax separately for each type of activity at the rates established for these activities.

**Article 363. Tax period**

A quarter is a tax period for a single tax.

**Article 364. Tax calculation procedure**

A taxpayer shall calculate the tax in the manner prescribed in Article 37 of this Code.

**Article 365. Tax filing. Procedure and dates of tax payment**

1. A taxpayer is obliged to file:

1) a quarterly tax report no later than 15th day of the month following the reporting quarter;

2) a uniform tax return - no later than March 1 of the year following the reporting one.

2. A taxpayer is obliged to pay a single tax every quarter no later than 15th day of the month following the quarter.

## **Chapter 56. Contract-based Tax**

**Article 366. General provisions**

1. Organizations and individual entrepreneurs engaged in entrepreneurial activity shall have a right to a contract-based tax payment (further – contract).

2. A contract determines a taxpayer's liability agreed between the taxpayer and the tax body in the fixed amount for the following taxes:

1) profit tax;

2) VAT on taxable supplies;

3) sales tax.

3. Organizations and individual entrepreneurs paying contract-based taxes (hereinafter referred to as taxpayers) shall pay taxes established by this Code except for the taxes indicated in Para 2 of this Article.

**Article 367. Restrictions for tax payment under the contract**

The following persons may not pay taxes under the contract:

1) subjects paying mandatory patent-based tax;

2) subjects providing crediting, financial and insurance services;

- 3) Investment and Pension funds;
- 4) professional participants of the securities market;
- 5) subjects having tax arrears;
- 6) payers of the tax on subsurface use;
- 7) payers of excise tax;
- 8) subjects that carry out the economic activity for less than 3 years.

**Article 368. Tax period**

A calendar year is the tax period for satisfaction of tax liabilities under the contract.

**Article 369. Procedure for transfer to the contract-based method**

1. A taxpayer intending to apply the contract-based tax regime is obliged to inform this to the tax service body by filing a written application before November 1 of the year preceding the year of transfer.

2. An application for the use of a contract-based tax regime shall be submitted to the tax service body at the place of tax registration.

The application shall contain the following information:

- 1) taxpayer's name;
- 2) taxpayer's legal address;
- 3) taxpayer's identification number;
- 4) results of financial operations;
- 5) amounts of tax liabilities for the previous three years;
- 6) basic indicators for a contract.

3. A decision allowing for application of a contract-based regime by the taxpayer or a motivated rejection shall be made by the tax body within 15 days after submission of the application.

If a taxpayer is allowed to apply a contract-based regime, the tax body upon agreement with an authorized tax body shall sign a contract with the taxpayer within 15 working days after the decision was made.

A contract shall be concluded for one calendar year in the format established by a tax body and may be annually extended. The contract shall be extended in accordance with the provisions of this Article.

An authorized tax body has the right to reject the possibility for the use of a contract-based regime or terminate it in the manner determined by an authorized tax body in the following cases:

- 1) non-compliance with the conditions established by this chapter;
- 2) non-compliance with the terms and conditions of the contract;
- 3) presence of conditions creating prerequisites for tax evasion.

4. In the period of validity of a contract on taxes included in the sum of this contract, Field Tax 4. No tax field audit, other than a counter-audit, is allowed for the period of validity of a contract. Other forms of tax control shall be performed in accordance with this Code.

5. A contract shall be terminated in case of the taxpayer's reorganization.

#### **Article 370. Calculation of the tax liability amount under the contract**

Tax liability amount under the contract shall be accepted in the amount exceeding the largest amount of tax liabilities for 3 preceding years by no less than 25 percent.

#### **Article 371. Tax payment under the contract and tax reporting**

Tax payment under the contract shall be made every month by 15-th day of each month in the amounts determined by the contract.

Taxpayers, who have negotiated a contract, are obliged to file a Uniform Tax Return, including the tax return on the activity taxable under the contract.

### **Chapter 57. Tax regime in Free Economic Zones (FEZ)**

#### **Article 372. General provisions**

1. The tax regime provided for by this Chapter shall apply only to FEZ subjects' activities on production and sales of goods (works, services) within the separated and specially enclosed FEZ territory in compliance with the requirements of the KR Law on Free Economic Zones, except for production and sales of excisable goods.

2. As for the FEZ subjects' activity in the rest of the territory of the Kyrgyz Republic and outside its territory, the general tax regime shall apply.

#### **Article 373. Subject of FEZ**

Organizations registered with the FEZ General Directorate shall be the FEZ subjects.

**Article 374. Tax registration**

A FEZ subject is obliged to pass through the tax registration in the manner prescribed by this Code.

**Article 375. Specific features of FEZ Subjects' taxation**

1. Unless otherwise provided by this Chapter, the FEZ subject's activity that meets requirements of Para 1, Art. 372 of this Code shall be exempt from any tax payment.

2. Supply of goods, works and services from the territory of the Kyrgyz Republic by a non-FEZ subject to a FEZ subject shall be VAT taxable under this Code.

3. The FEZ subject's activity that does not meet requirements of Article 372 of this Code shall be taxable under general tax regime.

When goods are taken out of the territory of FEZ and are supplied to the rest of the territory of the Kyrgyz Republic, and in case of their alienation in favor of the persons that are not FEZ subjects, such goods shall be taxed under general tax regime.

4. Taxes levied on goods crossing the FEZ border shall be administered under the Customs Code of the Kyrgyz Republic.

5. Services and works provided by the FEZ subjects for consumption in the KR domestic market shall be taxable under the general tax regime. Services and works supplied for consumption in the KR domestic market are the services and works that are purchased by organizations or physical persons, other than FEZ subjects, in the FEZ territories or in the rest of the KR territory.

6. Incomes subject to assessment, withholding and payment at the source of payment of such income shall be taxable under this Code.

7. A FEZ subject shall not be exempt from property tax payment.

8. Under this Code, the FEZ General Directorate is a payer of the land tax on the land within the boundaries of the FEZ territory.

9. If a FEZ subject carries out its activities both in FEZ territory and in the rest of the KG territory and beyond its bounds, it [a subject] is obliged to keep separate accounting under this Code.

**Article 376. Tax reporting**

A FEZ subject shall file tax reports with tax service bodies in compliance with this Code.

A FEZ subject is obliged to file a Uniform Tax Return.

## **Chapter 58. Tax on Special Means**

### **Article 377. General provisions**

1. Special means are the revenue of the budgetary agencies and organizations funded from the state budget, received from the sales of production, performance of works, provision of services and/or carrying out other types of activity, provided they have permits issued in accordance with the current normative-and-standard acts of the Kyrgyz Republic.

2. For the purposes of taxation, funds received from sponsorship and humanitarian aid as well as attracted grants shall not be included into the special means revenue.

### **Article 378. Taxpayer**

The payer of the tax on special means (hereinafter referred to as *taxpayer* in this Chapter) is a budget agency and organization funded through the state budget and accumulating special means revenues.

### **Article 379. Tax registration**

Taxpayer is obliged to go through the tax registration in the manner prescribed by this Code.

### **Article 380. Taxation peculiarities**

1. The taxpayer shall pay taxes established by this Code except for:

- 1) Profit Tax;
- 2) VAT on taxable supplies;
- 3) Sales tax.

2. The taxpayer shall pay the tax on special means which replaces the taxes listed in Para 1 above (hereinafter in this Chapter referred to as *tax*).

### **Article 381. Tax base**

Special means received by the taxpayers shall form a basis for taxation.

### **Article 382. Tax rate**

The tax rate for the tax on special means is 20 percent.

### **Article 383. Tax period**

A tax period for the tax on special means shall be one calendar quarter.

**Article 384. Tax calculation procedure**

The taxpayer shall independently calculate the tax following the procedures set out in Article 37 of this Code.

**Article 385. Dates for tax reporting and tax payment**

1. The taxpayer shall submit a quarterly tax report and pay the tax on a quarterly basis no later than 15-th day of the month following the reporting quarter.
2. The taxpayer shall not be relieved from filing a Uniform Tax Return.

K. BAKIEV

President of the Kyrgyz Republic