

REPUBLIC OF BULGARIA
NATIONAL ASSEMBLY

TAX PROCEDURE ACT

Promulgated State Gazette No. 61/16.07.1993

Amended SG No. 20/1996

Chapter One

GENERAL PROVISIONS

Article 1

This Act shall regulate the tax registration and the procedure of issuing, appealing and executing individual decisions of the tax administration.

Article 2

- (1) The tax authorities shall issue tax assessment decisions, administrative penal decisions and other decisions provided for by law.
- (2) The tax authorities shall issue decisions of findings of tax inspections and audits and shall annex any evidence collected to such decisions.
- (3) The tax authorities shall issue penal decisions upon establishing the existence of violations.

Article 3

- (1) The decisions under this Act shall be issued by the empowered for the purpose tax authority, within its respective competence.
- (2) Whenever no particular body has been specified by law as authorized to issue the respective decision, that decisions shall be issued by the head of the tax office.

Article 4

- (1) Tax authorities shall be independent in conducting their procedures.
- (2) A superior tax authority may not take over for resolution matters from the authority which is competent to examine and rule them.
- (3) Whenever a body which has commenced procedures finds that such procedures are outside its competence, it shall immediately forward the file to a competent authority, notifying of the action all parties involved in the procedures.

(4) The aforementioned tax authority shall identify another tax authority to issue the respective decision in cases where the grounds for non-joinder or self-removal under Article 9 of the Administrative Procedure Act are in place.

(5) Disputes among tax authorities regarding competence shall be settled by the head of the Chief directorate of the tax administration.

Chapter Two

TAX REGISTRATION

Article 5

The following shall be subject to tax registration:

1. local natural persons;
2. sole proprietors and local legal persons, including non-profit organizations and partnerships without legal personality;
3. foreign nationals carrying on economic activity in or deriving income in this country, as well as their representative offices or branches.

Article 6

(1) Local natural persons shall be registered as a matter of course by the tax office of their area of residence upon submitting their first tax return in the manner and within the period of time specified by the respective tax law.

(2) The persons under Article 5, subparagraph 2 shall submit a return to the tax office of the area of their registered office within 14 days of their formation, while the persons under subparagraph 3 shall submit such returns within the same period of time to the tax office in the area where their income was derived from or their investment was made.

Article 7

(1) Tax registration shall be made by entry in a special register pursuant to a form as approved by the Minister of Finance.

(2) The tax number of local natural persons shall be entered in their identity documents, or, if no such documents exist, in the birth certificates.

(3) For all other persons a certificate carrying the tax number shall be issued.

Article 8

(1) A registered person shall enter his tax number in all tax documents and papers issued in relation to his economic activity or submitted to the tax authorities.

(2) Tax numbers of persons shall be entered by the tax administration and other bodies on all individual decisions, on the basis of which state and municipal claims arise.

Article 9

(1) Registered persons shall notify the tax office within 14 days in case of a change in their registered office or residence.

(2) Whenever the new address is located in an area administered by another tax office, such notification shall be addressed to it.

(3) Persons shall notify the tax authority within the period of time under para 1 of all other changes which may have occurred in the data entered in the declaration.

Article 10

The tax registration shall be deleted ten years after the dissolution of the legal person or the death of the natural person, respectively.

Article 11

The tax authorities shall be free to collect data from courts and municipalities on registered persons or persons whose registration has been terminated.

Chapter Three

OBLIGATIONS OF TAX SUBJECTS

Article 11 a

A person owing taxes shall be obliged to cooperate with the tax authority in the performance of its powers by:

1. declaring circumstances, where this is required by law or by an act of the Council of Ministers regulating the enforcement of the law;
2. preparing statements and submitting the requested data in relation to establishing his tax payable.
3. presenting all accounting, commercial and other documents necessary for clarifying the facts and circumstances related to the inspections and audits being done, and by verifying copies of the said documents made by the tax authorities;

4. providing access to office premises, warehouses, safes, etc.;
5. providing space for carrying out inspections or audits, and when that is impossible - by submitting the necessary documents to the tax authority with a transfer protocol listing the said documents;
6. in the case of being absent for more than 30 days, by assigning a person who is to represent him before the tax authorities, and, in cases of shorter absences, by accepting the documents issued by them; in the case of a failure to fulfill the obligation under this subparagraph, all documents shall be enclosed in the tax file and be considered as served in a regular manner to the person owing taxes.

Article 11 b

Upon a written request from tax authorities, municipalities, which, under the law, enter in writing or register circumstances related to the persons under Article 5, shall be obliged to provide data about those circumstances within 7 days.

Article 11 c

In relation to a tax audit or inspection being performed, upon a request made by the head of the tax authority, state bodies, legal and natural persons shall be obliged to submit, within 7 days, copies of accounting documents of their own or of other parties which are in their keeping, which are of importance to the performance of the tax audit.

Chapter Four

DECISIONS OF FINDINGS

Article 12

(1) Decisions of findings shall be issued in writing and shall contain:

1. the name of the issuing authority;
2. the date and place of issue;
3. the first, middle name and last name of the person issuing and his position;
4. data on the tax subject: full name, address, address of headquarters, tax number, bank account numbers, etc.;
5. the factual and legal grounds for issuing the decision;
6. findings
7. orders on the security of evidence or on state claims;

8. list of seized documents and items;

9. period of time within which objections in writing may be filed and the authority before which the decision may be appealed.

(2) The findings act may contain an argued proposal for the issuing of a tax assessment decision.

Article 13

(1) Decisions shall be submitted to the audited party against signature.

(2) Whenever such parties refuse to sign a decision, they shall be served such decisions in the presence of two witnesses whose names, addresses and civil ID numbers shall be duly recorded.

Article 14

(1) Objections to the decision may be made within 14 days of its serving before the head of the tax office whose body has issued the decision.

(2) The head of the tax office shall rule on all objections within 14 days;

(3) In rejecting an objection, the head of the tax office shall issue a written statement to that effect.

Chapter Five

TAX ASSESSMENT DECISIONS

Article 15

(1) A tax assessment decision shall establish the amount of the tax liability. Such an act shall also establish other liabilities to the state as specified in a law.

(2) Tax assessment decisions shall be issued by the heads of the tax offices, and, in their absence, by the official assigned as his substitute by an order of the head of the chief directorate of the tax administration.

(3) Upon filing of returns, the amount of the tax shall be established on the basis of the declared income, profit and other data, and shall be payable within the terms established by the respective laws.

(4) Tax assessment decisions shall be issued, when no such return had been submitted within the period of time specified by law, and in the cases where tax inspections and audits are performed on the initiative of the tax administration.

Article 16

(1) The head of the tax office shall issue a motivated tax assessment decision after an examination of the findings act, the evidence and objections of the person owing taxes. Attached to the tax assessment decision shall be the findings act, drawn up in the manner set out in Article 12, para 1.

(2) Evidence under para 1 shall be collected by means of tax inspections and audits.

(3) A tax assessment decision shall be issued within 30 days after the expiry of terms set under Article 14.

Article 17

(1) Whenever no return had been submitted, or whenever income is found to have been concealed, or irregularities have been found in the accounting, or the documents have been destroyed, the head of the tax office shall determine the amount of tax at his discretion by taking into consideration the following:

1. the type and nature of the business activities;
2. paid indirect taxes, duties, export and import fees;
3. the movement of funds and available funds in bank accounts;
4. documents containing reliable data;
5. rental prices for the real estate where the business operates;
6. the importance from a business point of view of the location of the operation;
7. the amount of capital;
8. the turnover;
9. the number of employees;
10. the type and number of customers;
11. the profit or revenues of other persons carrying on the same or similar business under the same or similar conditions;
12. the difference between the raw and other materials purchased and those actually used in the manufacturing process;
13. other evidence which may serve to determine the amount of taxes.

(2) Upon establishment of the conditions under para 1, persons owing taxes shall be obliged to declare their property status, where for natural person this shall be done on the basis of a declaration for family and property status after

a sample approved by the Minister of Finance, and for legal persons, on the basis of the submitted annual accounting reports under Article 40 of the Accountancy Act.

(3) Where an increase in the property held is identified for the respective period, the person shall be obliged to present evidence certifying the origin of the funds for that increase. Unless this is provided, the amount of the increase shall constitute taxable income.

Article 18

Other decisions issued by empowered persons by which taxes are assessed shall also serve as tax assessment decisions. In this case it shall be considered that the said persons are acting as tax authorities.

Article 19

Tax assessment decisions shall be issued in a form approved by the Minister of Finance and shall be served upon the interested parties under the Administrative Procedure Act.

Article 20

(1) Amounts unduly remitted or collected, as well as amounts refundable on other grounds, shall be set-off as payment for other state claims due as specified in the Assessment of State Dues Act, and if the person has no such liabilities, the amount shall be refunded.

(2) Offsets or refunds may be made at the initiative of the tax authority, or upon a written request of the person owing taxes.

(3) Upon filing the request under para 2, the tax authority shall perform a tax inspection or audit, and if the request is lawful, issue an order on set-off or a refund. In the case of a refusal of a set-off or refund, the tax authority shall make a written decision.

(4) Amounts unduly remitted or collected shall be refunded with the lawful interest for the respective period of time, when remittal or collection have been made in compliance with the provisions of the tax legislation, or on the basis of an act of a tax authority.

(5) The order, as well as the refusal of a set-off or refund can be appealed in the order stipulated in Articles 23 - 26.

Article 21

Whenever it is established by a tax assessment decision that the amount of due taxes is larger than the taxes paid currently or in advance, the difference shall be paid within 15 days of notification of the finding.

Article 22

- (1) The statute of limitations on due taxes shall be five years.
- (2) The limitation period shall commence on January 1 of the year following the year for which the tax liability is concerned.
- (3) Whenever the statute of limitations under para 1 is due to run out during a tax inspection or audit, the limitation period shall cease to run until after the inspection or audit is over, but for not longer than one year.

Article 23

- (1) A tax assessment decision may be appealed before the head of the territorial tax directorate within 14 days of it being served.
- (2) Appeals shall be filed through the head of the tax office which has issued the tax assessment decision.
- (3) Written evidence may be attached to the appeal.

Article 24

- (1) The head of the tax office, through whom the appeal was filed, is obliged to forward it within 14 days together with the tax file to the head of the territorial tax directorate.
- (2) The official who has issued an appealed decision may repeal or amend that decision within the period of time specified in para 1.
- (3) Decisions issued under the preceding paragraph may be appealed under Article 25.

Article 25

- (1) The head of the territorial tax directorate shall examine the appeal on its merits and shall rule stating reasons within 14 days of receiving the said appeal.
- (2) By virtue of the above ruling a tax assessment decision may be upheld, amended or repealed.
- (3) The appealing party shall be notified of the ruling within seven days of its issuing.

Article 26

- (1) A ruling by the head of a territorial tax directorate may be appealed as to the part which rejects objections before a district court within 14 days of its serving.

(2) Appeals shall be filed with the head of the territorial tax directorate, who shall forward them together with the tax file to the respective court.

Article 27

Notifications and rulings with respect to appeals of tax assessment decisions shall be prepared pursuant to the Administrative Procedure Act.

Article 28

(1) The court rulings on the legitimacy of tax assessment decisions shall be final.

(2) An interested party may request the review of a ruling, or its overturning under the Code of Civil Procedure.

(3) Each of the parties shall be entitled to compensation for expenses and fees in compliance with Article 64 of the Code of Civil Procedure.

Chapter Six

CHANGES IN TAX LIABILITIES

Article 28 a

(1) A tax liability, established by a tax assessment decision which has come into force, may be changed on the initiative of the tax authority, the superior tax authority, or upon a motion of the prosecutor.

(2) A tax liability may be changed on the grounds stipulated in Article 231 of the Code of Civil Procedure, and in the cases where the tax liability has been established in contradiction with the law.

(3) Changes are allowed in the time period under Article 22, para 1.

Article 28 b

(1) The tax authority which has identified the grounds for the change shall issue an order for the performance of a tax audit.

(2) Whenever the tax authority finds that the tax liability has been established in a larger amount than is due, a new tax assessment decision shall not be issued, but the tax liability change shall be made by a decision of the head of the tax office. If the amounts have been remitted and the tax subject has no other obligations outstanding to the state with which to make a set-off, the head of the tax office shall issue an order to refund the sum with the lawful interest.

(3) Where it has been found that the tax liability has been established in an amount smaller than due, a tax assessment decision for the balance shall be issued, which can be appealed as stipulated under Articles 23 - 26.

Chapter Seven

EXECUTION OF TAX ASSESSMENT DECISIONS

Article 29

(1) The amounts due by virtue of tax assessment decisions shall be paid voluntarily within 14 days of serving the decision unless another period of time has been specified in a law.

(2) After the period of time under para 1 has elapsed, the tax assessment decision shall be subject to forcible execution, including in such cases when the decision has been appealed, unless execution has been stayed by the head of the territorial tax directorate or by a court under the Assessment of State Dues Act or unless the subject has provided security.

Article 30

Interest shall be collected for taxes that have not been paid within the specified period of time pursuant to the Interest on Taxes, Fees and Similar Dues to the State Act.

Chapter Eight

ADMINISTRATIVE PENAL PROVISIONS

Article 31

Whoever does not perform within the established time limits under this Act shall be subject to a fine of 5,000 levs up to 50 000 levs, if the violation is not punishable by a more severe penalty.

Article 32

(1) Any person owing taxes who fails to fulfill a liability under Article 11a, subparagraphs 1 - 5, shall be fined from 7 000 to 70 000 levs.

(2) Any official who fails to fulfill a liability under Article 11b shall be subject to a fine of up to 10 000 levs.

(3) For any person who fails to fulfill a liability under Article 11c, or in the case of destroyed documents, a fine of up to 50 000 levs shall be imposed.

Article 33

(1) Officials who do not duly forward appeals or presenter's objections to tax decisions to a superior tax body or the court without sufficient reason, shall be fined from 500 to 3,000 levs.

(2) For subsequent violations described in the preceding paragraph the fines shall be from 1,000 to 5,000 levs.

Article 33 a

For any violation of the provision under Article 14, para 2 of the Tax Administration Act, the respective official shall be subject to a fine of up to 500 000 levs imposed through a penal decision by the head of the chief directorate of the tax administration, if the violation is not punishable by a more severe penalty.

Article 34

(1) The procedure of establishing violations, issuing penal decisions and their appeal shall be conducted under the Administrative Violations and Penalties Act.

(2) Acts establishing a violation shall be drawn up by the tax authorities with the tax offices, and penal decisions shall be issued by the head of the chief directorate of the tax administration, or by an official duly authorized by him.

ADDITIONAL PROVISION

§ 1. Under the meaning of this Act, a "person owing taxes" shall be a person liable to tax registration in the manner stipulated in Chapter Two.

TRANSITIONAL AND CONCLUDING PROVISIONS

§ 1a (1) Inasmuch as this Act does not provide specific rules, the respective provisions of the Administrative Procedure Act and the Assessment of State Dues Act shall apply.

(2) The provision of Article 28, para 3 shall also apply to court cases still outstanding, as well as to such cases for which the period of time for review or overturning, pursuant to the Code of Civil Procedure, has not elapsed.

§ 2. The procedures of issuing tax decisions still incomplete at the time of entry into force of this Act shall be completed under the previous provisions.

§ 3. The persons under Article 5, subparagraphs 2 and 3 already in existence at the time of the entry into force of this Act shall submit statements for registration within one month of the said entry into force.

§ 4. A new para 3 shall be inserted in Article 268 of the Trade Act (promulgated, State Gazette, No. 48 of 1991, amended, No. 25 of 1992) as follows:

"(3) Receivers shall notify the tax administration of the commencement of liquidation."

§ 5. The following amendments shall be made to the Assessment of State Dues Act (promulgated, State Gazette, No. 38 of 1989, amended No. 30 of 1990):

1. In Article 4, para 2 the figure "200" shall be replaced with "3,000".

2. Article 6 shall be amended as follows:

"Article 6

(1) The dues to the state under Article 1 shall be paid until the five-year statute of limitations has expired, unless provided otherwise by a law.

(2) The statute of limitations shall commence on the day when dues became outstanding.

(3) The statute of limitations shall be stayed with any action the collecting authority has undertaken for forcible assessment.

(4) A new five-year statute of limitations shall commence as of the time of the stay of the previous statute of limitations.

(5) Irrespective of the staying or commencement of the statute of limitations dues shall not be collected after 15 years from the day on which they have become outstanding."

3. A new para 5 shall be inserted in Article 10 as follows:

"(5) Whenever state claims from legal persons cannot be collected under Articles 2, 3 and 4, assessment shall be directed at their movable and immovable property and real rights under the terms and in the manner specified in sections I and II of Part Five of the Code of Civil Procedure."

4. The words "financial body", "financial body with the municipal people's council", "financial bodies with the municipal people's councils and mayor's offices" and "the head of the financial body with the municipal people's council" shall be replaced with "tax body", "tax body with the tax office", "tax bodies with the tax offices", and "head of the tax office" respectively.

§ 6. This Act shall enter into force one month after its promulgation.

§ 7. The implementation of this Act is assigned to the Minister of Finance.

§ 8. In the Local Taxes and Fees Act (promulgated, Izvestiya, No. 104 of 1951; amended, No. 10 of 1952, Nos. 12 and 104 of 1954, No. 91 of 1957, No. 13 of 1958, Nos. 57 and 89 of 1959, Nos. 21 and 91 of 1960; State Gazette, No. 85 of 1963, Nos. 1 and 52 of 1965, No. 53 of 1973, No. 87 of 1974, No. 21 of 1975, No. 102 of 1977, No. 88 of 1978, No. 36 of 1979, No. 99 of 1981, No. 55 of 1984, No. 73 of 1987, Nos. 33 and 97 of 1988, Nos. 21, 23 and 30 of 1990, No. 82 of 1991, No. 59 of 1993, Nos. 40 and 87 of 1995, No. 14 of 1996 - Decision No. 3 of the Constitutional Court of 1996), the following amendments are made:

1. Articles 18, 19, 20 and 21, and § 42 of the Local Taxes and Fees Amendment Act (promulgated, State Gazette, No. 82 of 1991) are repealed.
2. In Article 28, at the end of the sentence, the words "under the procedure stipulated in Article 18" are replaced with the words "under the procedure stipulated in Articles 23 - 26 of the Tax Procedure Act".
3. Procedures grandfathered by this Act are to be concluded in accordance with the earlier procedure.

§ 9. In Article 116 of Decree No. 56 on Economic Activity (promulgated, State Gazette, No. 4 of 1989; amended, Nos. 16, 38, 39 and 62 of 1989, Nos. 21, 31 and 101 of 1990, Nos. 5, 15, 23, 25, 47, 48 and 62 of 1991, No. 60 of 1992, Nos. 84 and 93 of 1993, No. 63 of 1994, Nos. 53 and 87 of 1995), the following amendments are made:

1. Paragraph 2 is amended as follows:

"(2) The procedure of issuing and appeal of a tax assessment decision shall be done in the manner set out in the Tax Procedure Act."

2. Paragraph 2 is repealed.

This Act was adopted by the 36th National Assembly on 1 July 1993 and the State Seal was affixed to it.

Chairman of the National Assembly: Alexander Yordanov