

**TAX CODE
REPUBLIC OF TAJIKISTAN**

This Code determines the organizational, legal and economic basis by establishment, change, cancellation, calculation and payment of taxes, accomplishment of tax liabilities and also the tax relations and is directed to forming, development and stimulation of business activities.

GENERAL PART

**SECTION I. GENERAL PROVISIONS, PRINCIPLES, SUBJECTS OF
THE TAX RELATIONS, SYSTEM OF TAXATION, RIGHT AND DUTY OF
THE TAXPAYER**

CHAPTER 1. GENERAL PROVISIONS

Article 1. Tax law of the Republic of Tajikistan and coverage

1. The tax law of the Republic of Tajikistan (**further – the tax law**) is based on the Constitution of the Republic of Tajikistan and consists of this Code, other regulatory legal acts of the Republic of Tajikistan **and also** the international legal acts recognized **by Tajikistan**, governing the tax relations.

2. Taxation is performed according to the tax law existing at the time of emergence of tax liabilities if this article **does not provide other provisions**.

3. Concepts and terms civil, family and other industries of the legislation of the Republic of Tajikistan, used in this Code, are applied in that value in what they are used in these industries of the legislation **if this Code does not provide other**.

4. The relations on **payment** of the customs duties, taxes on the goods and vehicles moved through the customs border of the Republic of Tajikistan are regulated by this Code and the customs legislation of the Republic of Tajikistan.

5. The relations on payment of the state fee and others obligatory payments in the budget are regulated by the relevant laws and this Code.

6. **Contradictions** between provisions of this Code and other regulatory legal acts of one level are permitted according to provisions of the Law of the Republic of Tajikistan to "About Regulatory Legal Acts".

7. The acts of the tax law establishing the new taxes worsening situation of taxpayers and (or) establishing responsibility for the tax offenses defining new obligations of taxpayers and other participants of the relations regulated by the tax law have no retroactive force.

8. The acts of the tax law excluding or mitigating responsibility and (or) the obligation for violation of the tax law, or providing additional guarantees for

protection of the rights of taxpayers, tax agents and their representatives are given retroactive effect.

9. **With** ambiguity (different interpretation of regulations) and (or) availability of two or more provisions and (or) contradictions between provisions of this Code and (or) lack (insufficiency) of necessary provisions for regulation of the tax relations tax and (or) judicial authorities make the decision in interests (advantage) of the taxpayer.

10. Inclusion of the regulations governing the tax relations in other legislation, except for **provisions** is forbidden:

1) about the administrative offenses provided by the legislation on administrative offenses;

2) about crimes in the sphere of the taxes provided by the penal legislation;

3) about the priority of the tax liabilities provided by the legislation on bankruptcy;

4) about the taxes provided by the customs legislation;

5) provided by the legislation on the state fee;

6) the provided legislation on other obligatory payments in the budget;

7) **provided by the Law of the Republic of Tajikistan on the State budget of the Republic of Tajikistan for the next financial year;**

8) about the taxes provided by investment, concessionary and credit (grant) agreements and also other international legal acts with the foreign states or the international organizations approved by Majlisi namoyandagon Majlisi Oli of the Republic of Tajikistan.

11. For the foreign states and the governments, the international organizations, diplomatic and consulates of the foreign states and the governments and their diplomatic and consular workers and also representative offices of the international organizations, their workers and members of families of the above-named persons, tax exemption and application of other tax benefits **provided** according to this Code, or **provided** by the international legal acts recognized by Tajikistan are provided in **the order established** by the Government of the Republic of Tajikistan.

12. The resident of the foreign state with **whom the Republic of Tajikistan signed** the international agreement about avoidance of double taxation has the right to application of such **agreement** only if the main (final) owner of this person is the person or persons – **residents** of this foreign state for the purposes of the agreement and also if one of the following conditions is executed:

1) the main equity stake or other shares of participation of the person is regularly on sale on the stock exchange in this foreign state;

2) both following conditions are satisfied:

a) the person performs vigorous activity in this foreign state by means of the employees and constructions **in this state;**

b) income of the person from **sources** in the Republic of Tajikistan gained **by it** are connected with active transactions of the person in this foreign state;

3) restriction of privileges is provided in the agreement or there are other provisions preventing abuse of this agreement.

Article 2. The basic concepts used in the present Code

In this Code **the following** basic concepts are used:

1) tax administration – set of the measures performed by tax authority with observance of requirements of this Code and other regulatory legal acts aimed at providing application of the regulatory legal acts governing the tax relations, the state fee and obligatory payment in the budget;

2) special tax regime – the special order taxation, established for separate groups taxpayers, providing the simplified methods and methods of calculation and payment of separate types of tax and also submission of tax statements;

3) the general tax regime – the order of calculation and payment of the nationwide and local taxes established by this Code except for the special tax modes;

4) assets are the resources **which are in distribution or** under control of physical persons and legal entities from which receiving the economic benefit is expected, **having** the measure of value. In particular, the property, other tangible and intangible assets, monetary funds or property rights making the total amount of the fixed and current assets (funds) of the person, any value belonging to the person, the accounting category including the cost of own property of the subject and also the including means and stocks intended for payment (repayment) of debt (obligations);

5) fixed assets are the assets which are at the same time answering to the following conditions:

a) term of their operation more than one year;

b) are used as means (tool) of work by production of goods (performance of works, rendering services) or for managerial needs;

c) the cost of each unit of such assets shall correspond to the limits set by the legislation on financial accounting;

d) are subject to depreciation;

6) tax debt – the estimated (in addition added) amounts of taxes, the accrued interest and the imposed penalties recognized **by the taxpayer** but not paid in established and (or) in the changed time, in the budget;

7) prizes are the any kinds of income, remunerations and benefits in natural and monetary value received by taxpayers at tenders, competitions (Olympic Games), festivals on lotteries, on draws, including draws on deposits and debt securities;

8) the grant – the money and (or) other property provided (transferred) on the non-paid and irrevocable basis for achievement **of particular** purposes (tasks), issued from the following sources:

a) foreign states (governments of the foreign states), international organizations, physical persons and legal entities to the Republic of Tajikistan and Government of the Republic of Tajikistan;

b) physical persons and legal entities, to the relevant state bodies for **elimination**, consequences of natural disasters or the solution of social tasks;

c) **the international and foreign organizations, foreign non-governmental public organizations and funds** whose activity carries **charitable** and (or)

international character, and does not contradict the Constitution of the Republic of Tajikistan - to the Republic of Tajikistan, the Government of the Republic of Tajikistan, physical persons and legal entities of the Republic of Tajikistan:

9) foreign income – any income gained from sources outside the Republic of Tajikistan;

10) the digital signature of the taxpayer – the special cryptographic instrument for ensuring of authenticity, integrity and authorship of electronic documents;

11) the electronic taxpayer – the taxpayer interacting with tax authorities in the electronic form on the basis of the agreement with use and recognition of the digital signature concluded with them at exchange of electronic documents through the private office of the taxpayer;

12) work – activity which results have material expression, including construction, installation and repair work, scientific research, developmental and project developments;

13) dividends – any distribution of means or property of the legal entity between its **shareholders (participants)** including:

a) income gained by the shareholder (participant) from the legal person issuer at distribution of the annual profit remaining after taxation. If the relevant decision on target use of these contributions to funds according to the established regulations is made and its target use is provided, this net profit is not subject to taxation;

b) **income** gained by the shareholder (participant) from distribution of money or property as the redemption by the legal person issuer of the events (share) and income gained by the shareholder (participant) from the section of property at liquidation of the legal entity behind minus (in both cases) the property value (events, the share) contributed by the founder (participant) as the contribution (share) to authorized capital;

c) **income** gained by the shareholder (participant) masked under other platyozh;

d) the cost of any asset, service or any debt of the legal entity for the benefit of the shareholder (participant) or the person related to the shareholder (participant), is considered as the act of the actual income distribution;

14) humanitarian aid – goods (works, services), provided non-paid to the Republic of Tajikistan, directed from the foreign countries and the international organizations for improvement of living conditions and life of the population and also prevention and **elimination of consequences** of emergency situations of military, ecological, natural, technogenic and other character;

15) the personal land plots are the land plots of settlements allocated to natural persons according to the regulations established by the Land code of the Republic of Tajikistan;

16) the source of payment of income of the taxpayer – the organization or natural person from which (at the expense of which) the taxpayer gains income;

17) the bad debt – the amount which is due to the taxpayer, but which the taxpayer is not able to receive completely because of insolvency or liquidation of the debtor, or the possibility of its receiving from the debtor or the third party is improbable and according to International Financial Reporting Standards is reflected

in financial accounting of the taxpayer as written off. Anyway the debt which is considered hopeless on financial schyota of the taxpayer and for repayment which any **payment** on bank settlement and treasury accounts within three years since the moment when such **payment** had to be made and or irrespective of other circumstances was not made is considered the bad debt, the taxpayer was liquidated;

18) the location of separate division of the legal entity – the place of implementation by this legal entity of activity through the separate division (the place of the actual finding of separate division);

19) agricultural products – initial result (product) of cultivation of crops, animal and other biological assets which is not subjected to further industrial processing;

20) industrial processing of agricultural products – the technology transactions connected with production of finished goods from agricultural raw materials which underwent primary processing. **For** payers of the single tax as industrial processing of agricultural products **are not considered:**

a) **operations** on preparation of agricultural products for sale (sorting and packing);

b) **the combination** of various agricultural products **which** trademark does not change;

c) **slaughter** and **cutting** of the cattle;

d) **the cleaning** and **drying** of grain, grain and commercial crops (except cotton) accepted in initial weight;

e) preparation of seeds of agricultural products under natural conditions;

e) **drying** of vegetable and fruit crops, fumigating by sulfur under natural conditions;

21) goods – any material property (**for the purposes of** the value added tax the goods do not count money, the earth and (or) products which are transported by means of wires (except for electric energy), cables, radio receivers, optics either others electromagnetic, or similar technical systems);

22) credit financial institution – the credit institution and Islamic credit institution performing **the activity provided by the legislation of the Republic of Tajikistan** on the basis of the license of National bank of Tajikistan;

23) credit institutions are legal entities (banks, **non-bank credit organizations**, including the microfinance institutions) performing all or separate banking activities **provided by the legislation of the Republic of Tajikistan** on the basis of the license of National bank of Tajikistan;

24) the commodity nomenclature of foreign economic activity – the system of codes of commodity classification accepted according to **the harmonized commodity description and coding system;**

25) the royalty – the payment for:

a) right to use by natural resources in the course of mineral extraction and (or) processing of technogenic educations;

b) use of author's rights, software, patents, drawings, models, trademarks or other industrial, or intellectual property, or transfer of right to use to other persons;

- c) use of the industrial, trading or research equipment, or transfer of right to use to other persons;
- d) application of the know-how;
- e) use of movies, videos, sound recordings or other means of record, or transfer of right to use to other persons;
- e) rendering additional and auxiliary technical assistance in connection with **the rights** provided by this point;

26) entertainment expenses are expenses on acceptance and service of any persons, including **the expenses performed** for the purpose of establishment or maintenance of mutual cooperation and also the participants who arrived to the meeting of the Board of Directors, audit committee, shareholder meeting. Expenses on holding the formal **reception** for specified persons, their buffet (fourchette) service belong to entertainment expenses during negotiations;

27) services – any activity for remuneration, money and also non-paid services which is not delivery of goods performance of works also includes including:

- a) trading activity;
- b) financial services;
- c) transfer to lease of material and non-material property;
- d) the product transmitted by means of transmitters, cables, **radio receivers**, optics or other electromagnetic systems or similar technical systems;

28) financial services (for the purposes of the value added tax) are services of credit institution, Islamic credit institution and **other organizations** for the list approved by National bank of Tajikistan in coordination with the Ministry of Finance of the Republic of Tajikistan and authorized state body;

29) the electronic document of the taxpayer – the document in the established electronic format made, transferred, ciphered and certified by the digital signature, which is valid the reporting after its acceptance and confirmation of reliability;

30) insurance payment (the insurance indemnity, the insurance sum) – the amount paid by insurance company to the insured person on property insurance and liability insurance in the covering of damage owing to insured events;

31) activities for production of goods – business activity, income from which is gained from production and the sales of goods (material property) made by the entrepreneur from own raw materials;

32) the tax debt recognized by the taxpayer – not repaid amount of the tax liability, certain (added) in the following form:

- a) the taxpayer in the tax statements;
- b) in the decision on granting the delay on payment of taxes;
- c) in the decision of tax authority to order of tax audit obtained and not challenged by the taxpayer if the amount of tax is the matter in issue it is not recognized as tax debt;
- d) the become effective judgment;

33) indirect tax – the tax (the value added tax, the excise tax and the sales tax **of aluminum primary**) which amount is levied by the taxpayer at the consumer or

the taxpayer has the right to collection for payment in the budget by inclusion of this tax in the selling price of goods, works and services;

34) delivery of goods – assignment of rights of property on goods, including sale, exchange or donation, transfer it is non-paid or with partial payment, salary payment and other platyozh in the natural form and also transfer to the pawnbroker of the property rights to the goods placed in pledge;

35) offshore (preferential) zones are the states and (or) territories which represent to taxpayers (foreign physical persons and legal entities) preferential tax treatment do not open and represent data on financial and other property transactions;

36) electronic base – set of the protected electronic data **used** for determination of the correct accounting of turnover of goods and products of taxpayers and sources of taxation. The order of its maintaining is defined by authorized state body;

37) operation on revaluation of foreign currency, precious metals and stones – the transaction performed for the purpose of regulation of the corresponding balance statement of the organization (the enterprise, organization) irrespective of her desire, in communication by change in the exchange rate of national currency in relation to foreign currency, precious metals and stones also belongs either to income, or to expenses of the organization depending on its positive or negative end result (the final difference between income and the expense of revaluation);

38) the control and cash device – electronic devices with fiscal memory and devices of data transmission which fix and store in the memory fiscal information on **mutual settlements** by cash, bank payment cards and other forms of electronic payments at sales of goods, performance of works and services write down and store in the memory and provide its direct granting in tax authorities through operators (online);

39) the virtual cash desk – the software or the package which contains information on cash and non-cash payments with consumers in **points of wholesale trade (service)** and has the opportunity to be connected to the fiscal module, prepares and supports fiscal documents, transfers fiscal documents in real time, carries out fiscal data for the operator, prints fiscal data or transfers them in electronic form to tax authority;

40) tax year – the period corresponding to calendar year and proceeding from January 1 to December 31;

41) Council of the pre-judicial dispute resolution – advisory body of pre-judicial consideration of tax disputes between the taxpayer and tax authority;

42) the tax consultant – the person rendering consulting services in calculation and payment of taxes, duties, others platyozhy and to submission of tax reports (declarations) and also on protection of the rights and legitimate interests of taxpayers;

43) tax risk – the probability of non-performance or incomplete execution of tax liabilities by the taxpayer;

44) percent – any amount expressed in the form of percent, discounts, bonuses and other money and also remuneration for use of money, paid at the same time or periodically including the penalty for non-payment of taxes in time;

45) the owner (final the recipient of benefits) – one or several physical, or legal entities who directly or indirectly **are** owners of property;

46) authorized capital – **set** of financial money (the share, events) founders (participants) formed for creation of the legal entity and ensuring its activity;

47) the irresponsible taxpayer – the taxpayer who is not fulfilling the tax liabilities according to the tax law;

48) the responsible taxpayer – the taxpayer **providing** execution of the tax liabilities according to the tax law, who is not included in the list of irresponsible taxpayers;

49) the transfer price – the price **formed** between **the interconnected persons** and (or) **distinguished** from the market price of transactions between independent parties at implementation of cross-border transactions;

50) the electronic fiscal check (the electronic settlement document) – the form of the settlement document for transactions in the format of electronic payments which has obligatory details of the check of the cash device for goods (works, services), including digital value of the shaped product code and (or) may contain the code of quick response;

51) the electronic invoice – the document **issued** with use of any electronic channels without or with the digital signature, represented by Electronic Data Interchange. The specified document with appendix of the electronic copy of the paper invoice is transferred by means of the private office of the taxpayer or any electronic network who creates the reliable **basis** for check between the invoice and delivery of goods (performance of works and rendering services);

52) the cashback – the kind of encouragement which returns at payment of cost of goods, performance of works and services by means of non-cash payment (including means of electronic payments, bank payment cards and e-wallets) in certain percent from the paid amount, or the fixed **amount** credit financial **institution** and (or) the seller to the buyer;

53) the bank account – the account **of taxpayers**, except for deposit (savings) schyot of the natural persons opened in credit financial institutions **for the purposes of** this Code;

54) electronic means of payment are means and (or) methods which purpose is **money transfer** within the used types of non-cash payments with use of information and communication technologies, electronic media of information, including bank payment cards and other technical equipment, with and without opening bank accounts to taxpayers, **allowing** the taxpayer to develop and confirm the payment order;

55) the challenged (controversial) debt – tax debt with which the taxpayer does not agree also according to the established legislation the order filed the written complaint to higher tax authority, **Council of the pre-judicial dispute resolution**, court or other relevant organ (before consideration and obtaining the answer by results of the complaint);

56) the functional currency – the currency distinguishable from national currency.

Article 3. Order of establishment, release, change and cancellation of the tax

1. Establishment, release, change and cancellation of the tax is performed by introduction of amendments and additions to this Code and (or) in the legal acts **provided** by Part 10 of Article 1 of this Code.

2. Projects of regulatory legal acts on modification and additions in the tax law, exemption from the tax, are represented in accordance with the established procedure by the Ministry of Finance of the Republic of Tajikistan.

3. At establishment of taxes the taxpayer, tax benefits and all elements of taxation shall be defined.

Article 4. The order of calculation of the terms established by the tax law

1. The terms established by the tax law are defined calendar date, the instruction on action which shall be made or will be made after the period of time which is estimated for years, quarters, months or days.

2. The day following calendar date or the event which shall come is considered the beginning of calculation of the term established by the tax law.

3. The term estimated for years expires in the corresponding month and number of the last year of term. At the same time any period of time consisting of twelve consecutive months other than calendar year is recognized year.

4. The term estimated quarters expires in the corresponding day of the last month of term. At the same time, quarter equals to three calendar months, and counting is conducted since the beginning of calendar year.

5. The term estimated for months expires in the last day of the corresponding month.

6. The terms estimated in the days are estimated in calendar days if in this Code days are not estimated in the working days. Day which according to the legislation is not recognized as output or non-working day is considered the working day.

7. If the last day of term falls on day which is considered output or non-working, the working day following this day off or non-working day is considered day of the termination of term.

8. Action for which commission fixed term, can be executed till 24 o'clock the last day of term.

9. Term is not considered expired if documents (reports) were handed over in the organization of communication and (or) money, the relevant payment documents were handed over in credit financial institutions till 24 o'clock the last day of term.

Article 5. Receipt of taxes and their distribution in the budget

1. Taxes are paid in amount and **as it should be, established** by this Code and bylaws.

2. Customs fees are paid in amount and **as it should be, established** by the Customs code of the Republic of Tajikistan, this Code and their bylaws.

3. Funds from nation-wide taxes are distributed between the republican budget and local budgets according to the Law of the Republic of Tajikistan on the State budget of the Republic of Tajikistan for the next financial year. Platyozhi on the local taxes come to the corresponding local budgets.

4. Administrative procedures on tax revenues, the state fee and charges and also customs payments, are performed by the relevant authorized bodies and tax authorities in accordance with the established procedure.

5. Control of process of receipt of the taxes established in the special part of this Code is provided with tax authorities if this Code **does not establish other.**

Article 6. Application of international treaties of the Republic of Tajikistan concerning taxation

1. Application of international treaties of the Republic of Tajikistan concerning taxation and the general legal international tax standards is performed in the order established by this Code.

2. **Provisions** of the international treaties regulating questions of avoidance of double taxation and prevention of tax avoidance, one of the parties **of which** is the Republic of Tajikistan, are applied to tax residents of one or both states which signed such contract. For this purpose the tax resident is defined according to the agreement.

3. **Provisions** of Part 2 of this article do not extend to the tax resident of the state with whom the international treaty of the Republic of Tajikistan is signed if the tax resident uses provisions of this international treaty for the benefit of other person who is not the tax resident of that state with whom this international treaty is signed.

4. The person who has the right independently to use and dispose of this income, or the person for the benefit of whom the other person is competent to dispose of such income is recognized as the person having the actual right to the income paid by the legal entity. At the same time does not matter, there was this right owing to direct and (or) indirect participation in this legal entity, or control over it, or owing to other circumstances.

5. In the order established by Part 4 of this article the actual right to the income of the person performing the activity without formation of legal entity is defined.

6. At determination of the person having the actual right to income the functions which are carried out by the persons specified in Part 4 of this article and also the risks accepted by them are considered.

7. The foreign person is not recognized having the actual right to income from sources in the Republic of Tajikistan if it has limited powers according to the order this income, performs concerning the specified income mediatorial functions for the benefit of the other person, and without assuming any financial risks, directly or indirectly **pays** such income (in whole or in part) to the other person.

8. At payment of income from sources in the Republic of Tajikistan to the foreign person who does not have the actual right to such income if the person having the actual right to such income (their part), taxation of the paid income is known it is made in the following order:

1) if the person having the actual right to the paid income (their part) is the tax resident of the Republic of Tajikistan, taxation of the paid income (its part) is made according to provisions of this Code concerning tax residents of the Republic of Tajikistan. At the same time the payer does not hold the tax at the source of payment concerning the paid income (their part) on condition of the notice it tax authority in the place of accounting. The order of such notice is defined by the state authorized body;

2) if the person having the actual right to the paid income (their part) is the tax resident of the state (jurisdiction) with whom there is the existing international agreement of the Republic of Tajikistan concerning taxation, in this case provisions of the specified international agreement are applied to taxation of the paid income (their part).

3) if the person having the actual right to income (or its **parts**), is the resident of the state (jurisdiction) which does not have the international agreement concerning the taxation with the Republic of Tajikistan, income assessment (or its parts) received by the nonresident is performed according to provisions of this Code.

9. The specified rules are applied under the condition **if** the place of permanent finding of the person to which income and which has no actual right to this income are paid is the state (jurisdiction) with which there is the existing international agreement of the Republic of Tajikistan concerning taxation.

10. If the payer does not know the person having the actual right to income (or its part), taxation **of such** income (or its parts) is performed according to the provisions of this Code **defined** concerning nonresidents.

11. The competent authority of the Republic of Tajikistan **defined** in the international agreement, having the right to send inquiry to competent authority of the foreign state for assistance performed by the taxpayer of the foreign state of the tax liability which is not performed in the Republic of Tajikistan.

12. Provisions of parts 4-11 these articles are applied for the purpose of determination of the person having the actual right to income from the source of payment according to the international treaty.

CHAPTER 2. PRINCIPLES OF TAXATION

Article 7. Principles of taxation

Taxation is based on the principles of legality, obligation, **justification** of taxation and cooperation of tax authorities with the taxpayer, justice, unities of the taxation system and transparency.

Article 8. Principle of legality

1. The tax is established **according to** this Code and regulations of the tax law cannot contradict the principles established by this Code.

2. To anybody the duty to pay the tax which is not provided by this Code, or established with violation of its regulations cannot be assigned.

Article 9. Principle of obligation

All subjects of tax legal relationship are obliged to pay the taxes established by this Code and to respect the rules of the tax law.

Article 10. Principle of justification of taxation and cooperation of tax authorities with taxpayer

1. **Justification** of taxation means establishment in the tax law of the Republic of Tajikistan of all elements of the tax, the taxpayer, tax benefits, about, execution and the termination of tax liabilities.

2. Within the tax relations tax authorities are obliged to cooperate with the taxpayer for the purpose of ensuring performance of the tax law **of the Republic of Tajikistan**. At the same time tax authorities have no right to create artificial obstacles of legal activity of the taxpayer, and the taxpayer shall render assistance to tax authorities for execution of the powers.

Article 11. Concept of justice

1. Taxation in the Republic of Tajikistan is general, and all taxpayers pay taxes in proportion to income and property.

2. It is forbidden to establish graduated tax rates, tax benefits or other benefits depending on pattern of ownership, the financing source and also to establish the taxes interfering realization by citizens of the constitutional rights.

Article 12. Principle of unity of the taxation system

1. The taxation system is uniform in all territory of the Republic of Tajikistan.

2. Establishment of the taxes breaking the common economic space of the Republic of Tajikistan, in particular, directly or indirectly the limiting free movement of goods (services) or financial resources **in the territory of** the Republic of Tajikistan is not allowed.

Article 13. Principle of transparency

1. The regulatory legal acts governing tax legal relations are subject to obligatory publication.

2. The regulatory legal acts governing tax legal relations which are officially not published have no legal force.

CHAPTER 3. THE SUBJECTS OF THE TAX RELATIONS AND OTHER CONCEPTS USED IN THIS CODE

Article 14. Subjects of the tax relations

1. Subjects of the tax relations are the persons who directly or indirectly **are participating** in the tax relations, **having** the rights and duties, actions or **failure to act** whom leads to emergence of tax liabilities.

2. **As residents** of the Republic of Tajikistan for the purpose of taxation **are recognized**:

1) if the natural person was in the territory of the Republic of Tajikistan during the period or the periods in total exceeding 182 days in any 12-month period which is beginning or coming to an end current calendar year it is considered the resident of the Republic of Tajikistan (**further – the resident**) the current calendar year, but taking into account **the following**:

a) the natural person which is the resident current calendar year, but was not the resident of the Republic of Tajikistan within the previous calendar year, is considered as the resident in the current tax period only for the period beginning from the first day when the person physically was present at the Republic of Tajikistan;

b) the natural person which is **the resident** of the Republic of Tajikistan current calendar year, but is not the resident in the subsequent tax period, it is considered the resident for the current tax period only for the period which is coming to an end the last day when the person physically was present at the Republic of Tajikistan;

2) the citizen of the Republic of Tajikistan who was within calendar year in public service of the Republic of Tajikistan outside the Republic of Tajikistan is considered the resident current calendar year, irrespective of duration of such service;

3) natural persons, being citizens of the Republic of Tajikistan;

4) the natural persons which submitted the application for obtaining citizenship of the Republic of Tajikistan or for permission to full-time residence in the Republic of Tajikistan without obtaining citizenship of the Republic of Tajikistan irrespective of the term of their stay in the Republic of Tajikistan, are recognized as residents if the person has no permanent residence outside the Republic of Tajikistan.

3. The natural person, not being the resident according to this article, is considered the nonresident of the Republic of Tajikistan.

4. The citizen of the foreign state is not considered the resident of the Republic of Tajikistan irrespective of the term of their stay in the territory of the Republic of Tajikistan if **it** is the face with the diplomatic or consular status (or the family member), either the employee of the international organization, or the person which is in public service of the foreign state (or the member of the family of such person).

5. Resident status and the nonresident concerning natural person is defined for each calendar year.

6. The natural person **recognized** by the nonresident is obliged to provide to the tax agent or **tax authority** in the place of stay (residence) no later than the date of receipt of income or date of submission of tax statements the document confirming resident status in the foreign state of this person or person without citizenship and the notarized translation into the state language of the identity document (passport).

7. The individual entrepreneur - the natural person performing business activity without formation of legal entity on the basis of the patent or the certificate.

8. The legal entity can be the resident and the nonresident:

1) the legal entity - the resident – the legal entity is recognized as the resident if it is created according to the legislation of the Republic of Tajikistan and (or) its main governing body (governing body, **governing body**) is in the territory of the Republic of Tajikistan;

2) the legal entity - the nonresident – **the legal** entity founded according to the foreign legislation is considered in the Republic of Tajikistan as the legal entity even if it is not legal entity according to the legislation of the state in which it is created.

9. The branch and representative office of legal entity - separate division of the legal entity, regardless of its inclusion in constituent documents or other documents of the legal entity in general shall answer the following conditions:

- 1) perform business or not business activity;
- 2) have territorial and (or) property isolation from the legal entity;
- 3) have the established posts created for the term of more than one calendar month and (or) the personnel connected with the organization or this division the relations regulated by the Labor code of the Republic of Tajikistan.

10. The taxpayer – the natural person, the individual entrepreneur, the legal entity, branches and their representations performing economic activity irrespective of legal form, the type of activity, subordination and pattern of ownership, or the taxation object to whom the obligation for payment of taxes, the state fees and charges is assigned **by the tax law**.

11. State bodies are **the components** of government **performing** state powers of authority with **the corresponding legal forms** according to the competence and structure established by regulatory legal acts:

1) authorized state body in the field of finance – the central executive authority which provides conducting uniform state policy and standard legal regulation of financial, budgetary, tax and other activities, coordinating activities **of executive bodies of the government** for accomplishment and observance of the tax law, accounting of timely receipt of taxes, duties and others obligatory platyozhy from taxpayers in the state budget and public foundations and to management of public finances;

2) authorized state body – the central executive body of the government **providing** execution and observance of provisions of the tax law;

3) authorized bodies are state bodies of the Republic of Tajikistan, except for tax authorities, the calculation and (or) collecting of separate taxes and (or) to perform other functions connected with taxation authorized by the Government of the Republic of Tajikistan to perform.

12. The tax agent – the organization or the individual entrepreneur to whom according to this Code the obligation for calculation, deduction and transfer in the corresponding budget of the taxes withheld at the taxpayer or at the source of payment is assigned.

13. The tax agent is obliged:

1) complete amount and at the scheduled time to estimate, hold and transfer into the budget withheld from the taxpayer or at the source of payment, the taxes and other obligatory platyozh provided by this Code and the tax law;

2) keep account of the income paid to taxpayers and the taxes withheld from them (or at the source of payment) and transferred into the corresponding budgets, to keep separate account on each taxpayer;

3) represent to tax authority in the place of the accounting tax statements in the order established by this Code.

14. The person – any individual or legal entity, the permanent establishment, branch or other separate division **of the nonresident**.

15. The organizations are the legal entities formed according to the legislation of the Republic of Tajikistan (further – the resident organizations), the foreign legal entities created according to the legislation of the foreign states including its branches and representations created in the territory of the Republic of Tajikistan, the international organizations (further – **the foreign** organizations).

Article 15. Business and not business activity

1. Business activity – the independent activity performed by persons on the risk, directed to income acquisition (profits) due to use of property, sales of goods, performance of works or rendering services.

2. Business activity by the amount of the gross income is subdivided into the following types:

1) small business activity – activity of the individual entrepreneur and legal entity **which** total income for 12 consecutive (continuous) last calendar months is less than 1,000,000 (one million) somoni;

2) average business activity – activity of the legal entity which total income for 12 consecutive (continuous) last calendar months is from 1,000,000 (one million) somoni to 25,000,000 (twenty five million) somoni;

3) large business activity – activity of the legal entity which total income for 12 consecutive (continuous) last calendar months is more than 25,000,000 (twenty five million) somoni.

3. Charity is understood as the activity performed according to the Law of the Republic of Tajikistan "About Charity".

4. For the purpose of taxation rendering any help is not considered charity in the presence of **one of** the following conditions:

1) the person receiving the help assumes obligation of property or **non-property** character (except the obligation to use the received means or property for purpose) in the face of, rendering such help;

2) the person accepting such help, and the person rendering such help are considered as the interconnected persons;

5. The following types of activity are not considered as business activity:

1) the activity of public authorities of all levels and self-government institutions **of settlements and villages** which is directly connected with accomplishment of the state powers assigned to them;

2) charity;

3) religious activity;

4) activity of public organizations;

5) the activity of non-profit organization financed by founders of non-profit organization;

6) accomplishment of the work for hire by natural person.

6. For the purposes of taxation implementation of the following types of activity by natural person, the organization financed by the founder and (or) non-

profit organization is not recognized as business activity if such activity is not primary activity of natural person:

- 1) placement of money in financial credit institutions;
- 2) transfer to lease of personal and (or) real estate;
- 3) cession of property in trust management;
- 4) acquisition (sale) or transfer **to other person** of the share in authorized capital of legal entity or its securities;
- 5) acquisition (sale) or transfer **to other person** of bonds or any other bills of exchange;
- 6) acquisition (sale) or transfer **to other person** of the share in share investment fund and (or) the author's rights and any similar rights belonging to the seller;
- 7) the work for hire which is carried out on the basis of signing of the contracts of civil character or without signing of the contracts.

7. In that part **where** the persons performing the types of activity specified in Part 5 of this article **conduct** business activity, business activity of such persons, is subject to taxation, their assets and activity which are directly connected with implementation of business activity are subject separate (separate from primary activity) to accounting.

8. Activity of the legal entity which is public institution which part of special means is levied in the budget in the size and **as it should be**, determined by the legislation is not considered business activity.

Article 16. Work for hire

1. For the purposes of this Code the concept, "work for hire", means:

1) accomplishment of obligations by natural person within the relations regulated by the civil legislation of the Republic of Tajikistan, **the labor law** of the Republic of Tajikistan or **the legislation of the Republic of Tajikistan** on public service;

2) accomplishment by natural person of the obligations which are directly connected with service in armed forces **of the Republic of Tajikistan** or in law-enforcement and (or) the bodies (organizations) equated to them;

3) work of natural person on executive position at the enterprise or in the organization.

2. The natural person working, working or which will be employed within this Code hereinafter is referred to as "worker". The person paying the services rendered by such natural person hereinafter is referred to as "employer", and payment – "salary".

3. For the purposes of this Code the principle place of employment of the worker is the place of employment **on which** according to **the legislation of the Republic of Tajikistan on work** the employer is obliged to keep the service record of the worker.

Article 17. Permanent establishment of the nonresident

1. The permanent establishment of the nonresident (overseas enterprise or the person - the nonresident) in the Republic of Tajikistan (further – the permanent establishment) if this **article** does not establish other, is understood as the permanent place of activity through which this foreign person in whole or in part performs business activity, including the activity which is carried out through the authorized person.

2. The permanent place of activity specified in the part of 1 this article is considered:

1) any place of management, branch, office, bureau, office, office, agency, factory, plant, shop, workshop, laboratory;

2) place of implementation of production, processing, picking, packing and packing of goods;

3) any place, including shop or the warehouse used as outlet;

4) the places used for construction, the site for construction works, installation or other places connected with implementation of supervising activity;

5) one of the following places where services through workers are rendered:

a) the place in which more than 90 calendar days services with employees engagement during all continuous twelve-monthly period which comes to an end in this reporting period are provided;

b) any places where installation, operation and use of gambling automatic machines (including prefixes), computer networks and communication channels, attractions is performed.

6) mines, oil or gas wells, or other places for carrying out geological intelligence activities or production of natural resources, the pit or sites for development and production of natural resources;

7) **the place of installation of equipment or the constructions used** for geological studying (investigation), development, production of natural resources, but only in case such equipment or constructions are in operation, or are ready for operation during the period exceeding 182 days;

8) any place of implementation of the activity (including control or observation) connected with gas pipelines and other pipelines.

3. The nonresident is also considered the owner of the permanent establishment in the Republic of Tajikistan if:

1) makes collecting of insurance premiums and (or) performs insurance, or risks reinsurance in the Republic of Tajikistan **by proxy of the agent**;

2) is the agreement party about joint activity (particular partnership) formed according to the legislation of the Republic of Tajikistan and operating in the territory of the Republic of Tajikistan;

3) holds **paid** exhibitions in the Republic of Tajikistan and (or) performs delivery (realization) of goods **to them**;

4) on the basis of contractual relations the person gives authority to represent its interests in the Republic of Tajikistan, to work and sign contracts from his name;

5) the person authorizes to store stocks of goods in the Republic of Tajikistan and to perform regular deliveries from his name;

6) founders or the leading faces of the legal resident person and the nonresident are the interconnected persons.

4. The nonresident can conduct the activity in the Republic of Tajikistan without formation of the permanent establishment specified in the part of 1 this article through the person authorized to act from his name, to make actions according to the conclusion of civil agreements. In that case, the place of activity of this authorized person (in cases when this person does not take permanent place for implementation of activity, the permanent address of his authorized person is considered such place of activity of the nonresident) is recognized as the place of activity of such nonresident.

5. The affiliated enterprise of the legal nonresident person created according to the legislation of the Republic of Tajikistan cannot be considered as the permanent establishment of the main nonresident enterprise.

6. The registered representation and (or) branch overseas enterprise it is considered the permanent establishment nonresident.

7. Activity of the foreign legal entity in the Republic of Tajikistan according to provisions of this article **is considered the permanent establishment** from start date of such activity in the Republic of Tajikistan.

8. For the purposes of application of provisions of this Code, in the Republic of Tajikistan, the following dates are considered as start date of activity of the foreign legal entity:

- 1) date of the conclusion of any agreement on:
 - a) rendering services in the Republic of Tajikistan;
 - b) investment of powers on implementation of actions from his name in the Republic of Tajikistan;
 - c) purchase of goods in the Republic of Tajikistan for use or realization in the territory of the Republic of Tajikistan;
 - d) purchase of services in the Republic of Tajikistan;
- 2) date of signing of the initial employment contract for the purpose of implementation of activity in the Republic of Tajikistan;
- 3) date of entry of the physical nonresident person into the Republic of Tajikistan as the hired employee or **I will employ** the resident the foreign legal entity by any other method for accomplishment of the terms of the contract specified in **points 1) and 2)** of this part.

9. If activity of the foreign legal entity has mobile character (construction of roads, search of minerals and other mobile types of activity), all project is considered as the permanent establishment, irrespective of its character.

10. If according to requirements of this Code the place of activity of the nonresident in the Republic of Tajikistan is recognized by permanent organization of the nonresident, in that case the nonresident prior to such activity passes state registration as the taxpayer in the Republic of Tajikistan and is registered in tax authority in the place of activity.

11. Activity of the nonresident according to provisions of this article irrespective of, it is registered in tax authorities or not, means creation of the

permanent establishment. The permanent establishment of the nonresident for the purposes of taxation in the Republic of Tajikistan **is recognized** as legal entity **and** estimates, pays taxes to the budget in the order established by this Code if other is not provided by this Code. **In case** the permanent **establishment** is not registered in tax authorities, taxes keep at the source of payment by the tax agent in the order established for nonresidents.

12. For the purpose of taxation provisions of parts 1-11 these articles are also applied to establishment **of availability** of permanent foreign establishment at the resident outside the Republic of Tajikistan, at the same time references in these parts to the nonresident mean the resident, and references to the Republic of Tajikistan **mean** the foreign state.

Article 18. Finance lease (leasing) and leasing organization

1. Transfer to other person of depreciable property **on the basis of the agreement** of finance lease (leasing) concluded for the term of more than 12 months according to the legislation on finance lease (leasing) is financial leasing if such activity answers at least one of the following conditions:

1) the term of the agreement of finance lease exceeds 75 percent of life (useful use) of the transferred property and (or) the residual cost of finance lease on the termination of the lease term will be less than 25 percent from original cost;

2) after the term of the agreement of finance lease object of finance lease carries over the tenant;

3) after the term of finance lease, the tenant has the right to purchase leased property at the price established by conditions of finance lease;

4) the current discounted cost of minimum payment for weight the term of financial leasing exceeds 90 percent of market price of the property transferred on financial leasing;

5) the property transferred to finance lease under the order of the tenant and upon termination of the lease term cannot be used by the other person, except the tenant.

2. For the purposes of this Kodeksa leasing represents the special type of finance lease at which one party (lessor) at the request of other party (lessee) purchases at the third party (seller) in property the property caused by the agreement of leasing and transfers him to the lessee for a fee to ownership and use under the agreement conforming to the requirements established by the part of 1 this article.

3. For the purposes of income tax according to this Code the lessee who received leased property in ownership and use under the agreement of finance lease (leasing) is the buyer of this property. For the purposes of the value added tax finance lease is considered as periodic delivery by which each periodic transfer is partially delivery of goods and partially granting percent of financial services.

4. For the purposes of this article the lease term includes additional term to which the tenant has the right to resume lease according to the lease agreement.

Article 19. Investment projects of the Government of the Republic of Tajikistan

1. Investment projects of the Government of the Republic of Tajikistan are the projects provided on the basis of loan (grant) agreements about their financing (realization) between the Republic of Tajikistan (the Government of the Republic of Tajikistan) and the foreign states (the governments of the foreign states), domestic, foreign and the international financial institutions included in the register of investment projects by the state authorized body in the sphere of investments. This register also joins projects on construction of social constructions which are transferred on a grant basis by physical persons and legal entities to the relevant state body. The order of maintaining the register of investment projects according to the offer of authorized state body in coordination with authorized state body in the sphere of finance and authorized state body **in the tax sphere** approves as the sphere of investments by the Government of the Republic of Tajikistan.

2. Investment projects of the Government of the Republic of Tajikistan are implemented with use of the privileges provided by this Code.

3. The credit (grant) agreements on financing (realization) of investment projects of the Government of the Republic of Tajikistan providing additional tax benefits are subject to the approval from Madzhlisi namoyandagon by Majlisi Oly of the Republic of Tajikistan. Such **agreements** do not may contain regulations on exemption from the tax on income and social tax of citizens of the Republic of Tajikistan.

4. In case of deterioration in conditions of taxation for implementation of investment projects of the Government of the Republic of Tajikistan, before end of such projects in their relation the conditions of taxation operating at the time of signing of the relevant agreements are used.

Article 20. Private office of the taxpayer

1. The private office of the taxpayer (further – the private office) is the information **source posted** on the official site, authorized state body. The order of its maintaining is established by authorized state body.

2. The private office of each taxpayer is formed after registration of the taxpayer in tax authorities.

3. Exchange of information between tax authority and the taxpayer, including the nonresident without and or with formation of legal entity and also the foreign persons rendering remote services is made only through the private office by means of which the taxpayer and tax authority can perform the mutual rights and duties, except for the separate cases provided by this Code.

4. Logging into the personal account of the taxpayer is performed through the integrated information taxation system by means of the digital signature. The digital signature is issued to the taxpayer by structural division of authorized state body on the basis of his statement.

5. After activation of the private office and up to suspension of its activity, the tax authority sends all documents and information to the taxpayer only through the private office. In the similar order the taxpayer sends documents to tax authorities.

6. If at the direction the tax authority of the electronic document in the private office of the taxpayer receives data on suspension of action of the private office of the taxpayer or the termination of use of the key of the digital signature, this document is sent to the taxpayer in the paper form within three days from the date of obtaining the specified information.

7. The taxpayer who without reasonable excuse does not file the tax declaration or other document in **the electronic form** through the private office of the taxpayer **bears** responsibility for its written processing.

Article 21. Market prices

1. For the purposes of taxation as the goods price (work, services) the actual price specified (fixed by the valid documents including the agreement, the receipt, delivery notes) agreement parties is agreed if this article **does not provide other**. In case the specified price of goods (work, service), differs from market price in the cases provided by Part 9 of this article, and the taxpayer does not provide the reasonable reasons of the divergence of the prices, at taxation of similar transactions market price is used.

2. The price which developed on the basis of demand and supply in the market **of identical goods (works, services)** (is recognized as the market price of goods (work, service) at its absence – uniform) and on the basis of the agreement, concluded in the corresponding market between the persons which are not interdependent. The agreement between affiliated persons is considered only provided that their interdependence does not affect results of such agreement.

3. Market price of **goods (work, service)** is defined on the basis of information on the contracts signed in the corresponding market at the time of delivery **of these goods (work, service)**, and in case of that absence – for the next day by the time of realization previous or following the moment of selling **of such goods (works, services)** on **identical (uniform) goods (work, service)**, including price informations determined by appraisers, the fixed prices at the international and other exchanges. If market price is defined with reference to **similar goods (work or service)**, the price is adjusted taking into account differences between **similar goods (work or service)** and the actual **goods (work or service)**.

4. At sales of goods **(works, services)** the prices (tariffs) on which are regulated according to the legislation of the Republic of Tajikistan for the purpose of taxation are agreed the specified prices (tariffs).

5. The sphere of circulation **of these** goods (works, services) defined for the seller (buyer) in the next territory for the seller (buyer) in the Republic of Tajikistan or beyond its limits of sale (purchase) **of goods (works, services)** proceeding from the possibility of the seller (buyer) is recognized as the market **of goods (work, service)**.

6. In the absence of **agreements** on commodity market (works, services) or deliveries to this market of such goods (works, services) the market price of goods (works, services) is determined by identical (uniform) goods (works, services) by the prices created on the basis of the bargains concluded concerning identical (uniform) goods (works, services) in the day next to the moment of sales of goods (works,

services) or following the moment of selling of such goods (works, services) or the prices of the last transaction, but no more than on 30 calendar days to or after the moment of selling of such goods (works, services).

7. At impossibility of application of provisions of parts 2-6 these articles the market price of goods (works, services) is determined by the method of the price of the subsequent realization and the method "costs plus".

8. At determination of market price of goods (works, services) official sources of information on market prices of goods (works, services), including **base of statistical, banking and exchange data**, information provided at the request of tax authority by taxpayers, appraisers, experts are used.

9. Tax authorities apply market prices **in the following cases** if:

1) the agreement **is signed** between the interconnected persons and **their coherence affected** results **of such agreement**;

2) obligations of the parties are fulfilled **through** exchange of goods (**work** or services);

3) one of the parties of the agreement in foreign trade is the resident of the country **with** preferential taxation according to Article 223 of this Code;

4) one of agreement parties uses tax benefits;

5) the price used by agreement parties differs from the official statistical price created in the day, the next by the time of sales of goods (works, services) or following behind it, but no more than on 30 calendar days to or after the moment of selling of such goods (works, services) **for** 30 percent. This provision is applied when comparing retail prices from retail and wholesale prices with wholesale.

10. For the purposes of this article the following concepts are applied:

1) identical goods are various goods having identical characteristics, in particular physical characteristics, quality, reputation in the market, the country of origin and the producer;

2) uniform goods are various goods which are not identical, but having similar characteristics and consisting of similar components that allows them to perform the same functions and to be commercially interchangeable;

3) professional dealers are dealers, exchange traders;

4) the period of determination of the price – the period during which average is established (high and low) the delivery price of goods (performance of works and rendering services), necessary for determination of market price;

5) date of transition of the property right to **the buyer** – date of completion of delivery of goods (works, services) in accordance with the terms agreements, in international treaties within long-term agreements from the moment of delivery of goods (works, services) to the buyer, date of signing of the agreement on the goods sold on the basis of long-term agreements, date of the conclusion of the loan agreement on services in loan granting, date of signing of the agreement on accomplishment of other works and rendering services;

6) exchange of goods – the moment of delivery or replacement of goods (works, services) regulated according to the agreement and confirmed in the form of the certain document;

7) sources of information are officially recognized sources of information, data of public authorities, authorized bodies of other states and organizations, data provided from agreement parties and also other sources of information;

8) the final consumer – the independent party or the party which does not consist in the special relations with agreement parties and cannot affect economic results of the agreement and does not give the purchased goods (works and services) to other subject;

9) the method **of determination** of the price of the subsequent sale (resale) – means the method of determination of market price at which the margin received at resale between the interconnected persons (the controlled agreement) is compared from marches, received at resale as a result of the uncontrollable transaction;

10) the method "costs plus" – means the method of determination of market price at which the margin on the costs directly or indirectly suffered by delivery of goods or services within controlled transaction is compared to the margin on these directly or indirectly the incurred costs by delivery of goods or services within comparable uncontrollable **actions**;

11) wholesale price – the price of goods established by the seller to the buyer for large party (wholesale) for the purpose of further resale or professional use;

12) retail price – the price at which goods are on sale through retail network to final consumers by the piece or in small lots.

11. Provisions of this article and Chapter 33 of this Code do not extend to activity of credit financial institutions, including for the loans attracted by them.

12. Taxation of lease of property, except for the state-owned property, **is established** at the actual cost of the rent, but not less minimum amount, according to the legislation on the state budget for relevant financial year, depending on its location and other characteristics.

13. This article is not accepted in case of application of Chapter 33 of this Code.

14. The order of application of the methods specified in this article approves by the Government of the Republic of Tajikistan.

Article 22. The interconnected parties

1. For the purposes of this Code two parties will be considered **interconnected** if one of the following conditions is carried out:

1) in the relations between two parties one of the parties works according to instructions, requests and offers of other party;

2) both parties work according to instructions, requests and proposals of the third party if such case is confirmed by reasonable documents.

2. Two parties are not **interconnected** for the reason that one party is the employee or the client another, or both parties are employees or clients of the third party, irrespective of that the fact that their relations correspond to Parts 3 or 5 of this article.

3. In addition to provisions of the part of 1 this article of the party are considered **interconnected** if:

- 1) the parties which are directly at the leading level and the having related relations have the right to make unilateral decisions;
 - 2) persons are founders (participants) of the same enterprise if the share of each person makes not less than 25 percent;
 - 3) one person directly and (or) indirectly participates in other person, and the total share of such participation makes more than 25 percent;
 - 4) persons directly or indirectly control the third party if voting power of each of them makes not less than 25 percent;
 - 5) more than a half of Board of Directors or several board members, or several chief executives, or executive board members of one party are appointed by other party;
 - 6) more than a half of Board of Directors or board members or several chief executives or executive board members of both parties are appointed by the same third party;
 - 7) one of the parties is the permanent establishment of other party.
4. For the purposes of points 2) - 4) Parts 3 of this article the party is considered the owner of the share in the regulated capital or voting power in other party connected with the first party according to provisions of this article.
5. For the purposes of this Code all **commercial** and financial transactions performed with the resident of the country with low taxation as it is defined in Article 223 **of this Code**, will be considered as transactions with **the interconnected** parties. At the same time provisions of this part do not extend to taxpayers who provide information on the identity of shareholders of other party in tax authorities and prove that they not interconnected among themselves.
6. For the purpose of **this article** relatives of natural person are:
- 1) spouse (a) of natural person;
 - 2) parents, **children**, brother, sister, uncle, aunt, nephew, niece, stepfather, stepmother, **adopted** child of spouses;
 - 3) the spouse (a) of any relative of the natural person specified in **point 2) of this part**;
 - 4) trustee of natural person.

CHAPTER 4. TAXATION SYSTEM OF THE REPUBLIC OF TAJIKISTAN

Article 23. Taxes

Tax is the obligatory payment established by this Code in the budget made in the certain size which has the binding irrevocable and non-paid character (except for social tax). Taxes are estimated in terms of money and paid in national currency if this Code does not provide other order.

Article 24. Types of tax

1. In the Republic of Tajikistan the nation-wide and local taxes are established. In appropriate cases and in the order provided by this Code, taxpayers use the special tax modes.

2. Treat nation-wide taxes:

- 1) tax on income;
- 2) value added tax;
- 3) excise tax;
- 4) taxes on natural resources;
- 5) social tax;
- 6) sales tax (**aluminum primary**).

3. **The property tax belongs** to the local taxes established by this Code and which are put into operation by regulatory legal acts of local public authorities in the cities and areas.

Article 25. Special system of taxation

1. Particular tax regime includes the modes of the special and simplified **taxation**.

2. **The following belongs** to the mode of specific taxation:

- tax regime of activity of free economic zones;
- tax regime of subjects of security market;
- tax regime of the natural persons which are engaged in business activity on the basis of the patent or certificate.

3. **The following belongs** to the mode of the simplified taxation:

- the simplified tax regime of small business entities;
- the simplified tax regime **of producers** of agricultural products (unified agricultural tax);
- the simplified tax regime **of subjects** of the gaming;
- the simplified tax regime of activities for poultry farming, fish breeding and production of the combined forages for birds and animals;
- the simplified tax regime of innovation and technology activity;

Article 26. Tax elements

1. The tax is considered established only in that case when the taxpayer, privileges and all elements of the tax are defined by this Code and other its bylaws.

2. Treat tax elements:

- taxation object;
- tax base;
- **tax rate**;
- tax period;
- order of calculation of the tax;
- order of submission of tax statements;
- payment procedure of the tax.

3. At establishment of the tax tax benefits and the bases of their application can be also provided.

Article 27. Taxation object

1. The property, action, result of action or other circumstance having **the cost, quantity** or physical characteristic with which availability according to the tax law there is the tax liability at the taxpayer is subject to taxation.

2. Each tax has the independent taxation object which is defined according to the special part of this Code.

Article 28. Tax base

Tax base represents cost, physical or other assessment of the taxation object. For each tax this Code establishes tax base and the order of its determination.

Article 29. Tax rate

1. The tax rate represents the size of tax charges per unit of measurement of the tax base expressed as a percentage or the absolute amount.

2. Tax rates are established by this Code if Part 3 of this article **does not provide other**.

3. Rates of the excise tax, taxes on natural resources, land tax, the single tax for producers of agricultural products, the fixed amount for the individual entrepreneurs performing activities for the certificate with special conditions and the cost of the patent for individual entrepreneurs approve by the Government of the Republic of Tajikistan for separate types of activity taking into account regional character as the order established by this Code.

Article 30. Tax period

1. The tax period is calendar year or other period of time after which tax base is defined and the amount of tax which is subject to payment is estimated.

2. The tax period can consist of several reporting periods.

3. Provisions of this article are applied to taxes for which the tax period is calendar year taking into account the features provided by parts 4-7 these articles.

4. If the legal entity was liquidated reorganized) until the end of calendar year, the last tax period for it is estimated since the beginning of this year before date of completion of the procedure of liquidation (reorganization).

5. If the legal entity, is created and liquidated reorganized) within calendar year, the tax period for it is estimated from the date of its creation before end date of the liquidation procedure (reorganization).

6. If the foreign legal entity which activity did not lead to formation of the permanent establishment in the Republic of Tajikistan submits the application for registration as the tax resident of the Republic of Tajikistan, determination of the first tax period on income tax for it is performed in the following order:

- if the foreign legal entity the application for registration of by the tax resident of the Republic of Tajikistan since January 1 of calendar year submitted, the first tax period for it is calendar year in which the specified application is submitted;

- if the foreign legal entity the application for registration of by the tax resident of the Republic of Tajikistan submitted, then the first tax period for it is the period of time from the date of submission to tax authority of the specified statement

until the end of calendar year in which it is provided. If the application of the foreign legal entity for registration of by the tax resident of the Republic of Tajikistan is submitted during the period from December 1 to December 31, the first tax period for it is the period of time from the date of submission to tax authority of this statement until the end of the calendar year following after the year in which it is provided to tax authority.

7. The provisions provided by Part 6 of this article do not extend to legal entities whose of structure are allocated, or to whom one or several legal entities are attached.

Article 31. Order of calculation and payment of taxes

1. The order of calculation of the tax defines rules of calculation of the amount of tax for the tax period **on the basis of** tax base, the tax rate and tax benefits at their availability.

2. The taxpayer and the tax agent independently estimate and pay taxes if this Code **does not establish other**.

3. In the cases provided by this Code, the obligation for calculation of taxes can be assigned to tax authority or to the tax agent.

4. The tax is paid in full if other order is not provided in this Code.

5. If the tax period consists of several reporting periods, the current platyozh are performed by results of each of them. On separate types of tax the current platyozh established by this Code can be also provided. The duty to perform the current platyozh is equated to the obligation for payment of the tax.

6. Legal entities and individual entrepreneurs pay the accrued taxes, penalties and percent in the non-cash form.

Note: The order of calculation and due dates for tax payment are defined by the special part of this Code.

Article 32. Tax benefits

1. The benefits provided by the tax law in comparison with other taxpayers, including the opportunity not to pay the tax or to pay them in the smaller size are recognized as tax benefits provided to separate categories of taxpayers.

2. **The delay (payment by installments) of payment** of taxes is not tax benefits.

3. Tax benefits are provided by this Code if Part 5 of this article **does not provide other provisions**.

4. Tax benefits cannot have individual character.

5. Additional tax benefits in the priority industries according to the regulatory legal acts **listed** in points 7) and 8) of Part 10 of Article 1 of this Code are provided in the form of decrease in the tax rate established by this Code by 50 percent and no more than 5 years.

6. The list of the priority industries on which tax benefits according to this Code are provided and additional benefits **according to the corresponding regulatory legal acts**, approves by the Government of the Republic of Tajikistan. Except for again defined priority industries, the exception and or again the approval

of the list of the priority industries having privileges is performed on the basis of efficiency analysis of the offered privileges for development of national and regional economy.

7. If this Code **does not provide other**, taxpayers have the right to use tax benefits from the moment of emergence of the corresponding legal basis during the entire period of their action or to refuse use of tax benefits, except for selling (export) of goods (works, services) exempted from the value added tax. If the taxpayer refuses to use tax benefits is obliged to notify on it tax authority in writing at the beginning of the year (till January 20) and to observe it until the end of the year.

8. Tax benefits can be provided with the condition of the direction of the funds exempted from taxation for particular purposes. In case of inappropriate use of such means, they are subject to collecting in the budget with charge the established procedure of the penalty fee. The amount of the means released in connection with granting tax benefits and these privileges, unused during validity period, can be directed to the purposes defined when granting privileges within the year on the termination of validity period of the provided privileges. At the same time unused in the specified time of means are subject to budget contribution.

9. Privileges on the value added tax, including when importing to the territory of the Republic of Tajikistan, cannot be provided provided that the means exempted from taxation will be allocated for specific purposes.

10. In case of natural disasters (earthquakes, floods) and emergency situations (epidemics and pandemics) the Government of the Republic of Tajikistan **can** provide to all taxpayers or **group** of taxpayers tax holidays.

11. The order of granting, efficiency evaluation and expediency of tax benefits approves by the Government of the Republic of Tajikistan on **representation** of the Ministry of Finance of the Republic of Tajikistan and in coordination with authorized state body and other relevant state bodies.

CHAPTER 5. RIGHTS AND DUTIES OF THE TAXPAYER, IRRESPONSIBLE TAXPAYERS

Article 33. Rights of the taxpayer

1. The taxpayer has the right:

1) get non-paid **advice and** information from the tax authorities and other state bodies participating in the tax legal relationship connected with application of the tax law, in particular about the rules, **orders**, provisions and instructions **developed** by authorized state body;

2) represent and protect the **interests** concerning the tax relations personally or through the **authorized** representative;

3) address to tax authorities, industry bodies for support of the entrepreneurship and to **Council of the pre-judicial dispute resolution** for protection of the rights and legitimate interests on actions or **failure to act of the employee** of tax authorities;

- 4) in the terms established by this Code to receive results of tax control and the carried-out inspection from tax authority;
- 5) refuse conducting tax audit at non-presentation of the notice in the terms established by this Code;
- 6) participate when carrying out tax control and checks;
- 7) receive in **the electronic form** in tax authority forms of tax statements and forms of the reporting in accordance with the established procedure to represent tax statements;
- 8) by results of tax control and check to represent to tax authorities of the explanation;
- 9) receive from tax authority in **the electronic form** the confirmed reconciliation statement of calculation and payment of taxes;
- 10) receive from tax authority in **the electronic form** of the certificate of availability or lack of tax debt, of the amounts of income gained by the nonresident from sources in the Republic of Tajikistan and the withheld (paid) taxes;
- 11) for the purpose of execution of the tax liability to receive from tax authority **the corresponding** data on details of payment of the tax (the settlement account, purpose of payment, the type of tax, distribution in the corresponding budget and so on), necessary for filling of the relevant document and also information on the payment method;
- 12) demand from the employee of tax authority of strict observance of the tax law in the tax relations;**
- 13) appeal against acts of tax control, the decision, the notice, orders, instructions, orders, regulatory legal acts and also actions and failure to act of the official of tax authority according to provisions of this Code and other legal acts of the Republic of Tajikistan;
- 14) demand observance of storage of the mystery of commercial transactions from tax authorities;
- 15) request prolongation of due dates for tax payment (the delay or payment by installments) in the order and on the conditions established by this Code;
- 16) demand timely offset or return of the amounts which are excessively paid, or excessively collected taxes;
- 17) to demand in accordance with the established procedure from tax authority of compensation of the damage caused as a result of illegal decisions and actions (failure to act) of his officials;
- 18) not perform the requirement of responsible persons of authorized bodies of the tax legal relationship which are not provided by this Code and or other regulatory legal acts;
- 19) to independently correct the made mistakes at calculation and payment of taxes;
- 20) in the order established by the legislation and with observance of the order of the pre-judicial dispute resolution to appeal against results of tax audits, tax control, actions (failure to act) of officials of tax authorities in **court**;
- 21) the taxpayer also has other rights provided by this Code and other regulatory legal acts.

2. Judicial protection of their rights and legitimate interests is guaranteed to taxpayers.

3. The rights of taxpayers are provided with the corresponding obligations of officials of tax authorities.

4. Non-execution or improper execution of obligations for ensuring the rights of taxpayers involves responsibility of officials of the state bodies participating in tax legal relationship.

Article 34. Duties of the taxpayer

1. The taxpayer is obliged:

1) be registered **tax authorities** as the taxpayer in the order established by the legislation of the Republic of Tajikistan;

2) be registered as the payer of value added tax in the order established by this Code;

3) keep account of the income and expenses, taxation objects according to the tax law;

4) fulfill the tax liabilities in the terms established by this Code;

5) eliminate the revealed violations of the tax law and not interfere with legal activity **of employees** of tax authority;

6) **allow** on the basis of the instruction of officials of tax authorities to inspection of the property which is subject to taxation;

7) represent the tax statements and documents established by this Code to the relevant tax authorities;

To provide use of control and cash devices and **other devices of outlets**;

9) store documents (data) of business and tax accounting, in the electronic and (or) paper form, during the term established by this Code;

10) prepare the relevant documents for check to the term specified in the notice on purpose of tax audit;

11) carry out inventory of the property according to the legislation on financial accounting;

12) within 5 working days to represent to tax authority in the place of the accounting the following data:

a) about education or the termination of activity of the separate divisions;

b) about making decision on reorganization, liquidation (the termination of activity) or bankruptcy;

c) about change of the applied tax regime, accounting treatment, the place of activity (residence), the contact information.

13) at commission of any actions leading to emergence of tax liabilities to demand from the contractor availability of the document, **podtvezhdayushchy state registration** in tax authority as the taxpayer;

14) the taxpayer carries out other duties established by this Code.

2. The taxpayer is obliged to draw up reconciliation statements in the written or electronic form together with tax authority in the following terms:

1) Dehkan farms without formation of legal entity – once by results of reporting year;

2) the taxpayers performing the activity in the simplified tax regime except for the taxpayers performing the activity on the basis of the patent – once for reporting half-year;

3) the taxpayers performing the activity on the basis of the patent – once by results of reporting year;

4) the taxpayers performing the activity in the general regime of taxation – each reporting quarter.

3. Responsibility for failure to pay or incomplete payment of the amount of taxes as a result of not inclusion of the taxable income from transaction in tax base is assigned to the taxpayer.

4. The list of irresponsible taxpayers is formed authorized state body on the basis of the official decision and is posted on its website. The name (list) of the irresponsible taxpayer is excluded from this list after correction of the allowed violations of the law and (or) providing reasonable proofs.

5. The taxpayer in the following cases is recognized as irresponsible if:

a) within more than 3 consecutive months does not provide submission of tax statements and (or) payment of the amount of tax (taxes) and (or) payments of recognized tax debt;

b) the invoice on the value added tax is provided in case in fact taxable transaction was not performed;

c) other actions (failure to act) which list is established by authorized state body in coordination with authorized body in the support area of the entrepreneurship are performed.

CHAPTER 6. REGULATION OF AVOIDANCE FROM TAXATION AND PREVENTION OF TAX AVOIDANCE

Article 35. The commission on questions of avoidance from taxation

1. The commission on questions of avoidance from taxation is created by authorized state body. The commission is advisory, independent body and does not make decisions and providing advisory proceedings to tax authorities on questions avoidance from taxation according to requirements of Article 36 of this Code is included into its power. **The commission chairman defines the order of activity of the Commission.**

2. The commission is created as a part of not less than 5 members. Each member of the commission shall have considerable experience in questions of taxes and or business. The public servants and persons condemned on crimes cannot be members of the commission. Members of the commission are appointed for a period of one year and can be renominated repeatedly. The commission chairman is elected from among members of the commission.

3. Tax authorities represent materials to **the commission** in accordance with the established procedure for obtaining the advisory proceeding according to Part 2 of Article 36 of this Code. The commission makes the advisory decision by a majority vote and in the presence at one of members of the commission of the special opinion, it is reflected in the conclusion as the special opinion. The advisory

proceeding of the commission shall be reported to tax authorities within 28 calendar days.

4. Tax authorities according to Part 4 of Article 36 of this Code make the final decision on the basis of the conclusion **of the commission** on questions avoidance from taxation.

5. Regulations on **the commission** on questions avoidance from taxation are defined by authorized state body in coordination with financial body.

Article 36. Counteraction to actions for avoidance from taxation

1. Avoidance from taxation are the actions which are not tax avoidance, but allowing the taxpayer to reduce tax liabilities within **the tax law**.

2. Provisions of this article are considered as counteraction on avoidance from taxation if:

- the taxpayer received tax benefit as a result of implementation of actions for avoidance from taxation;

- in view of the essence of implementation of the scheme on avoidance from taxation or its part, it is possible to draw the reasonable conclusion that the taxpayer **or one of taxpayers** used such scheme generally for the purpose of obtaining tax benefit.

3. If the tax authority **considers**, actions **of the taxpayer** actions for avoidance of taxation, the tax authority shall direct materials to **the commission** on questions of avoidance from taxation for obtaining the advisory proceeding. The commission submits to tax authority the written advisory proceeding in time, established by Part 3 of Article 35 of this Code. The tax authority is obliged to provide to the taxpayer the copy of the advisory proceeding **of the commission** within 3 working days.

4. In case of recognition **by the commission** of the measures taken by the taxpayer actions for avoidance from taxation, the tax authority performs the following measures:

- defines the tax liability of the taxpayer **anew**, without application of actions for avoidance from taxation or the method reducing the tax benefit established by this Code;

- **for the purpose of** avoidance of double taxation makes compensation corrections to tax liabilities **of other** taxpayers who suffered losses because of actions for avoidance of taxation.

5. The authorized state body applies the alternative methods of taxation specified in the paragraph the first Part 4 of this article to the taxpayer.

6. The tax authority is obliged to apply **provisions** of Part 4 of this article to the taxpayers and other taxpayers who suffered losses from actions **for avoidance** from taxation on the basis of the conclusion of the commission within 5 years from the last day of tax year in which action for avoidance from taxation **was made**.

7. In this article:

1) "actions for avoidance from taxation" means the agreement, the transaction, the promise, the obligation, transaction or the action which is actually executed or planned (including unilateral action), with (without) compulsory or voluntary execution;

2) "the tax benefit" means:

- a) reduction of the obligation of taxation;
- b) the delay of discharge of duty on payment of the tax and or any other avoidance from execution of tax liabilities.

8. In case the measures taken by the taxpayer are not recognized as the commission as actions for **avoidance** of taxation, according to provisions of this Code the taxpayer is subject to taxation.

Article 37. Tax avoidance

1. **Tax avoidance** – illegal and deliberate non-execution of tax liabilities by physical persons and legal entities.

2. The following deliberate **actions** are considered as tax avoidance if the taxpayer:

- does not keep accounting (tax) account and (or) does not provide its requirement;
- destroyed the accounting documents necessary for determination of the tax liability;
- did not submit tax reports for the period of three months under report;
- underestimated in tax reports the paid tax means (taking into account the adjustment declaration);
- did not submit within the terms established by this Code, to tax authorities information and documents necessary for determination of tax liabilities;
- provided the invoice of the value added tax without the actual implementation of transaction.

3. In case of **evasion of the taxpayer** from payment of taxes, the tax authority determines the size **its** tax the obligation until 10 years from the last day of tax year in which action for tax avoidance was made.

4. Concerning **the taxpayer who made tax avoidance, the tax liability determined by Part 3** of this article for action for tax avoidance is applied in the double size.

5. If during tax audit the lack of accounting of the taxation objects is revealed or the taxpayer does not provide the information about them, the tax authority on the basis of the data which are available for it can estimate the expected amount of tax for the purposes of Part 3 of this article, using in appropriate cases value assessment of sales of goods (works, services), property value, the average level of the salary and level of profitability of 10 percent.

6. Depending on the nature of activity the tax authority can determine **the amount of tax** also on the basis of results of time inspections, comparable economic indicators of activity of other taxpayers performing similar types of activity.

7. The gained income (profit) is subject to taxation according to this Code, irrespective of the bases on which he (she) is received. If in **the order established** by the legislation the order it is defined that any income or its part is received illegally and is subject to the address to the property of the state, in this case the amount of the taxes which are earlier withheld (paid) in the state budget from this illegal income is considered.

8. For the purpose of application of additional measures of fight against tax avoidance the order of application of alternative methods of taxation approves by the Government of the Republic of Tajikistan.

Article 38. The benefit of contents over the form

Use of legal agreements for registration of transactions (transactions) intended for concealment of real transactions (transactions) and change of the order of collecting taxes will not be taken into account as real intention and the purpose of the parties of the transaction will prevail.

Article 39. Choice of contractors

1. In the tax relations taxpayers **are responsible** when choosing contractors.
2. Tax authorities provide to taxpayers access to information on statement of contractors to accounting in tax authorities as taxpayers and also to other information in the order **determined** by authorized state body, and the taxpayers **who are used it poryadoky** are recognized as the taxpayers who showed due discretion at signing of the contract.

SECTION II. PROCEDURE OF TAX ADMINISTRATION

CHAPTER 7. CONTROL OF PAYMENT OF TAXES

Article 40. Administrative provisions

The administrative provisions established in the general part of this Code are applied to the taxpayer and to all types of tax, customs payments, the state fee and to other obligatory payments in the budget if the legislation of the Republic of Tajikistan **does not provide other order**.

Article 41. Tax control

1. Tax control is the form of the state control and is performed by exclusively tax authorities. Except for provisions of Part 2 of this article, carrying out tax control by other controlling and law enforcement agencies is forbidden.

2. Customs authorities exercise tax control within the powers according to this Code and the customs legislation.

3. Tax control is exercised by tax authorities in the following forms:

1) cameral control;

2) time inspection;

3) additional control of excise goods and other activity;

4) control of the system of electronic marking of goods;

3) exit tax audit;

4) raid check

5) tax monitoring;

6) transfer and market pricing.

4. Control of observance of the tax law, except for exit tax audits, is performed on the regular basis.

Article 42. Cameral control

1. Cameral control – the form of tax control performed in tax authority without visit of the place of activity of the taxpayer, based on studying and the analysis of the report of the taxpayer (tax agent) and information obtained **on the basis of** provisions of this Code without requirement of additional documents and information from the taxpayer. Cameral control is the integral part of risk management system, is performed for the purpose of prevention of violations of the tax law and allows the taxpayer to correct independently existing discrepancies.

2. Cameral control can automatically be exercised with use of electronic programs according to provisions of this Code.

3. Cameral control during exit tax audit and tax monitoring and also for the spent periods of these types of tax control is forbidden.

4. In case of identification of discrepancy in tax statements, the tax authority sends to the taxpayer the notice in the written or electronic form with the requirement of correction of the revealed discrepancies within 10 calendar days.

5. The taxpayer is obliged within 10 calendar days from the date of receipt of the notice to provide its execution or has the right to provide the corresponding explanations with **the proving** documents. In the presence of reasonable excuses **as** the disease of the responsible person or his children, close relatives, the official journey, finding of the responsible person outside the Republic of Tajikistan and other similar cases, completion date of the notice lasts on 10 calendar days.

6. **For** protection of the rights and interests concerning materials of cameral control **the taxpayer** can appoint the consultant or **the other person** as the representative on the basis of the power of attorney in the order established by the legislation.

7. If by results of consideration of the submitted documents and explanations there was the change of the tax liability of the taxpayer, the tax authority which was carrying out cameral control sends to the taxpayer the reference and the notice. If the taxpayer does not fulfill the tax liability within 5 working days after obtaining the second notice, such taxpayer joins in criteria of risk on the basis of which exit tax audit in that subject of cameral control is appointed.

8. Taking into account requirements of parts 1-6 these articles if when carrying out cameral control comes to light that the taxpayer made the mistake, are not applied **to** such taxpayer sanctions, including penalties and percent, and results of control are not reflected in the personal account of the taxpayer.

9. When carrying out cameral control observance of the following conditions is obligatory:

1) cameral control of the tax **statements** provided to tax authorities, which were earlier not exposed to cameral control is performed concerning the taxpayer not more often in six once consecutive months and its repeated carrying out is forbidden.

2) cameral control of tax **statements** of Dehkan farms without formation of legal entity which was earlier not exposed to cameral control is performed once a year.

10. Cameral control on return (compensation) of the amount of tax on added value connected with export of goods (services) is performed in the order established by authorized state body within 30 days from the date of filing of application by the taxpayer.

Article 43. Time inspection

1. Time inspection – the form of tax control performed for the purpose of establishment of the actual income and costs of the taxpayer for the period, to be surveyed.

2. Time examination is conducted not more often than once a year lasting up to 3 working days.

3. Subjects to time inspection are:

- compliance **of data** fiscal memories of control cash registers to the balance in cash on the date of inspection;

- accounting of financial and cash transactions;

- ledger maintenance of accounting of income and expenses (at implementation of activities for the simplified mode);

- number of workers.

4. Time inspection is performed according to the order of tax authorities in the order established by this Code for conducting exit check.

5. Use of results of time inspection for the last tax period is forbidden, except as specified, provided by Part 6 of Article 37 of this Code.

Article 44. Additional control of excise goods and other activity

1. Additional control of excise goods and other activity is performed in the following order:

1) by means of marking of excise goods;

2) by means of the organization of tax posts in the territory (location) of the taxpayer or points of the customs clearance;

3) by means of the system of electronic marking or **codes of quick response (QR codes)**.

2. Tax posts will be organized in the following cases if:

- the producer of excise goods has no electronic system of marking of goods;

- the taxpayer systematically represents the zero reporting;

- the downward tendency of financial economic performance of the taxpayer covers 3 consecutive months;

- the term of default of tax debt is more than 6 months;

- the discrepancy of tax statements with the official statistic report **of users natural resources** is revealed.

3. Producers and importers of excise goods bear responsibility for **their** marking.

4. **The order** of establishment of tax posts is defined by the Government of the Republic of Tajikistan.

5. Control of marking of the excise goods imported into the Republic of Tajikistan in the customs regime of release for free circulation, and or realized in the Republic of Tajikistan according to other customs regimes is performed **by customs** authorities of the Republic of Tajikistan.

Article 45. Control of the system of electronic marking of goods

1. Control **of the system** of electronic marking of goods, including excise goods, is performed for the purpose of accounting of the goods imported on the territory of the Republic of Tajikistan and manufactured in the Republic of Tajikistan of excise goods and also for tracking of their further turnover.

2. The producer bears responsibility for marking of the goods manufactured in the Republic of Tajikistan, the supplier bears responsibility for providing requirements of marking of the imported goods and the offtaker bears responsibility for their sale.

3. Control of observance of rules of marking of goods is exercised by tax and customs authorities.

4. The order of electronic marking, activities of operators for tracking of commodity turnover and the order of their control are established by the Government of the Republic of Tajikistan.

Article 46. Tax audit

1. Tax audits are carried out for the purpose of control **of observance** of the tax law, payment of the state fee and other mandatory fees. Tax audit **is carried out** in the form of exit tax audit and raid check.

2. The basis for conducting tax audit is the instruction of authorized state body.

3. On the basis of one instruction only one tax audit, except for raid check can be carried out.

4. Tax audit shall not stop activity of the taxpayer.

5. Tax audit is carried out only in the working days and in working hours of the taxpayer.

6. Tax audit **of activity** of economic **entities which** has seasonal nature is not carried out to the next periods:

- in the farms making agricultural products - during the sowing period, including from April 1 to June 1 and during harvesting from August 1 to November 1 calendar year;

- at the enterprises for processing of agricultural products - from June 20 to October 20 calendar year.

7. **The raid inspection is carried out by tax authorities, concerning observance of the following requirements of the tax law:**

1) **registration as the taxpayer in tax authorities, reliability of data on the location of the taxpayer;**

- 2) attraction of hired employees by the employer to performance of work (service);
- 3) availability and use of cash registers or the integrated three-component system;
- 4) availability of the equipment (devices) intended for payment with use of plastic cards or other forms of electronic payments;
- 5) availability of the delivery note and compliance of the name, quantity (volume) of goods to the data specified in the delivery note;
- 6) availability and accuracy of electronic marking for accounting of the goods imported on the territory of the Republic of Tajikistan and manufactured in the Republic of Tajikistan including excise goods;
- 7) observance of rules of pouring (packing), marking by excise stamps, storages, selling of excisable products and implementation of separate types of excisable activity.
8. Raid check by tax authorities in the place of activity of entrepreneurs is performed not more often than once in six months.
9. With introduction of marking of goods stop action of points 6) and 7) of Part 4 of this article.
10. The raid inspection is carried out on the basis of the order of the head of tax authority who moves to the taxpayer when checking and is fixed in the register of checks.
11. The official of tax authority who is carrying out the raid inspection having no right to request information from the taxpayer, which does not have relations to the subject of check.

Article 47. Exit tax audit

1. Exit tax audit is carried out only for the purpose of determination of correctness of calculation **of payment** of taxes and obligatory platyozhy for the certain **period** of time in the place of activity of the taxpayer and on the basis of risk management system, except as specified, when the place of activity of the taxpayer is the place of his residence. In such exceptional case and in case of discrepancy of the registration address of the taxpayer to the actual address of the place of activity, exit tax audit is carried out in tax authority.
2. Exit tax audit is carried out on the high risk level **determined** by risk management system on the basis of the corresponding order of authorized body. The name and the taxpayer identification number, the surname, the name, the middle name and the position of the checking person, terms and the purpose of conducting check are specified in the instruction.
3. Tax authorities send to the taxpayer the notice of conducting exit tax audit not less than in 10 working days prior to exit tax audit. The notice is delivered to the taxpayer (tax agent) in the location specified in registration data or goes to the private office of the taxpayer, or the registered letter.
4. The bases **for** conducting exit tax audit, including the subject of check, the tax period and term **of its** carrying out are specified in the notice.

5. Exit tax audit at voluntary liquidation of activity of the taxpayer is carried out from the moment of the last check, but no more than the term **of limitation** period.

6. The taxpayer is forbidden to make changes and additions to tax statements for the checked reporting period during exit tax audit.

7. In the case, **ignorance the taxpayer of financial accounting** according to requirements of the legislation that makes impossible conducting checks, tax authorities apply alternative methods of taxation to determination of tax liabilities.

8. It is forbidden to carry out more than one exit tax audit on one type of tax and for the same period, except for the provisions provided in Article 49 of this Code.

9. In case of the termination of activity of separate division of the legal entity – the resident exit tax audit is not carried out, except as specified submissions by the taxpayer of the statement for conducting such check.

10. The instruction for conducting exit tax audits approves by authorized state body in coordination with the Ministry of Finance of the Republic of Tajikistan.

Article 48. Term of tax audit, its prolongation and stay

1. Tax audit is carried out in the following terms if in Part 3 of this article other order is not established:

1) for small entrepreneurs - up to 7 working days;

2) for average entrepreneurs – up to 20 working days;

3) for large entrepreneurs, including:

a) for the legal entities having separate divisions, and the nonresidents performing activity through permanent missions - up to 30 working days;

b) for the legal entities **having** more than **one location** to the Republic of Tajikistan and for the taxpayers who are on accounting **of structural division** of authorized state body **on large taxpayers** - up to 60 working days.

2. The term of conducting raid check cannot exceed 15 working days. Raid check of the individual taxpayer shall not exceed four working hours.

3. Prolongation of term of tax audit is forbidden for the small and average entrepreneurship.

4. Prolongation of term of tax audit for large entrepreneurs cannot exceed 30 working days.

5. The term of tax audit in the following cases stops if:

1) the taxpayer did not submit in full the documents connected in the subject of check;

2) there was the need of obtaining information from competent (authorized) foreign state body within international treaties of the Republic of Tajikistan;

3) there was the need of conducting branch examination;

4) the translation of the documents submitted in the foreign language demands extra time on the translation.

6. On the basis of the corresponding order of authorized state body prolongation of term of tax audit is allowed no more once, **and** stay of term of tax audit no more than two times,

Article 49. Restrictions for conducting exit tax audit

1. Conducting repeated checks for the checked tax period is forbidden, except for the following **cases**:

- on the basis of the written application of the taxpayer;
- on the basis of the official appeal of law enforcement agencies on that taxpayer concerning whom there are materials or criminal case on signs of the crimes connected with taxation;
- for internal control **of activity** of the tax authority which was carrying out exit tax audit.

2. The repeated checks performed according to the part of 1 this article shall be carried out only concerning the period including the last exit tax audit.

Article 50. The entrance of the official to the place of activity (the territory and the office building) of the taxpayer for the purpose of conducting check

1. **The entrance** of the official of tax authorities **to the place of** activity of the taxpayer (except for premises), **is allowed** only on presentation by this official of the order of authorized state body and the official ID.

2. In case of hindrance by the taxpayer to access for the official of tax authority to the place of the activity (except for premises) the official of tax authority draws up about it the statement and addresses to **the relevant** law enforcement agencies. In that case access for the official **of tax** authority is provided in cooperation with law enforcement agencies.

3. The taxpayer has the right not to allow to the place of the activity **officials** of tax authority for conducting tax audit in cases if:

- requirements of Articles 47 and 48 of this Code are not observed;
- the review periods specified in the instruction did not come or expired;
- officials of tax authorities have at themselves no corresponding permissions for admission to the place with the special mode of privacy.

Article 51. Reclamation of documents when conducting tax audit

1. The official of tax authority who is carrying out the tax audit having the right to claim the documents at the taxpayer connected with check.

2. The requirement of the official of tax authority about submission of documents is transferred to the taxpayer to his legal or authorized representative personally on receipt. If the requirement about submission of documents cannot be transferred by the specified method, it goes in the order established by this Code.

3. **The claimed** documents are filed to tax authorities in **the electronic form** through telecommunication network or the private office of the taxpayer, by mail by the registered letter and also personally or through the representative.

4. At submission of the copies claimed by tax authority of documents in the paper form, such copies shall be certified by the taxpayer. The requirement of the notarial certificate of copies of the documents submitted to tax authority (official) is not allowed if the legislation of the Republic of Tajikistan **does not provide other order**.

5. By drawing up accounting documentation in the electronic form the taxpayer is obliged during tax audit, upon the demand of officials of tax authorities, to provide copies of such documentation on **paper**, except for the invoices registered in the information system of electronic invoices.

6. In case of need, the tax authority has the right to study originals of documents.

7. The documents claimed during tax audit are represented with observance of **requirements** of this article within 1 working day from the date of receipt of the relevant requirement. If the taxpayer has no opportunity to submit the required documents during the specified term, he in writing informs on it the official of tax authority.

8. At the scheduled time of documents with indication of the reasons for which such documents cannot be submitted the taxpayer shall direct the notice on impossibility of representation during the day, the obtaining the requirement about submission of documents following behind day. In the notice terms during which the taxpayer can submit necessary documents shall be specified.

9. Within two days from the moment of obtaining the notice from the taxpayer, the tax authority has the right to prolong terms of submission of documents on the basis of this notice or to refuse it.

10. The refusal of the taxpayer of submission of required documents is fixed in the statement which is drawn up by the official of tax authority. The act is signed by the official of tax authority and the taxpayer. In case of refusal the taxpayer to sign the act, the corresponding record is made. The refusal or **non-presentation** by the taxpayer of the specified documents is at the scheduled time the basis for their dredging as it should be, the stipulated in Clause 53 presents of the Code.

11. During tax audit and other tax control measures tax authorities have no right to demand from the taxpayer the documents in the form of originals which are earlier provided to tax authorities when carrying out cameral control, exit tax audits or during tax monitoring of the taxpayer. Documents can be repeatedly claimed at the taxpayer if they were presented in tax authority in the form of the originals returned subsequently to the taxpayer earlier and also in cases when the documents submitted to tax authority were lost owing to force majeure circumstances.

Article 52. Reclamation of documents and information at the third parties

1. The official of tax authority who is carrying out the tax audit having the right to claim at the contractor or **other** persons the documents and information (further – information) concerning activity of the checked taxpayer.

2. Reclamation of information **concerning** activity of the checked taxpayer by consideration of materials of the tax inspection can be carried out also on the basis of the decision of tax authority on purpose of additional tax control measures.

3. The tax authority performing tax audits or other tax control measures sends order about reclamation of information concerning activity of the checked taxpayer to tax authority in the place of accounting of the person at which the specified information shall be claimed.

4. Within **3** days from the date of receiving order, the tax authority in the place of accounting of the person at which information will be claimed sends to this person the requirement about submission of information.

5. The copy of order about reclamation of information is attached to the requirement.

6. The person who received the requirement about submission of information performs it within **5** days from the date of receiving or in the same time reports that it has no necessary information. If the taxpayer has no opportunity to submit necessary information within the specified term, the tax authority has the right to prolong the term of submission **of this** information.

7. Required documents are submitted taking into account provisions of Parts 3, 5 and 11 of Article 51 of this Code.

8. The order of reclamation of information provided by this **article** is also applied at reclamation of information **concerning** participants of group of companies.

9. At implementation of tax control tax authorities have the right to demand from each person within 10 days, having directed the written requirement:

- provide information on income and expenses of the taxpayer for the specified tax period and about the expenses incurred in connection with the relations with the taxpayer specified in the requirement except for information which is contained in **the electronic form** in programs of tax authorities;

- be on the place and in the terms specified in the requirement for refining of information which is available for tax authorities or for providing documents, or the other information concerning taxation of it and other taxpayers.

10. The authorized **employee** of tax authority when conducting tax audit for the purpose of collection of information **has the right** in the order established by the legislation of the Republic of Tajikistan:

- make copies of the accounting and other documents connected with taxation;
- **receive** the accounting documents or other documents connected with this tax audit on the basis of the act of receiving;

- **seal up accounting and other documents, forbid their use for the term of not over a half of term of this check.**

11. If the authorized **employee** of tax authority receives accounting or other documents on the basis of the powers specified in Part 2 of this article, tax authorities shall make copies of accounting or other documents and return originals no later than in 10 days after receiving.

12. At reclamation of the documents concerning tax agents the order of reclamation of documents provided by this article is applied.

13. The person who received request for submission of information having the right to refuse submission of information if the request **contradicts** provisions of this article.

14. In case of non-compliance with this article by the taxpayer of requirements, the authorized **employee** of tax authority has right of access to rooms and property of the taxpayer, according to provisions of Article 50 of this Code.

Article 53. Seizure of documents and objects

1. Seizure of documents and objects is made on the basis of the order of the tax authority performing tax audit.

2. Out of the working schedule **seizure of documents** and objects is not allowed.

3. Seizure of documents and objects is made in the presence of witnesses and persons at whom seizure of documents and objects is made. In necessary cases for participation in production of dredging the specialist is invited.

4. Prior to the procedure of seizure of documents and objects the official of tax authority shows the resolution on production of dredging and explains to the present persons of their right and duty.

5. The official of tax authority offers the person at whom seizure of documents is made and objects, voluntarily to issue them, and in case of refusal, the official of tax authority makes dredging in the order established by the legislation. Besides, the taxpayer is obliged:

- provide access to information which is stored on the device of storage or in electronic storage of data (**similar to Internet storage**), including input of the code or other basis for confirmation of access to the device or means;

- provide access to information for the interpretation necessary for enciphering of the data requested according to this **article**.

6. At failure of the face at which dredging is made, to open rooms or other places where there are documents and objects which are subject to dredging, for ensuring access of officials of tax authorities to such territories and rooms, the tax authority addresses to law enforcement agencies or to court.

7. The documents and objects which are not concerning the subject of tax audit are not subject to withdrawal.

8. About production of seizure of documents and objects the statement with observance of requirements, stipulated in Clause 59 these Codes and this article is drawn up.

9. The withdrawn documents and objects are listed and described in the act of dredging or in the inventories attached to it with the exact indication of the name, quantity, special signs and whenever possible, costs of objects.

10. If for holding tax control measures there are not enough copies of documents of the taxpayer and at tax authorities good reasons to believe are had that originals of documents can be destroyed, hidden, corrected or replaced, the official of tax authority has the right to withdraw originals of documents in the order provided by this article.

11. At impossibility to remove or transfer the made copies along with withdrawal of documents the tax authority transfers copies to the person from whom documents, within 5 days after withdrawal were withdrawn.

12. All withdrawn documents and objects are shown to witnesses and other participants **and** if necessary, packed on the place of seizure of documents and objects.

13. The withdrawn documents shall be numbered, strung together and under seal or the signature of the person from whom they **are withdrawn**. At failure of

this face to seal or the signature the withdrawn documents, about it the special mark in the act of seizure of documents becomes.

14. The copy of the act of seizure of documents and objects is handed on receipt or sent to the person from whom they were withdrawn.

Article 54. Participation of the witness

1. As a witness any full age natural person to which any circumstances important for implementation of tax control can be known can be subpoenaed. **Explanations** of the witness are entered in the act.

2. **Explanations** of the witness can be received in the place of its stay if owing to the disease, the old age or disability he is not able to be in tax authority.

3. For the workers summoned to tax authority as witnesses, the salary in the place **of the main** work during their absence from work in this regard **remains**.

Article 55. Examination

1. In necessary cases, the expert can be involved to participation in carrying out specific actions on implementation of tax audit.

2. Involvement of the person as **the expert** is performed on the contractual basis between tax authority and the expert.

3. Examination is appointed if for explanation of the arising questions special knowledge of the fields of science, the equipment, art or **crafts** are required. Availability of special knowledge at the official of tax authority does not exempt from involvement **of the qualified expert**.

4. The questions raised before the expert and its conclusion cannot go beyond special knowledge of the expert.

5. The resolution on purpose of examination **is accepted by tax authority** on the basis of the petition of the official who is carrying out tax audit.

6. The bases for purpose of examination, the name of the organization which shall carry out expertise, or the surname, the name (middle name) of the expert, questions and materials provided **to the expert** are specified in the resolution. The expert has the right to get acquainted with the materials of check relating to the subject of examination, to file petitions for representation of additional materials to it.

7. The expert draws the conclusion in writing. In the conclusion the conducted researches, conclusions and reasonable answers to the questions posed are stated.

8. The expert has the right to refuse making the conclusion if the materials provided to it **insufficient** for making the reasonable conclusion.

9. The official of tax authority who is carrying out tax audit acquaints the taxpayer with the decision on purpose of examination, explains its rights established by Part 10 of this article and makes the protocol.

10. At appointment and conducting examination the taxpayer has the right:

- answer **arguments** of the expert;
- request about appointment of the expert from among specified persons;
- ask additional questions for obtaining the expert opinion about them;
- be present with the permission of the official of tax authority at production of examination and make explanations to the expert;

- get acquainted with the expert opinion;
- provide motivated opinion on the expert report.

11. **The expert** involved with tax authority, shall provide confidentiality of information connected with conducting examination on an equal basis with the employee of tax authority.

Article 56. Involvement of the specialist

1. In necessary cases for participation in actions for implementation of tax control by tax authority the specialist is attracted.

2. The specialist shall have special knowledge and skills and not to be interested in the outcome of the case.

3. Involvement of the person as the specialist is performed on the contractual basis between tax authority and the specialist.

4. Participation of the person as the specialist does not exclude the possibility of his interrogation on the same circumstances as the witness.

5. **The specialist** involved with tax authority **shall** provide confidentiality of information connected with conducting **check** on an equal basis with the employee of tax authority.

Article 57. Participation of the translator

1. In necessary cases the translator can be involved to participation in actions for implementation of tax control.

2. The uninterested face in the outcome of the case knowing language which knowledge is necessary for the translation, or understanding signs of natural person with problems of hearing or the speech can act as the translator.

3. Involvement of the person as the translator is performed on the contractual basis between tax authority and the translator.

4. The translator is obliged to be on the challenge of the official of tax authority and to precisely execute the translation charged to it.

5. The translator involved with tax authority shall provide confidentiality of information on **check**, on an equal basis with the employee of tax authority.

Article 58. Participation of the witness

1. In necessary cases for participation in actions for implementation of tax control according to the provisions provided by this Code **witnesses** are attracted.

2. **Witnesses** are attracted in number of not less than two people.

3. As **witnesses** any full age natural persons which are not interested in the outcome of the case can be attracted.

4. Participation as **the understood** officials of tax authorities is not allowed.

5. **Witnesses** are obliged to certify the fact, contents and results of the actions made at their presence at the act.

6. **Witnesses** have the right to make comments on the made actions which are subject to entering into the act.

7. If necessary, witnesses can be interviewed in connection with the revealed circumstances.

8. **The witnesses** attracted to participation in actions for conducting tax audit shall provide confidentiality of information connected with **check** on an equal basis with the official of tax authority.

Article 59. General requirements to the statement which is drawn up when carrying out actions within tax control

1. When holding actions **for tax control** the statement in which the following information is specified is drawn up:

- bases, type and frequency of conducting check;
- place and date of implementation of specific action;
- time of the beginning and end of action;
- position, surname, name (middle name) of the person who drew up **the statement**;
- surname, name (middle name) of each person who was participating in the action, or being present at its carrying out, and in necessary cases – its address;
- content of actions, sequence of their carrying out;
- the facts and circumstances necessary for the act elicited at accomplishment of action.

2. The act becomes engrossed in reading of everything to persons who were involved or provided to **this process**. Specified persons have the right to make the remarks which are subject to entering into the act, or familiarizing with materials.

3. The act is signed by the official of tax authority who made it and also all persons who were participating or being present at **its** carrying out. The pictures, videos and other materials executed when holding actions for **tax control** are applied to the act.

Article 60. Registration of results of exit tax audit

1. By results of any exit tax audit, the authorized officers of tax authority which were carrying out this inspection shall draw up the statement of tax audit.

2. The following information is specified in the act of exit tax audit:

1) date of drawing up the act of tax audit, that is date of signing of the act by the persons who were carrying out this inspection;

2) the full and abbreviated name or the surname, the name, the middle name of the checked face. In case of check of the legal entity in the location of its separate division in addition to the name of the legal entity, the full and abbreviated name of the checked separate division and the place of its stay **is specified**;

3) surnames, names, middle names of the persons who were carrying out exit tax audit, their positions with indication of the name of tax authority which they represent;

4) date and number of the order of tax authority about conducting exit tax audit;

5) the list of the documents submitted **by the taxpayer** during exit tax audit;

6) the period for which exit tax audit is carried out;

7) the name of the tax concerning which exit tax audit was carried out;

8) start date and ends of exit tax audit;

9) registered address of the taxpayer;

10) data on the tax control measures held at implementation of exit tax audit;

- 11) the detailed description of tax offense (at its availability) **with** the reference to the corresponding norm of the tax law;
- 12) conclusions and offers on results of exit tax audit.
3. If by results of the carried-out exit tax inspection it is not established violations of the tax law, the corresponding record in the act **is made**.
4. The documents confirming the facts of violations of the tax law are attached to the act.
5. The form and requirements to drawing up the act of exit tax audit **are established by authorized state body**.
6. The statement is drawn up in number of not less than three copies.
7. All copies of the act are signed by the officials of tax authority who were carrying out **exit** tax audit. One copy of the act within three days after its drawing up is handed to the taxpayer. The taxpayer is obliged to undersign **on** all copies of the act with indication of the date of receipt. The copies of the act which remained in tax authority join materials of check.
8. The signature of the taxpayer in the act does not mean its consent with results of check.
9. At evasion of the taxpayer (his representative) from obtaining the act, the official of tax authority makes about it the corresponding record in the inspection statement. In that case one copy of the act goes to the taxpayer the registered letter in the place of its stay.
10. Results of exit tax audit are based on the information on the taxpayer obtained from tax authorities, the third party, and collected in the course of monitoring, check and financial accounting.

Article 61. Order of consideration of materials of exit tax audit

1. The act of exit tax audit during **which** violations of the tax law were revealed shall be considered by tax authority, carrying out **the inspection, in time** no later than **15** days from the date of drawing up the act of this tax audit. The decision by results of exit tax **audit** shall be made no later than 20 days after consideration of materials of check.
2. If the taxpayer (his representative) in time **provided by the offer the first parts of 1 this article** provided written objections under the act, these objections are also subject to consideration.
3. The tax authority informs the taxpayer on date, time and the place of consideration of materials of check in time **not less than in 2** working days prior to consideration.
4. If the taxpayer informed tax authority on impossibility of the appearance for consideration of materials **of exit tax audit** on reasonable excuses, **the tax authority transfers consideration** of materials of check for the term of no more than 5 days on what informs the taxpayer.
5. The taxpayer concerning whom exit tax audit was carried out had the right to participate in process of consideration **of its** materials **personally** and (or) through the legal representative.

6. Absence of the taxpayer concerning whom exit tax audit (his representative) informed properly on time and the place of consideration of materials of check was carried out is not the obstacle for consideration of materials of check, except as specified, when participation of this person is recognized by tax authority obligatory for consideration of these materials.

7. Before consideration of materials of check the tax authority is obliged:

- define **the authorized person considering** the case and materials which are subject to consideration;

- provide the appearance of the persons invited for participation in consideration. Taking into account circumstances of absence of these persons the tax authority makes the decision on consideration of materials of check in **their** absence **or** on adjournment of the specified consideration;

- check powers about participation of the person concerning which **exit** tax audit was carried out;

- define and explain to the persons participating in the procedure of consideration, their right and duty.

8. By consideration of materials of exit tax audit the act of tax audit, and if necessary, other materials of exit tax audit and also written objections of the person concerning whom the inspection was carried out can be announced.

9. The lack of written objections does not deprive **of this person** (his representative) of the right to offer the explanations at the stage of consideration of materials of exit tax audit.

10. By consideration of materials of exit tax audit the produced evidence, including documents which are earlier claimed at the person concerning whom the inspection, the documents submitted to tax authorities **during** tax audit **of this** person and other documents which are available for tax authority was carried out are investigated.

11. Use of the evidence obtained with violation of provisions of this Code is not allowed.

12. Additional documents (data) on activity of the taxpayer can be considered even if they are provided to tax authority with violation of the terms established by this Code.

13. By consideration of materials of exit tax audit, if necessary, the decision on attraction to participation in this consideration of the witness, the expert, specialist can be made.

14. By consideration of materials the exit **tax authority** of check is formed the protocol.

15. During consideration of the act of exit check of tax authority establishes:

- whether the person concerning whom the inspection statement, violation of the tax law was drawn up made;

- whether from the revealed violations structure of tax offense;

- whether there are bases for involvement of the person to responsibility for commission of tax offense;

- justification of objections of the taxpayer.

16. With structure of tax offense the head (deputy manager) of tax authority reveals the circumstances excluding fault of the person in commission of tax offense or the circumstances mitigating or aggravating responsibility for commission of tax offense.

17. Irrespective of the part of 1 this article, in need of obtaining additional proofs for confirmation of the fact of commission of violations of the tax law or **lack** of those the head (deputy manager) of tax authority has the right to make the decision on holding additional tax control measures in time, not exceeding **1** month.

18. In the decision on purpose of additional tax control measures the circumstances which caused the necessity of holding such additional actions are stated, the term and the specific form of their carrying out are specified.

19. As additional tax control measures the tax authority can **claim** documents (data) according to Articles 51 and 52 of this Code, conduct interrogation of witnesses and examination.

20. The beginning and the end of additional tax control measures, data on the held additional tax control measures and also the obtained additional evidence for confirmation of the fact of commission of violations of the tax law or lack of those, conclusions and proposals of auditors on elimination of the revealed violations and the reference to articles of this Code in case this Code provides responsibility **for** violations of the tax law, are fixed in the addition to the act of exit tax audit.

21. The addition to the act of exit tax audit shall be made and signed by the officials of tax authority holding additional tax control measures within **10** days from the date of the end of such actions.

22. The addition to the act of exit tax audit with appendix of the materials received as a result of additional tax control measures within **3** days from the date of drawing up this addition shall be handed to the person concerning whom the inspection (his representative) was carried out, on receipt or is transferred by the different way testifying to date of its receiving.

23. If the person concerning whom the inspection (his representative) was carried out evades from obtaining the addition to the act of exit tax audit, this fact is reflected in the addition to the act about exit tax audit. In this case, the addition to the act about exit tax audit is sent the registered letter in the location of the organization (separate division) or the residence of natural person and it is considered received for **the 5th** day from the date of sending the registered letter.

24. The person concerning whom exit tax audit (his representative) was carried out within **10** days from the date of obtaining the addition to the inspection statement has the right to provide to tax authority written objections according to such addition to the inspection statement in general or on its specific provisions.

Article 62. Decision-making by results of consideration of materials of exit tax and raid audit

1. By results of consideration of materials of exit tax audit as it should be, **the stipulated in Clause 61** this Code, the head (deputy manager) of tax authority makes the decision (further – the decision by results of tax audit) providing the following measures:

- additional accrual of taxes and penalty fee or refusal in it on materials of tax audit;
- involvement of the taxpayer to responsibility for commission of tax offense or refusal in prosecution.

2. With signs **of structure** of administrative offense concerning the taxpayer the protocol on administrative offense is formed. Case of administrative offenses and making decision on administrative offense are considered in the order established by the administrative legislation.

3. The circumstances which formed the basis for such refusal are specified in the decision providing refusal of prosecution for tax offenses.

4. The term during which the person has the right to appeal against this decision, and the order of the appeal to higher tax authorities is specified in the decision by results of tax audit.

5. If during tax audit the amount of tax which was excessively returned according to the decision of tax authority is revealed, in the decision on additional accrual of taxes this amount is recognized as tax debt on this tax. If this amount of tax returns to the taxpayer, she is recognized as tax debt from the date of the actual obtaining the amount of tax and if **the amount of tax** is accepted to offset, then from the date of, **acceptances to offset of the amount of tax**.

6. After decision-making by results of tax audit the head (deputy manager) of tax authority has the right in the order and on conditions, the stipulated in Clause 121 this Code, to take measures for execution of this decision.

7. Upon completion of raid tax audit, in case of identification of offenses, the production on cases of tax offenses performed in the order established by Chapter 20 of this Code is implemented by tax authority.

Article 63. Entry into force of the decision by results of consideration of materials of exit tax audit

1. The decision by results of exit tax audit made as it should be **the stipulated in Clause 62** presents of the Code, becomes effective after one month from the date of its delivery to the person (the representative of the person) concerning whom it was accepted.

2. The decision by results of exit tax audit within **2 days** from the date of its acceptance is handed to the person concerning whom it was accepted (**to his representative**), on receipt or is transferred by the different way, with indication of the date of receipt.

3. If the decision cannot be handed or transferred by the different way, with indication of date of its receiving, it goes the registered letter in the location of legal entity (separate division) or the residence of natural person. At the direction of the decision the registered letter date of its delivery the fifth day from the date of sending the registered letter is considered.

4. In case of submission of the complaint to the decision of tax authority, the specified decision becomes effective as it should be, **stipulated in Clause 65** these Codes.

Article 64. Features of execution of decisions of tax authorities

1. On the violations revealed by tax authority for which natural persons **or** officials of legal entities are subject to administrative prosecution the authorized officer of tax authority which was carrying out the exit inspection makes the protocol on administrative offense within the **powers**.

2. Hearing of cases **about such** offenses and application of administrative **punishments** concerning natural persons and officials of the legal entities guilty of their commission, are made according to the legislation on **administrative offenses**.

3. If the tax authority after making decision on involvement of natural person and or officials of legal entities to responsibility for tax offense directed materials to bodies of prosecutor's office, the tax authority is obliged to suspend execution of the decision on involvement of this natural person to responsibility for commission of tax offense.

4. At the direction of materials in bodies of prosecutor's office performance of the resolution on collecting the administrative penalty from the faces **defined** in Parts 2 and 3 of this article stops. Such stay is made by the decision of the head (deputy manager) of tax authority no later than the day following behind day of the direction of materials in bodies of prosecutor's office. At the same time collecting the tax debt provided by this Code stops for suspension of execution of the decision on collecting this tax debt.

5. If on the materials directed to bodies of prosecutor's office the decree on refusal in initiation of legal proceedings or the resolution on the termination of criminal case concerning natural persons or officials of legal entities is issued, action of the suspended decisions of tax authority is resumed. Resuming of action is made by the decision of the head (deputy manager) of tax authority no later than the day following behind day of obtaining the notice from bodies of prosecutor's office. The similar rule is applied if on the corresponding criminal case the verdict of not guilty is pronounced.

6. If the actions (failure to act) of the person which formed the basis for attraction it to responsibility for commission of tax **offense** formed the basis for removal of the conviction for this person, the tax authority cancels the decision on involvement of this person to responsibility for commission of tax **offense**.

7. About results of consideration of the materials received from tax authorities, **bodies** of prosecutor's office **send** to tax authorities **the notification** no later than **3** days after adoption of the relevant decision.

8. Copies of the decisions of tax authority specified in this article are transferred (go) tax authority to the person (his representative) concerning whom the relevant decision within **5 days** from the date of adoption of the relevant decision is made.

9. Provisions of this article extend to the faces **which are** taxpayers, payers of charges and (or) tax agents.

Article 65. Execution of decisions of tax authorities at the appeal

1. At **submission** of the written complaint on the decision of the tax authority accepted by results of tax audit, execution of such decision concerning the appealed

part stops before consideration by tax authority of the complaint and the direction of the written notice to the taxpayer **of** results of consideration of the complaint. **Not appealed** part of the decision of tax authority made by results of tax audit becomes effective from the date of adoption of such decision.

2. If the higher tax authority on the basis of the complaint of the taxpayer cancels the decision of subordinate tax authority and will make the new decision, such decision of higher tax authority becomes effective from the date of its acceptance.

3. If the higher tax authority refuses consideration of the complaint of the taxpayer, the decision of subordinate tax authority becomes effective from the date of making decision of higher tax authority on refusal in consideration of this complaint, but not earlier than the expiration of submission of the specified complaint.

Article 66. Execution of decisions of tax authorities

1. The decision by results of tax audit is subject to execution from the date of its entry into force.

2. Ensuring execution of the relevant decision is assigned to the tax authority which made this decision.

3. In case of consideration of the complaint by higher tax authority the become effective decision of this higher tax authority is sent to the tax authority which made the initial decision within **3** days from the date of entry into force of the decision of higher tax authority.

Article 67. Decision-making on cases of tax offenses

1. On the basis of results of consideration of the act and documents and materials attached to it in the order **established** by this Code, the head (deputy manager) of tax authority makes the decision providing:

1) additional accrual of taxes, **the penalty fee, the penalty** or refusal in it;

2) involvement of the taxpayer to responsibility for commission of tax offense or refusal in it.

2. The decision specified in the part **of 1** this article is accepted in 10-day time after consideration of the act.

3. In the decision on involvement of the person to responsibility for commission of tax offense circumstances of perfect offense are stated, the documents and other data confirming the specified circumstances, arguments given to the protection by the person made responsible and results of check of these arguments are specified.

4. The articles of this Code and the Code of the Republic of Tajikistan about administrative offenses providing these offenses and **application** of measures of responsibility **are also specified** in the decision on involvement of the person to responsibility for commission of tax offense.

5. Are specified in the decision on involvement of the person to responsibility for commission of tax offense the term during which the person, concerning which the decision is made, has the right to appeal against this solution, and the order of the appeal of the decision in higher tax authority.

6. On the revealed violations of the tax law for which persons are subject to administrative prosecution the authorized **person** of tax authority makes the protocol on administrative offense. Hearing of cases about these offenses and application of administrative punishment concerning the persons guilty of their commission, is made according to the legislation on administrative **offenses**.

Article 68. Statement for collecting the amount of the financial sanction

1. After making decision on prosecution **of natural persons and** officials of the legal entity for tax offense, tax authority addresses to authorized state body **in the sphere** of execution for collecting the amount of the financial sanction, put on these faces. The same order **of collecting** the amount of financial sanctions **is applied** in cases when extrajudicial production on collecting the amount of financial sanctions is forbidden.

2. The tax authority is obliged for 20 calendar days to the appeal to authorized state body **in the sphere** of execution in writing to notify the persons made responsible for tax offense on voluntary payment of the corresponding amount of the financial sanction.

3. In necessary cases, along with filing of application about collecting the financial sanction from the person made responsible for commission of tax offense, the tax authority can send to court the petition for providing the requirement in the order provided by the legislation.

Article 69. Hearing of cases and execution of decisions on collecting the amount of financial sanctions

1. Collecting the amounts of financial sanctions according to the decisions of tax authorities providing application of financial sanctions against legal entities and individual entrepreneurs is performed by tax authorities independently in the order **established** by Articles 144, 145 and 152 of this Code.

2. Cases of application of financial sanctions against offenders are considered and **the amount of financial sanctions are collected** by tax authorities according to requirements of this Code and the procedural legislation.

3. Cases of collecting **the amount** of financial sanctions according to the statement of tax authorities **against** natural persons, not being individual entrepreneurs, **are considered** by court.

Article 70. Control of authorized bodies

The authorized state body exercises control of execution of requirements of the tax law by the relevant state bodies concerning accounting of tax objects, tax platyozhy, duties and others obligatory platyozhy and also their transfers in the state budget at the scheduled time.

CHAPTER 8. TAX MONITORING

Article 71. General provisions of tax monitoring

1. Tax monitoring is voluntary action of the taxpayer and is performed on the basis of the mutual agreement **between** tax authorities and the taxpayer for the purpose of prevention of cases of non-compliance with the tax law.

2. Tax monitoring is carried out concerning the taxpayer whose **gross** income for the expired reporting year makes more than 15,000,000 (fifteen million) somoni.

3. Tax monitoring is performed on the basis of request of the taxpayer, and begins during the period since January 1 of the next reporting year and covers the term specified in the agreement. The period of tax monitoring shall cover not less than one complete financial year.

4. During tax monitoring carrying out cameral control, time inspection and tax audit is forbidden.

5. The responsible person of tax authority monthly represents the official conclusion (in the written or electronic form) concerning information provided by the taxpayer within tax monitoring.

6. Penalties for in addition added amounts are not applied to the taxpayer who is subject to tax monitoring if the responsible person of tax authority officially did not notify the taxpayer on the revealed shortcomings.

Article 72. Information exchange

1. Information exchange between the tax authority and the taxpayer participating in tax monitoring is performed on the basis of the agreement.

2. The agreement establishes cross liabilities of the taxpayer and tax authorities on electronic submission of the documents and information obligatory for tax monitoring and also the order of access for the responsible person **of tax authority** to the information system.

3. The standard form of the agreement on information exchange between tax authorities and the taxpayer approves by authorized state body in coordination with **authorized state body as the sphere of finance**.

Article 73. Decision on carrying out tax monitoring

1. The decision on carrying out tax monitoring is made by authorized state body on the basis of the statement of the taxpayer.

2. The application form about tax monitoring approves by authorized state body.

3. The application for carrying out tax monitoring shall be submitted by the taxpayer no later than July 1 of year prior to the beginning of the period of carrying out tax monitoring.

4. The taxpayer who submitted the application for carrying out tax monitoring can withdraw the application to the decision of tax authority on its carrying out or the deviation.

5. **By results of** consideration of the application till November 1 of year in which the application is submitted **the authorized state body** makes the decision on carrying out tax monitoring or refusal **in it**.

6. The decision on refusal in carrying out tax monitoring shall be reasonable.

7. The bases for making decision on refusal in carrying out tax monitoring are non-compliance **with the following** provisions provided by Part 2 of Article 71 of this Code.

8. The decision on tax monitoring or on refusal in it is sent to the applicant within 5 days from the date of decision-making.

Article 74. Order of carrying out tax monitoring

1. Tax monitoring is performed **by the official** of tax authority within **its job responsibilities** and **the agreement** on information exchange.

2. When carrying out tax monitoring the authorized person of tax authority has the right to claim at the taxpayer of data, the necessary documents, explanations connected with execution of the tax liability and obligatory for platyozhy.

3. Required information, documents and explanations are provided by the taxpayer in the written or electronic form. Notarial assurance of copies of the documents submitted to the authorized person of tax authority is not required if the legislation **does not provide other**.

4. The inquiry for submission of documents to the taxpayer is sent by the authorized person of tax authority in electronic form.

5. Data, documents and explanations which **were requested** when carrying out tax monitoring according to Part 3 of this article are represented by the taxpayer within 5 days after day of receiving the corresponding request.

6. If the request of the authorized person of tax authority cannot be executed at the scheduled time, the taxpayer officially notifies the authorized person of tax authority on impossibility of its accomplishment with indication of the reasons and terms during which he can submit the requested data, documents and explanations.

7. If **the authorized person** of tax authority the discrepancy or **the difference** between information provided by the taxpayer to tax authority **is found**, in that case the authorized person of tax authority officially **notifies** the taxpayer for providing necessary explanations or the corresponding corrections. The taxpayer is obliged to provide corrected information or necessary explanations within **10** days from the moment of obtaining the notice.

8. During tax monitoring tax authorities have no right to claim the documents which are earlier presented by it in the form of copies.

9. If after consideration of the explanations provided by the taxpayer the revealed contradictions or differences are not eliminated, the authorized person of tax authority according to provisions of Article 76 of this Code makes the motivated conclusion.

Article 75. Early termination of tax monitoring

1. Tax monitoring ahead of schedule **stops** in the following cases **if**:

1) the taxpayer did not fulfill the requirement of the agreement on information cooperation or its non-performance interferes with carrying out tax monitoring;

2) the provided information does not correspond to the official information available to tax authorities;

3) the taxpayer more than three times did not submit the required documents (information) and explanations during tax monitoring.

2. The tax authority in writing notifies the taxpayer on early termination of tax monitoring within **10** days from the date of establishment of the circumstances provided by the part of 1 this article, but no later than June 1 of the year following the period for which tax monitoring is carried out.

Article 76. Conclusion of tax authority

1. When carrying out tax monitoring the tax authority at the request of the taxpayer or on own initiative makes the conclusion.

2. The provided conclusion reflects the position of tax authority by results of tax monitoring.

3. **The form** and requirements to drawing up the conclusion approve by authorized state body.

4. The conclusion of tax authority is sent to the taxpayer within 5 days term from the date of its drawing up.

5. The final conclusion of tax authority by results of the period of tax monitoring is formed within 3 months, but no later than May 1 of year after reporting year.

6. In case of disagreement with the provided conclusion of tax authority, the taxpayer sends inquiry for further review of the conclusion to **Council of the pre-judicial dispute resolution**.

7. The taxpayer shall provide to **tax** authorities of explanation on the provided conclusion no later than June 1 of the period following the period of tax monitoring.

8. The motivated conclusion of tax authority at the request of the legal entity goes to this legal entity to pyatnadsatidnevny time from the date of receipt of the specified request. This term can be prolonged by tax authority for **1** month, for reclamation at the legal entity or other persons of documents (data) necessary for preparation of the motivated conclusion.

9. The tax authority in writing **notifies** the legal entity on prolongation of term of submission of the motivated conclusion in three-day time from the date of adoption of the relevant decision.

10. **The legal** entity **notifies** tax authority, on **consent** with motivated by the conclusion of tax authority which makes this motivated conclusion within **1** month from the date of its receiving with application of documents confirming accomplishment of the specified motivated conclusion (at their availability).

11. The taxpayer **by submission of the specified tax statements** or otherwise makes out the conclusion taking into account the position of tax authority in which accounting (tax) accounting and tax statements are specified.

12. **In case of disagreement** with the conclusion of tax authority, the taxpayer within **1** month from the date of its receiving represents the explanation to tax authority. The tax authority which received such explanation within 3 days directs all available materials to authorized state body for initiation of mutually conciliation procedure.

13. The tax authority in time no later than 2 months from end date of tax monitoring notifies the taxpayer on availability (absence) of the outstanding conclusions sent to this taxpayer during tax monitoring.

Article 77. Mutually conciliation procedure

1. The authorized state body after receiving the materials by results of the carried-out tax monitoring provided according to Part 12 of Article 76 of this Code begins mutually conciliation procedure.

2. Mutually conciliation procedure is carried out in the representative state body within one month from the date of receiving materials by results of the carried-out tax monitoring, with participation of the taxpayer (his representative) and tax authority which makes the conclusion.

3. The authorized state body after completion of mutually conciliation procedure, within 3 days sends the official position together with the notification to the taxpayer of change or leaving without change of the conclusion.

4. The taxpayer within 1 month from the date of obtaining the notification of authorized state body of change or leaving without change of the conclusion, officially sends the position to tax authority and authorized state body.

5. In case of disagreement **with** the final conclusion of tax authorities and the position reflected in the notification of authorized state body, the taxpayer has the right to address to **Council of the pre-judicial dispute resolution** or to judicial authorities.

CHAPTER 9. THE TAXPAYER REGISTRATION AND THE UNIFORM AUTOMATED BASE OF ACCOUNTING OF CONTROL AND MONITORING OF TRANSACTIONS OF STATE BODIES AND THE TAXPAYER

Article 78. Taxpayer registration

1. For the purpose of ensuring tax control all taxpayers, tax agents, including the separate divisions formed by them (branches, representations, permanent establishments and another) and also the citizens of the Republic of Tajikistan who reached 16-year age are subject to registration in tax authorities in the order established by this Code.

2. The taxpayer registration is carried out on the basis of the following documents:

- written application of the taxpayer or his authorized representative;
- information of authorized state body and (or) other body;
- information of the credit and financial organizations;
- information of other territorial tax authorities.

3. The taxpayer registration in tax authorities includes the following:

- accounting of natural person;
- accounting of the legal entity;
- accounting of branch and representative office **of domestic and** foreign legal entity and also permanent establishment of the foreign legal entity;

- accounting of the diplomatic and equated to them representative offices of the foreign states accredited in **the Republic of Tajikistan**;
 - the taxpayer registration as payers of value added tax according to provisions of this Code;
 - accounting of the taxpayer as the electronic taxpayer;
 - accounting of the taxpayer in the location of the taxation object.
4. Maintaining the Unified state register of taxpayers (further - the Register) is performed by authorized state body on the basis of electronic accounting data.
5. Maintaining the register includes:
- introduction of information about taxpayers;
 - change and (or) addition of accounting data on **taxpayers**;
 - exception of information about taxpayers.
6. The document confirming statement of the taxpayer on accounting in tax authorities is the certificate on assignment of the taxpayer identification number.
7. Registration in tax authorities and removal from accounting of the taxpayer are performed free of charge.
8. Registration in tax authorities is performed:
- 1) natural person – at the place of residence (registration) – on the basis of the statement of natural person or information provided by the relevant state bodies;
 - 2) the legal resident person – in the location, the location of its separate division and also in the location of the real estate and vehicles belonging to them;
 - 3) the legal nonresident person performing activity through the permanent establishment without **creation** of branch or representation – in the place specified in the statement at registration **including**:
 - a) in the place of state registration of the taxpayer performing functions of permanent mission of this nonresident;
 - b) in the place of state registration of the taxpayer performing functions of the tax agent on payment of taxes at the source of payment of income of the nonresident in the Republic of Tajikistan;
 - 4) the physical nonresident person (including persons without citizenship) - in the place of temporary residence (stay) in the Republic of Tajikistan specified in its migration card. If provisions of the international tax agreements do not provide availability of the migration card, the location in the Republic of Tajikistan specified in the application submitted in tax authority is recognized **as the place** of stay of the physical nonresident person;
 - 5) the individual or legal entity, including the nonresident whose activity according to the paragraph the fourth Parts 3 of Article 17 of this Code is considered as the permanent establishment of the legal nonresident person is obliged to submit in tax authority the application for registration of the partner – the legal nonresident person within 10 working days from the date of the conclusion of the relevant agreement with the partner or within 10 working days from start date of the actual implementation of such activity for the purpose of assignment to the legal nonresident person of the taxpayer identification number;
 - 6) in the Republic of Tajikistan one of the following dates is recognized as start date of activity of the nonresident:

a) date of signing of the contract in the Republic of Tajikistan, including on purchase and sales of goods, accomplishment and acquisition of works (services), implementation of joint activity (participation in the particular partnership) and granting powers to other person on commission from his name (**nonresident**) of actions in the Republic of Tajikistan;

b) date of execution of an employment agreement or other civil contract with natural person in the Republic of Tajikistan;

c) **date** of signing of the contract **on purchase and sale** or about lease of **property** (for opening of office);

d) **in the presence of** several agreements, in the Republic of Tajikistan date of the conclusion of the first of the specified agreements is recognized as start date of implementation of activity **of the nonresident**;

7) the diplomatic and equated to them representative offices of the foreign states accredited in the Republic of Tajikistan – in the place of their stay on the basis of the statement and (or) data of the Ministry of Foreign Affairs of the Republic of Tajikistan.

9. Registration of physical persons and legal entities of the nonresidents performing activity in the Republic of Tajikistan without creation of branch **and** representation cannot **be** the basis for independent payment of taxes by them if this Code does not establish **other**.

10. Tax authorities enter in the Register data about:

- natural person, including the foreign citizen or the person without citizenship – about the residence and (or) temporary stay;

- the legal resident person, its branch and representation, branch and representation of the legal nonresident person – **about the location**;

- the legal nonresident person performing activity in the Republic of Tajikistan through the permanent establishment without **creation** of branch **and** representation – in the location of the dependent agent of the person performing functions of the permanent establishment of the nonresident;

- the physical and legal nonresident person purchasing (implementing) securities, shares, the real estate in the Republic of Tajikistan - in the location of this property and (or) the resident who has powers on maintaining the Register of owners of securities and (or) shares of the specified resident in the Republic of Tajikistan, purchases (sells) securities, stocks and (or) real estate;

- the diplomatic and equated to it representative office of the foreign state, the international organization accredited in the Republic of Tajikistan - about the place of their stay;

- the nonresident performing activity without creation of branch **and** representation through the permanent establishment – about the place of registration of the person performing functions of the permanent establishment of the nonresident;

- the nonresident opening **the settlement** account in the credit and financial organizations residents - about the location of the credit and financial organization of the resident (tax agent);

- the natural person which did not reach 16-year age – about the residence and the legal or authorized representative of this person;
- **air** and other vehicles – about the location of the owner;
- **real** estate, the land plots – on the actual location of real estate, the owner, the land plot and the owner of the right **of land use**.

11. The information about the persons who passed state registration according to the Law of the Republic of Tajikistan "About State Registration of Legal Entities and Individual Entrepreneurs" is entered in the Register.

12. Registration of other legal entities, branches and representative offices of the foreign legal entities which are not provided in Part 9 of this article on the basis of their statement in tax authority on their **place to stay** within 30 calendar days.

13. The statement for change of the registration these persons who are not provided in Part 9 of this article moves in tax authority in the place of their accounting within 10 calendar days.

14. In case of death or recognition of natural person, incapacitated, reorganization, liquidations or the terminations of activity of the persons which are not provided in Part 13 of this article, their exception **of** the Register is made by the relevant tax authority.

15. Registration of real estate, vehicles and other taxation objects in the place of their stay is performed on the basis of information provided by authorized state body on registration of vehicles and real estate online.

16. In case of emergence at the taxpayer of the difficulties **connected** with determination of the place of registration the relevant decision on the basis of the data provided to them is made by tax authority at the place of residence of natural person or the location of the taxpayer legal entity.

17. Tax authorities independently (until filing of application by the taxpayer) provide registration of taxpayers in tax authorities on the basis of available supplied and the information provided to them by the relevant state bodies and also which became known for it the data necessary and sufficient for the purposes of accounting.

18. Registration of natural persons in tax authorities is performed within one working day, accounting of state bodies, political parties, public associations and also public organizations (non-commercial and non-governmental) the foreign states or registration **accounting of their branches**, representations and religious associations within **2** working days.

19. Activity without registration in tax authorities as the taxpayer can form the basis for prosecution in the order established by the legislation of the Republic of Tajikistan.

20. The foreign persons providing **remote** (electronic services) to directly natural persons, are registered (are struck off the register) on the basis of submission of statements and other documents in the form approved **by the Government of the Republic of Tajikistan**. The application for registration (removal from accounting) by foreign persons is submitted to authorized state body no later than 30 calendar days from the date of the beginning of granting (termination) of electronic services.

Article 79. Taxpayer identification number

1. At registration in tax authority as the taxpayer, - to the natural and (or) legal entity, branch and (or) representative office of foreign legal entity the taxpayer identification number is appropriated to each taxpayer. **Also** at state registration of legal entities and individual entrepreneurs, branch and (or) representative office of foreign legal entity along with assignment **of the uniform identification number of state registration the taxpayer identification number**, the certificate on assignment of the taxpayer identification number is granted. Procedures of registration, providing the uniform identification number, taxpayer identification number and Certificate is performed free of charge.

2. The taxpayer identification number appropriated to natural person - to the citizen of the Republic of Tajikistan, **is fixed in the passport of this natural person** in the order established **by the relevant** authorized state body.

3. The identification number is assigned to the taxpayer only once, **and** cannot be changed, transferred to other taxpayer (other individual or legal entity) even in case of liquidation of the same taxpayer - the legal entity (its separate division), the termination of activity of the foreign legal entity or the death of the taxpayer natural person.

4. To natural persons, legal entities, branches and representative offices of foreign legal entities the relevant tax authority grants the Certificate on assignment of the taxpayer identification number. In the presence of separate divisions of the legal entities, other taxation objects and (or) objects connected with taxation, to specified persons codes of the reason of registration are also established. Similar codes of the reason of registration are also established to permanent establishments of the nonresidents performing the activity in the Republic of Tajikistan without branch (representation) or their authorized agents.

5. Physical resident persons of the Republic of Tajikistan aged up to 16 years can voluntarily and the persons which reached 16-year age are obliged to address to tax authorities for obtaining the taxpayer identification number.

6. Irrespective of other provisions of this Code, the physical or legal nonresident person, **the having** taxation objects **having the right** on registration with filing of application from the moment of emergence of the obligation for payment of taxes is provided with the taxpayer identification number.

7. Taxpayers are obliged to specify the taxpayer identification number in tax statements, correspondence with tax, customs or financial bodies, at relationship with other authorized bodies, in customs declarations, payment documents, delivery notes, checks of control and cash **devices**, in business documents, agreements, forms and seals.

8. It is forbidden to perform notarial transactions, including **real estate transactions** and vehicles for which the state fee and also **issue** of licenses, permissions and articles of incorporation of right to use by the zememlny site, on employment, opening of the bank account and other means of financial statements, money transfer to territories of the Republic of Tajikistan **and beyond its limits**, granting goods on credit (with payment of their cost by installments), loan granting by the credit and financial organizations, except for operations on import and

expenses on savings (deposit) accounts of natural persons and registration of the external economic transactions without providing the taxpayer identification number is collected.

9. Rules of registration, assignment **of the taxpayer identification number**, codes of the reasons of registration and also the rule of preparation of stamps, putting down of the stamp and registration of entry of the taxpayer identification number in the passport of citizens of the Republic of Tajikistan approve by the Government of the Republic of Tajikistan.

Article 80. The integrated taxation information system

1. **Control and monitoring** of transactions between the taxpayer and state bodies, organizations and the organizations is performed by authorized state body through the Integrated taxation information system of accounting, **control and monitoring of transactions** of state bodies and the taxpayer (further - the Integrated taxation information system) in **the direct** mode (online).

2. Information on the transactions performed between the taxpayer and state bodies, organizations and the organizations is automatically entered into the Integrated taxation information system in **the direct** mode (**online**).

3. Information entered into the Integrated taxation information system is confidential and maintaining confidentiality **of its** contents is provided with authorized state body.

4. Maintaining the Integrated taxation information system is performed **by authorized state body together with** Internet portal "electronic government" according to the legislation on public services.

Article 81. Obligations of state bodies, organizations and organizations with authorized state body for submission of information in the Integrated taxation information system

1. State bodies, organizations and the organizations **are obliged** to represent within the agreement in **the direct** mode (online) to the Integrated taxation information system the following information:

1) on transactions of state registration of legal entities, individual entrepreneurs, branches and representative offices of foreign legal entities by body for state registration;

2) about use of tax benefits;

3) about issue of all-civil and foreign passports, including in case of change of the surname and the name of citizens, instead of the lost or expired passports, the cancelled passports relevant organs;

4) about registration (re-registration) of the right to real estate, the taxation objects and the related transactions including about their owners;

5) about availability permission, the license, certificates and other similar documents on their response, stay or cancellation;

6) about accreditation (cancellation of accreditation) of representative offices of legal entities;

7) about representative offices of the international organizations and foreign non-governmental organizations, including entering of the corresponding record into the Register of representative offices of the international organizations and foreign non-governmental organizations;

8) about purchase and sale agreements of the real estate, lease agreements of property and the amount of lease, about issue of notarized certificates on inheritance and donation, about gift agreements which contain information on degree of relationship between the donator and the recipient of the gift;

9) about registration (re-registration) of vehicles and their owners;

10) about registration (re-registration) of political parties, public associations and also public organizations (non-commercial and non-governmental) the foreign states and religious associations;

11) about registration and (or) state registration of the rights of land use and purpose of the earth for use;

12) about registration of migrants, foreign citizens or persons without citizenship;

13) about operations on **events of joint-stock companies**;

14) about export-import transactions and movements (transit) of goods, **through the customs border** and also about temporary **storage** of goods on customs warehouses;

15) about storage of goods by nonresidents of the Republic of Tajikistan on customs warehouses of the Republic of Tajikistan;

16) about stock exchange transactions of securities;

17) about public procurement of goods (works and services).

2. Information specified in the part of 1 this article is provided to tax authorities by free of charge state bodies, organizations and the organizations directly **in the direct mode (online)**. In the absence of technical base for information transfer in authorized state body, it goes in the paper and electronic type (by e-mail).

3. The other information which is not specified in the part of 1 this article is submitted state bodies, organizations, the organizations on the basis of request of tax authority to the 15th day of the month following month under report.

4. Officials of the relevant state bodies, organizations and organizations bear the direct responsibility for submission of information provided by Parts 1 and 3 of this article.

CHAPTER 10. RISK MANAGEMENT

Article 82. Risk management system

1. Risk management system is the set of rules, documents and measures for identification, risks assessment, risk response and also monitoring and the control of their level realized according to this Code tax authorities for the purpose of identification and prevention of risk of violation of the tax law **and encouragement of responsible taxpayers**. On risk assessment results tax authorities apply the corresponding form of tax control.

2. Risk - the probability of non-execution and (or) incomplete execution of the tax liability by the taxpayer (tax agent) which can lead to not cash receipt in the state budget.

3. Risk management system is applied by tax authorities for the purpose of **prevention**:

- 1) decrease in tax revenues in the state budget;
- 2) decrease in tax sources owing to reduction of amounts of the domestic and foreign entrepreneurship and investments;
- 3) leaving of taxpayers in shadow economy;
- 4) decrease in competitiveness of the national taxation system.

Article 83. Criteria for evaluation of risk level

1. Criteria for evaluation of risk level are developed by authorized state body together with authorized state body in the sphere of support of the entrepreneurship according to which the risk level of activities of the taxpayer **for the special program** is estimated.

2. The risk level for taxpayers, including for small, medium and large business, on the basis of assessment of separate risk levels is defined as high, average and low.

3. The group of taxpayers with high risk level cannot exceed 10 percent from the total number of the taxpayers having risk.

4. At hit of the taxpayer sends to such taxpayer through the private office information on it and on ways of elimination of the arisen situation to high risk level, authorized state body.

Article 84. Unified information system of management of tax audits

1. The unified information system of management of tax audits is created and kept by authorized state body for the purpose of effective management of process of tax control, checks and ensuring transparency of activity of tax authorities in this direction.

2. The unified information system of management of tax audits consists of the following parts:

- **system** of assessment and risk management which is basis of planning of checks;

- annual plans of tax audits;

- **information** on results of each carried-out **inspection**;

- the feedback mechanism with the taxpayer by results of tax checking;

- **information** on irresponsible taxpayers;

- statistics of tax offenses by taxpayers.

3. Orders, notices and decisions on checks, acts of checks and the decisions made by results of checks are registered in the Unified information system of management of tax audits. Inspections cannot be carried out without registration of orders on conducting checks in the Unified information system of management of tax audits.

4. Information from the Unified information system of management of tax audits is sent online with observance of the mode of confidentiality to the Unified information system to management of checks in the Republic of Tajikistan.

CHAPTER 11. USE OF CONTROL AND CASH DEVICES

Article 85. Use of control and cash devices

1. All money turnovers at sales of goods, performance of works and rendering services in the territory of the Republic of Tajikistan by means of cash, bank payment cards and other forms of electronic calculations are made with compulsory use of control and cash devices.

2. At use of control and cash devices observance of the following requirements is obligatory:

- registration of control and cash devices in tax authorities in the place of activity of the taxpayer prior to activity;

- issue of the control cash voucher at each transaction;

- **the podklyuchennost** to electronic accounting programs.

3. The control cash voucher shall contain the following information:

- name of the legal entity or surname, name and middle name of the individual entrepreneur;

- taxpayer identification number;

- serial number of the control and cash device;

- registration number of the control and cash device;

- serial number of the control cash voucher;

- date and time of issue of the control cash voucher;

- the description of goods (works, services), unit of measure, quantity, the price, the amount on each **goods (work, service)**, the amount of tax taking into account the differential tax rate for added value at implementation of cash and non-cash payments, discounts and the total amount of purchase;

- stroke code of the check of the control and cash device;

- fiscal sign of the control cash device.

4. The check of the control and cash device issued in foreign exchange offices, scrap metal yards, the glassware and pawnshops, in addition contains information on the acquisition amount and realization.

5. Provisions of this article are not applied **to monetary mutual settlements** of the following persons:

- 1) taxpayers regarding rendering services to the population with issue of the documents equated to documents of the strict accounting, including receipts, tickets, coupons, signs of post payment and other documents, the form which approves by the Ministry of Finance of the Republic of Tajikistan;

- 2) selling of the agricultural products **which are grown up** on personal plots by natural persons;

- 3) payers of the unified agricultural tax at sales of products of own production;

- 4) the individual entrepreneurs performing activity on the basis of the certificate with special conditions in non-stationary places;

5) the individual entrepreneurs acting on the basis of the patent.

6. The order **of use** of control and cash devices **is established** by the Government of the Republic of Tajikistan.

7. The taxpayer can use the virtual cash desk **allowing** to transfer data to the Uniform taxation information system.

8. Authorized state body together with other state bodies **approve** the State register of the control and cash devices permitted to use in the territory of the Republic of Tajikistan.

9. Use of automatic machines in outlets and the payment terminals which are not equipped with fiscal memory and functions of data transmission is forbidden.

10. The taxpayer can use at the same time the control and cash device working via **the module of identification of the subscriber** (Sim card) which has function of acceptance of bank plastic cards (at non-cash **payments**), **the code of quick response** (QR codes) and other non-cash payment methods and also performs functions of the electronic accountant in the automatic mode.

Article 86. Control of observance of the order of use of control and cash devices

1. Control of observance of the order of use **of control cash registers** is exercised by tax authorities in the following directions:

- use of control and cash devices;
- data which are available in the block or in fiscal memory of control and cash devices;
- registration of the control and cash device.

2. **The control purchase** is made by tax authorities without restriction of frequency only for control of use of control and cash devices and issue of control cash vouchers to buyers in the paper or electronic type. The order of carrying out **the control purchase** is established by authorized state body.

CHAPTER 12. THE NOTICE AND EXPLANATIONS ON EXECUTION OF THE TAX LIABILITY

Article 87. Notification of tax authorities

1. The message sent by tax authorities to the taxpayer (tax agent) in the written or **electronic form** is recognized as the notice.

2. Notices are sent to the taxpayer (tax agent) tax authority about the following **information**:

- **the amount** of the taxes estimated in tax authority;
- **results** of cameral control;
- **non-presentation** of tax statements;
- **repayment** of tax debt;
- **elimination** of the revealed tax offenses;
- **inclusion** of the taxpayer in the List of irresponsible taxpayers with indication of the bases and the requirement of elimination of the revealed offenses.

3. If this Code does not provide other, the notice shall contain the following information:

- taxpayer identification number;
- surname, name, middle name or full name of the taxpayer;
- name and address of tax authority;
- registration date of the notice;
- basis for the direction of the notice;
- contents of the notice;
- completion date of the notice;
- order of submission **of the complaint.**

4. The notice is sent to the taxpayer (tax agent) in electronic or in the paper form.

Article 88. Explanations on execution of the tax liability

1. Written explanations about execution of the tax liability **are represented** to the specific taxpayer by the head of authorized state body according to instructions and other regulatory legal acts of the Republic of Tajikistan adopted in pursuance of this Code.

2. Written explanations of authorized state body **will be based** on the written request of the taxpayer **in case** the taxpayer completely and correctly reflects the nature of all aspects of economic transaction (agreement) connected with taxation, and **tax elements** which are in addition explained to it.

3. Explanations on questions which taxpayers most often ask **are posted** in accordance with the established procedure on the official site of authorized state body.

SECTION III. ACCOUNTING AND REPORTING

CHAPTER 13. TAX ACCOUNTING AND TAX STATEMENTS

Article 89. Drawing up and storage of accounting documentation

1. Tax accounting - process of maintaining accounting documentation by the taxpayer according to requirements of this Code for the purpose of systematization of information on the taxation objects and also calculation of taxes and drawing up tax statements.

2. **Accounting documentation consists of accounting documentation and tax statements.**

3. **The taxpayer is obliged to keep documentation on financial accounting and tax statements in the state language.**

4. Taxpayers are obliged to keep accounting documentation according to the legislation on financial accounting, regulations of authorized state body in the field of finance, authorized state body **and** National bank of Tajikistan.

5. During tax audit at the request of tax authorities the taxpayer is obliged to provide electronically the developed paper copies of accounting documents.

6. Taxpayers are obliged to store accounting documentation in the Republic of Tajikistan during the term **of limitation** period. If tax audit or the appeal of the tax liability begins before the expiration **of limitation** period, **taxpayers shall** store accounting documentation before completion of check and appeal procedures.

7. The nonresident performing activity in the Republic of Tajikistan through the permanent establishment without formation of branch or representation is obliged to store accounting documentation on the place of the location of office in the Republic of Tajikistan or, in the absence of office - at office of the tax agent of this nonresident in the Republic of Tajikistan.

8. By reorganization of the legal entity, obligations for storage of accounting documentation of the reorganized legal entity are assigned to his successor.

9. At liquidation or other **form** of the termination of activity of the legal entity, all managing directors, partners and the controlling shareholders **of this** legal entity shall provide storage of accounting documentation during the term corresponding to the term of limitation period taking into account **provisions** of Part 5 of this article. At liquidation or other form of the termination of activity of the legal entity **the specified** documents are transferred to the state archive in the order established by the legislation.

Article 90. General rules of tax accounting

1. The taxpayer is obliged to keep account of the income and expenses on the basis of documentary confirmed information for the corresponding reporting periods with use of the accounting method established by this Code.

2. The taxpayer keeps tax accounting in the order established by this Code, the cash method or the accrual method.

3. The taxpayer is obliged to provide the accounting of all transactions connected with its activity, allowing to define their beginning, the course and the termination.

4. The taxpayers performing at the same time different types of activity for which in this Code various conditions and tax regimes are set are obliged to keep separate account of the taxation objects on the basis of indicators of financial accounting according to such conditions and the mode.

5. Transactions of exchange, payment by means of transfer of goods (performance of works or rendering services), transfers to the pawnbroker of the subject of pledge at non-execution by the debtor of the obligation provided with pledge for the purpose of taxation are considered as sales of goods (performance of works, rendering services).

6. For the purpose of taxation any foreign currency transaction is converted into national currency of the Republic of Tajikistan at the official accounting rate of National bank of Tajikistan on the date of operation. From the prior written permission of tax authority the taxpayer has the right **to transfer the taxable income and** the related **expenses** to national currency at the average exchange rate of National bank of Tajikistan for the tax period.

7. Foreign exchange rate on which there is no official accounting rate of National bank of Tajikistan is defined and recalculated at the accounting rate **of this**

currency on the basis of the rate of the corresponding currencies against dollar of the United States of America (further - the USA).

8. The person **who gains income and incurs expenses in the functional currency** can make the decision on accounting of these functional currency amounts. The person can switch to the functional currency only at observance of both following conditions:

- the functional currency is the approved functional currency **established** by the Ministry of Finance;

- the legal entity keeps financial statements in the functional currency according to International Financial Reporting Standards.

9. According to Part 8 of this article **the person is obliged** to submit the application for making decision on use of the functional currency during the reporting period to tax authority before date of submission of the tax declaration for the reporting period. The made decision on use of the functional currency remains in force until **the person** does not satisfy the condition of Part 8 of this article, or it will not stop using the functional currency with the permission of tax authority.

10. The person who chose the functional currency at income acquisition or execution of the expenses which are not expressed in the functional currency (including the income and expenses expressed in somoni), shall transfer to the functional currency **at the rate of** the recalculation used in financial statements of the taxpayer.

11. The person who decided to use the functional currency for the reporting period shall calculate the taxable profit and the tax which is subject to payment for **this** period, in the functional currency and or:

- transfer the amount of tax in the functional currency in national currency at the average exchange rate of National bank of Tajikistan for **this** period; or

- with the written permission of tax authority to pay the due tax in the functional currency.

12. The legal entity which made reasoned decision to use the functional currency or stopped using the functional currency shall follow any transitional rules established by the Ministry of Finance.

Article 91. Accounting treatment for income and expenses

1. If in this article other is not established, the taxable income (profit) shall (shall) pay off on the same accounting method which is used by the taxpayer (tax agent) in its financial accounting.

2. If this Code does not provide other, for the purposes of taxation:

- the legal entities and individual entrepreneurs taxable according to Chapter 52 of this Code, except for the legal entities and individual entrepreneurs performing activity according to provisions of Part 4 of Article 375 of this Code are obliged to keep account on the cash method;

- the other persons who are not specified in the paragraph the first this part are obliged to keep the accrual-basis accounting.

3. **In case of change** of the accounting method used by the taxpayer, amendments shall be made to the accounting of income, expenses and other

elements influencing the amount of tax in the year changes of the accounting method any of these above-stated elements was not missed or considered twice.

4. Concerning payers of value added tax and excises, income and expenses are considered without value added tax and excises, **except for** expenses concerning which offset on the value added tax is not allowed. Asset cost, purchased by the payer of value added tax, does not include the paid amount of the value added tax, except as specified, when offset of this amount of tax on added value is not allowed.

Article 92. Accounting treatment for income and expenses on the cash method

1. The taxpayer keeping account on the cash method shall consider according to this article income for date of its receiving and carry out deductions of expenses on date of their actual implementation.

2. The moment of income acquisition the moment of receiving cash or the moment of transfer of money into the account of the taxpayer in bank or into other account of which he can dispose or from which he has the right to receive the specified means is considered.

3. If **mutual settlement** for the delivered goods, the performed works or the rendered services is not made in time, **exceeding** 6 calendar months **the cash method**, irrespective of provisions of the part of 1 this article, for the purposes of taxation calculation is considered made in the last complete calendar month.

4. In case of execution of the financial liability of the taxpayer, in particular, **at offset**, the moment of obligation fulfillment is considered the moment of income acquisition and expenses.

5. The moment of implementation of expenses the moment of the actual implementation of expenses is considered the taxpayer if other is not provided in this article.

6. If the taxpayer **performs cash payment** in cash, the moment of the actual payment of cash is considered the moment of implementation of expenses, and at cashless payment that the moment of receiving order of the taxpayer by the credit and financial **organization** about operation **for money transfer** is considered.

7. At interest payment on debt obligation or at implementation for lease of property if the term of debt obligation or the lease agreement covers several tax periods, the amount of the paid interests (rent) actually deductible for the tax period, the amount of interest (rent) which is due for this period is platyozhy.

Article 93. Accounting treatment for income and expenses by the method of charges

1. The taxpayer keeping account by the method of charges shall consider income and expenses, respectively, at the time of obtaining the right, on income or emergence of the obligation to make the payment, irrespective of time of the actual income acquisition or implementation of payment according to this article.

2. The right to income is considered purchased at the moment if the corresponding amount is subject to unconditional payment to the taxpayer or the taxpayer fulfilled the agreement obligations. For this purpose, the right to income

remains regardless of the delay and the extension of the deadline for executing obligations.

3. If the taxpayer performs work or renders service, the right to income is considered purchased at the time of final performance of work or rendering service, provided in the agreement.

4. If the agreement **provides** stage-by-stage performance of works or rendering services, the right to income is considered purchased regarding each stage at the time of final accomplishment of this stage of work or service if other is not stipulated in Clause 96 these Codes.

5. If the taxpayer gains income or has the right to income in the type of percent, or income from leasing of property, the right to income is considered purchased at the time of the expiration of debt obligation or the lease agreement. If the term of debt obligation or the lease agreement covers several tax periods, income is distributed on these tax periods as its charge.

6. The moment of accomplishment of all following conditions is considered the moment of implementation of the expenses connected with the agreement if other is not provided in this article:

- in case of recognition by the taxpayer of the financial liability;
- in case of exact assessment of the size of the financial liability;
- if the parties, fulfilled all the agreement obligations and the corresponding amounts are subject **to payment**.

7. Due to the conditions provided in Part 6 of this article, the financial liability means obligation assumed by the taxpayer according to the agreement for the purposes of which accomplishment other party participating in the agreement is obliged to provide to the taxpayer the corresponding income **in** monetary or other form.

8. At interest payment on debt obligation or implementation for leased property the moment of implementation of expenses the moment of the expiration of debt obligation or the lease agreement is considered platyozhy. If the term of debt obligation or the lease agreement covers several tax periods, the expense is distributed on these tax periods as its charge.

Article 94. Taxation of joint tenancy

In case of the conclusion of the written agreement about joint tenancy by property or joint implementation of business activity, or other written agreement providing not less than two owners without organization of the legal entity, they are assessed with the tax according to their shares. If the share of owners in the joint property **cannot be defined**, it is considered that owners of property have equal shares **in property**.

Article 95. Features of determination of income and deductions according to long-term agreements

1. The taxpayer signing the long-term agreement shall include in the gross profit for each tax period of the agreement percent from the expected general taxable profit of the taxpayer on the agreement in proportion to the share of complete works

according to accounting standards as is defined by Part 2 of this article. "Long-term agreement" is the construction contract or engineering which accomplishment will take more than 12 months.

2. The percent of accomplishment by the taxpayer of the long-term agreement for the tax period is based on the total costs incurred by the taxpayer during the period as percent from the general expected agreement costs.

3. The expected general taxable profit of the taxpayer according to the long-term agreement is the total expected income which shall be received by the taxpayer during validity period of the dogovr, less the total expected deductible costs incurred by the taxpayer during the term of the agreement.

4. If **the taxpayer suffered** the loss for the last tax period according to the long-term agreement on construction, and the taxpayer cannot transfer the loss according to Article 197 of this Code in connection with the termination of commercial activity in the Republic of Tajikistan, the taxpayer can transfer the loss back to the previous tax period, and the loss is allowed as the deduction in this period. If the taxpayer cannot subtract completely the loss transferred to directly previous tax period, the amount of excess can be postponed for the following previous tax period and is resolved as the deduction for this period, but such loss cannot be postponed for more than two periods.

5. For the purposes of Part 4 of this article the taxpayer is considered suffered the loss for the last tax period according to the long-term agreement if the offered general taxable profit which will be got under **the agreement** mentioned in Part 3 of this article exceeds the actual general taxable profit according to the agreement, and the amount of excess exceeds the amount which is subject to inclusion in the gross income according to the part of 1 this article for the tax period in which the agreement was performed.

Article 96. Accounting treatment for inventory stocks

1. For the purposes of taxation accounting of inventory stocks is made according to the legislation on financial accounting.

2. When accounting inventory stocks the taxpayer is obliged to reflect in the tax report the cost of the made or purchased goods determined respectively on the basis of production costs (prime cost, that is all costs connected with production of goods) or purchase prices and also costs for their storage and transportation.

3. The taxpayer has the right to estimate and consider cost faulty and either outdated goods, or products which on these or for the similar reasons cannot be realized at the price exceeding costs for their production (purchase price) proceeding from the price at which they can be sold.

4. Concerning goods on which individual account is not kept the taxpayer has the right to use one of the following two methods for accounting of inventory stocks:

- the evaluation method of **inventory items** (FIFO) according to which **for the reporting period at first** are considered implemented (used) the goods carried to inventory stocks at the beginning of the reporting period and then the goods made (purchased) during the reporting period in order of priority of their production (acquisition);

- the evaluation method at the average cost of products.

5. Taxpayers are obliged to provide the electronic system of marking of goods in financial accounting.

Article 97. Accounting at finance lease (leasing)

1. In cases when the lessor is the owner of depreciable material property prior to finance lease (leasing), transaction is considered as sale of property by the lessor and his purchase by the tenant.

2. The depreciable material property leased under the agreement on finance lease (leasing) is subject to accounting on balance of the tenant during validity about finance lease (leasing) that grants the right to the tenant (lessee) to make the deductions connected with the subject of leasing (in particular, depreciation and repair expenses).

3. The following rules are applied to the depreciable material property leased under the agreement of finance lease (**leasing**):

- the lessee is recognized as the owner of leased property, and the property is considered on its balance during the term of the agreement of finance **lease** (leasing);

- the tenant has the right to deductions of expenses concerning leased property (especially to depreciation and repair costs);

- for the tenant at the beginning of lease the cost of purchase of the rented property is equal to the cost specified in the agreement. If the lessor and the tenant are the interconnected persons, on start date of lease property value, received in finance lease (leasing), shall be equal to fair market value;

- from start date of lease the lessor is considered the creditor in relation to the tenant and the credit amount - the equal value of the rented property;

- each payment of finance lease is considered as the part of repayment of principal amount of the loan and partial payment of interests on loan. The percent of each payment of finance lease pays off with reference to the interest rate specified in the lease agreement.

Article 98. Tax statements

1. Tax statements – **the process including filing of application, calculations** and the declaration for the taxable modes, each type of tax or for the paid income and also appendices to the calculations and tax declarations **made** in the order established by this Code.

2. Tax statements consist from:

- tax declarations with appendices, the calculations, data which are subject to drawing up by the taxpayer on each type of tax;

- statements for registration or for transition to other tax regime;

- statements for registration as the payer of value added tax;

- statements **for return** excessively or mistakenly paid tax and (or) on **value added tax refund**;

- statements **for application** of agreements about avoidance of double taxation and other international legal acts, concerning taxation, recognized as **Tajikistan**;

- annual accounting records, acts of the carried-out audits of the taxpayer provided by audit standards;
- data on opening of schyot in the credit and financial organizations;
- copies of the decision on liquidation or reorganization or bankruptcy of legal entity;
- data on external economic activity (export and import);
- data on obtaining the license for implementation of separate types of activity;
- data on obtaining the certificate on land use and (or) other document representing the right to use of the earth.

Article 99. Order of drawing up tax statements

1. The taxpayer (tax agent) or his representative, tax authority and (or) other authorized bodies participating in the tax relations make tax statements in electronic or paper forms in the state language in the order and in the forms established by this Code.

2. The order, types and forms of submission of tax statements are defined by authorized state body in coordination with authorized state body in **the sphere** of finance.

3. Responsibility for accuracy of the data, specified in tax statements, is assigned to the taxpayer.

4. Tax statements are submitted in the relevant tax authorities as it should be and the terms established by this Code.

5. Taxpayers concerning whose activity various conditions of taxation and also the using various tax modes are established make and represent tax statements on each type of activity and the mode **at the scheduled time**.

Article 100. Submission of tax statements

1. Tax statements are submitted the taxpayer in tax authority in the place of registration of the taxpayer in the terms established by this Code. Tax statements on separate types of tax in the cases provided by this Code are submitted the taxpayer also in the place of registration of the taxation objects.

2. The natural persons which are not engaged in business activity represent the tax declaration to tax authority at the place of residence.

3. Tax statements are considered provided to tax authority if in it are specified the taxpayer identification number, the tax period, the type and the amount of tax and (or) date of submission of tax statements. In the case, **detection by tax authority of mistakes and (or) other discrepancies** in the provided tax statements, he is obliged to notify on this mistake and (or) discrepancy of the taxpayer without delay. In this case the taxpayer submits the corrected or additional reporting, or the declaration and the late charges of submission of the declaration are not applied to him.

4. Modification and additions in tax statements within the term **of limitation** period is allowed by submission of additional tax statements for the tax period to which these changes and additions belong.

5. At submission of tax statements with changes and additions in tax authority till the moment when the taxpayer in accordance with the established procedure received notices of purpose of exit **tax** audit, the taxpayer is exempted from charge and payment of the penalty, for perfect offense. At the same time, **interest is accrued and paid** for untimely payment of taxes in accordance with the established procedure.

6. Taxpayers (tax agents) have the right to represent tax statements for choice:

- in electronic form;

- by mail;

- personally or by means of the representative.

7. Irrespective of provisions of Part 6 of this article, any taxpayer who is the payer of value added tax is obliged to submit the tax **declaration in the electronic form**.

8. If in the order established by the legislation of the Republic of Tajikistan the legal entity is not liquidated or the individual entrepreneur (separate division of the legal entity) did not stop business activity, then the above-stated persons represent to tax authorities tax declarations according to requirements of this Code, irrespective of the activity performed by them.

9. Tax statements are accepted without preliminary cameral control. Operation of this article does not extend to the additional tax declaration provided by the taxpayer according to Article 107 of this Code.

Article 101. Prolongation of term of submission of tax declarations

1. **To the fair** taxpayers **addressing** before the expiration of representation **tax** declarations to tax authority about prolongation of term of representation **tax** declarations on revenues of the legal entity in case the taxpayer paid in advance added amount of tax, the term of submission of the declaration lasts for two months.

2. Prolongation of term of submission of the declaration according to the part of 1 this **article** does not change **the payment due date** of the tax and does not lead to suspension of charge of percent for untimely payment of taxes.

3. Submission due date **of the declaration** and payment of taxes at natural disasters (**the earthquake, the flood**) and emergency situations (**epidemic, the pandemic**) for all taxpayers or group of taxpayers lasts the relevant resolution the Government of the Republic of Tajikistan.

Article 102. Submission of information on payments or other transactions

The legal entity, branch and representative office of foreign legal entity, permanent establishment of the nonresident and the individual entrepreneur which performed in calendar year of the platyozha for benefit of other persons are obliged to provide to tax authorities the relevant information on payments in the order and cases established by authorized state body in coordination with the Ministry of Finance of the Republic of Tajikistan.

Article 103. Submission of data to tax authorities

1. At implementation of tax control demands tax authorities on the basis of the written notice from any person and relevant organs within 10 days to provide the data specified in the notice, including of relationship of the specific taxpayer with other taxpayers except for the data existing in the electronic database of tax authorities

2. For the purpose of taxation the authorized state body has the right to request from credit and financial the organizations, the communication service and its structures, other legal entities and physical persons information on money transfer by the foreign persons rendering remote services in the Republic of Tajikistan and to receive the answer within 5 working days. The order of obtaining information is defined by authorized state body in coordination with National bank of Tajikistan and the Communication service at the Government of the Republic of Tajikistan.

3. During exit tax audit for the purpose of collection of information the authorized **employee** of tax authority has the right in the order established by the legislation of the Republic of Tajikistan:

- make the copy of the accounting and other documentation connected with taxation;

- in accordance with the established procedure on the basis of the act of withdrawal to withdraw the accounting and other documentation concerning this exit tax audit;

- seal up accounting and other documentation and forbid its use;

- take readings of devices of electronic marking and counters of production of goods.

4. If the authorized **employee** of tax authority withdraws originals of accounting and other documentation on the basis of the powers provided by Part 3 of this article undertakes to return originals of these documents to the taxpayer no later than 10 working days.

5. The admission **of employees** of tax authority to **classified** documents **and** objects, is performed according to the legislation on **the state and trade** secret.

Article 104. Period of storage of tax statements

1. For the purpose of taxation tax statements are stored at taxpayers (tax agents) during not less than the term **of limitation** period established by this Code.

2. By reorganization of the legal entity, obligations for storage of tax statements are assigned to his successor. In case of separation of the legal entity into several newly established legal entities as a result of such separation storage of tax statements is assigned to his successor who owns the greatest share.

Article 105. Bank account and submission of information

1. The credit and financial organizations are obliged:

- on the basis of the information letter of tax authorities to open bank the account of physical persons and legal entities, except for deposit schyot of natural persons, and within 5 days by means of network of the electronic communication to send this information to tax authority;

- make all banking activities with indication of the taxpayer identification number;
 - to submit within 5-day term to tax authorities by their letter of inquiry data on bank schyota, remaining balance and **money turnover** on these schyota of the checked taxpayer;
 - at acceptance of payment documents about payment of taxes to demand the indication of the taxpayer identification number, types of the payable taxes (tax codes) and also to control correctness of the indication of bank details of the recipient of payment;
 - **represent** on the basis of the written request of tax authority within **5 days** the term of data on bank schyota, about remaining balance and **money turnover** on schyota of taxpayers on which the decision on extrajudicial collecting recognized tax debt and (or) on the taxpayers recognized as irresponsible is made.
2. The order, the form and terms of providing information are established by authorized body in coordination with National bank of Tajikistan.
3. For the purposes of this article of the account of the state **organizations (organizations)**, the treasuries of the Ministry of Finance of the Republic of Tajikistan opened in Head department, are equated to bank by the account.

CHAPTER 14. ACCOUNTING OF EXECUTION OF THE TAX LIABILITY

Article 106. Bases of accounting of execution of the tax liability

1. The accounting of execution of the tax liability including the following actions is performed by tax authority by maintaining the personal account of the taxpayer (tax agent):
- opening of the personal account on each type of tax;
 - reflection in the personal account estimated, (additionally accrued), reckoned, paid, amounts repaid of the tax, penalties and percent, the amount of the delay or payment by installments on payment of taxes, the controversial and **hardly collected** debts;
 - closing of the personal account.
2. The estimated amount of tax is the amount of tax determined by this Code estimated in the taxpayer (tax agent), tax authorities, the authorized state bodies established by this Code.
3. The amount of the accrued tax (tax liability) in this Code is understood as the amounts of tax, penalties and interest accrued by tax authorities for this tax period. Charge of the amounts of taxes, penalties and percent, including increase or reduction of obligations, **are made** by tax authorities in the following cases:
- by results of exit tax audit;
 - **non-compliance** with the tax deadlines;
 - by results of cameral control, time inspection or other forms of tax control;
 - **increase** or **reduction** of tax liabilities following the results of consideration of the complaint of the taxpayer (tax agent) to the decision made by tax authority;

- submissions of the additional (changed) tax declaration according to Article 107 of this Code.

4. The tax liabilities which are not performed at the scheduled time and recognized the hardly collected tax debt are separately considered in tax authorities. The order of maintaining and special conditions for execution of such tax liabilities are defined by authorized state body in coordination with authorized state body in **the sphere** of finance.

5. Accounting of the paid, reckoned, returned taxes, penalties and percent in front schyota of the taxpayer (tax agent) is conducted on the basis of the following payment and other documents:

- about payment of taxes, penalties and percent;
- about the carried-out offsets, **return** of excessively paid amounts of taxes, penalties and percent;
- about the carried-out offsets and returns, excessively added and (or) paid amount of the value added tax;
- about the collected amounts of tax debt, penalties, percent.

6. In the personal account of the taxpayer the changed completion date of tax liabilities is reflected. For the changed completion date of tax liabilities, including payments of taxes, penalties and percent by tax authority **in relation to** the taxpayer are not applied responsibility and the measure of recovery by enforcement.

7. In the personal account of the taxpayer (tax agent) amount of interest, added in the order established by this Code with indication of the period for which they are added is reflected.

8. **In the presence of specific** data on departure out of borders of the country, **transfer of assets** to other person or acceptances of other counterfeit actions with assets which can prevent **collecting** the tax the tax authority has the right to grant the added amount of tax on the personal account and to demand its immediate payment of the accrued tax if this measure is necessary for ensuring collection of the tax.

9. **The accounting of receipt of taxes in the budget is carried out by tax authorities by reflection of the amounts of the taxes accrued and the fees paid and also percent and penalties in the personal account of the taxpayer. The order of maintaining the personal personal account of the taxpayer is defined by authorized state body in coordination with the Ministry of Finance of the Republic of Tajikistan.**

10. Accounting of receipt of customs payments in the budget and also the percent and penalties paid in connection with movement of goods through the customs border of the Republic of Tajikistan is performed by customs authorities. Accounting treatment is defined by Customs service of the Republic of Tajikistan in coordination with the Ministry of Finance of the Republic of Tajikistan.

11. Accounting treatment for receipt of the state fees and others platyozhy in the budget, levied by other bodies and **the state** organizations, is defined by authorized state body in coordination with the Ministry of Finance of the Republic of Tajikistan.

Article 107. Additional tax declaration

1. In case of identification of divergences by tax authorities with the tax declaration provided by the taxpayer for the tax period **with submission** of the written notice **the tax authority can demand from the taxpayer of submission of the additional tax declaration** for the period **specified** in the notice. The tax authority can send to the taxpayer the notice according to this part only during the term **of limitation** period. The taxpayer shall submit the additional declaration according to this part in time, specified in the notice.

2. If the taxpayer provided **the additional** tax declaration according to the part of 1 this article, the tax authority can hand to the taxpayer the notice of **the additional** tax declaration according to **Part 4** of Article 111 of this **Code** within 30 days after submission of the declaration.

3. The taxpayer who submitted the tax declaration for the period in whom provisions of Part 1 of Article 99 of this Code are applied can submit the additional tax declaration **with indication of changes, according to the taxpayer necessary for correction** of the self-assessment that the taxpayer bore responsibility for the correct determination of the amount of tax for this period. In the additional tax declaration the reasons **of changes** shall be specified.

4. If the taxpayer provided the additional tax declaration according to Part 2 of this article, the tax authority shall within 30 days from the moment of submission of the additional **tax** declaration:

- adopt the additional declaration of the taxpayer in whole or in part and hand to the taxpayer the notice **of** the additional (modified) tax declaration according to **Part 4 of Article 111** of this Code;

- reject the additional (modified) declaration of the taxpayer, having sent to the taxpayer the written notice.

Article 108. The place of payment of taxes and budgets in which taxes are enlisted

1. Nation-wide taxes are paid to the republican budget, and the local taxes - to local budgets if the legislation of the Republic of Tajikistan **does not provide other**.

2. The estimated (accrued) taxes, penalties and percent are subject to payment:

- in the place, the established corresponding tax **legal act** of the Republic of Tajikistan;

- in the place specified in the notification of tax authority of calculation (charge) of the tax and requirements for payment of the tax;

- if the notification of tax authority of calculation (charge) of the tax is not required - in the place specified **by the corresponding tax legal act** of the Republic of Tajikistan;

- **if in the corresponding tax legal act of the Republic of Tajikistan the place** - at the place of residence of the taxpayer natural person, in the place of activity of the individual entrepreneur or in the place of state registration of the legal entity (branch and representative office of foreign legal entity), or in the location of the tax agent **is not specified** (branch and representation of the legal resident person).

3. **The law of the Republic of Tajikistan on the State budget of the Republic of Tajikistan for the next financial year** establishes the percentage of **nation-wide** taxes between the republican budget and local budgets.

4. The taxes, penalties and percent estimated (in addition added) according to this Code shall be paid to the terms established by this Code and according to **the Law of the Republic of Tajikistan on the State budget of the Republic of Tajikistan for the next financial year** will be transferred into **the corresponding budgets**.

5. The taxes **regulated according to the Law of the Republic of Tajikistan on the State budget of the Republic of Tajikistan for the next financial year** for the established ratio, are automatically distributed between appropriate levels of budgets by their transfer to the Ministries of Finance of the Republic of Tajikistan regulated the account of the Central treasury.

6. Taxation on **real estate** and land tax of natural persons in rural areas can be performed through the automatic electronic payment system with providing the confirming receipt, including the authorized employee of tax authority with assistance of employees of local government authorities.

7. Authorized state body in **the sphere** of finance, authorized state body in **the sphere of the tax** and the credit and financial organizations are regularly obliged to post on the official sites details bank and treasury accounts on which taxes, penalties and percent are paid.

8. Irrespective of provisions of parts 1-7 these articles, the tax on income and social tax concerning the natural persons working at separate divisions of legal entities are subject to payment in the budget for the location of separate divisions taking into account distribution of the amounts of these taxes between republican and local budgets according to **the Law of the Republic of Tajikistan on the State budget of the Republic of Tajikistan for the next financial year**.

Article 109. Order of the sequence of execution of tax liabilities

1. **Tax liabilities of the taxpayer are fulfilled** in the following sequence on:

- to the estimated (in addition added) amounts of taxes;
- to the estimated percent;
- to the estimated penalties.

2. Taking into account provisions of the part of 1 this article payment **of the amount** of taxes, penalties and the accrued interest on account of the covering of the tax liability of the taxpayer is made in the following sequence:

- first of all - tax liabilities of last years;
- the subsequent – the tax debt **formed later**;
- in the last turn - tax liabilities for the current year.

Article 110. General terms of change of due dates for tax payment

1. **Change** of the payment due date of the tax in the order established by this chapter transfer of its payment for later term is recognized.

2. Change of the payment due date of the tax depending on total amount to the subject payment of the tax or its part (further in this chapter - the outstanding

amount) with charge of percent on the outstanding amount is allowed **if this chapter does not provide other.**

3. Change of the payment due date of the tax is performed in the form of the delay of taxes (delay) or payment by installments (payment by installments).

4. The delay is allowed from the first day of payment of the tax on term, stipulated in Clause 112 these Codes. Platyozhi, made by installments, are made on the basis of the agreement between tax authority and the taxpayer with establishment of specific conditions of payment for the term of no more than one year.

5. The delay or payment by installments of payment **can** be provided on the basis of **the statement** of the taxpayer concerning the outstanding amount which arose before making decision on granting the delay or payment by installments **of payment** or concerning tax debt which will arise in the future.

6. Change of the payment due date of the tax does not cancel the existing obligation for payment of the tax and does not create the new obligation for it.

7. Change of the payment due date of the tax according to the decision of the bodies **provided** in Article 112 of this Code irrespective of provisions of this article is allowed, at the offer of the guarantee or the bank guarantee according to Articles 137-138 of this Code **if this chapter does not provide other.**

8. Provisions of this chapter are applied also when granting the delay or payment by installments **of payment** of percent and penalties.

Article 111. The circumstances excluding change of the payment due date of the tax

1. Due date for tax payment is not subject to change in the presence of one of circumstances:

1) if on signs of crime concerning the taxpayer criminal case in connection with violation of the tax law is brought;

2) in the presence of good causes for application of such changes by the taxpayer for concealment of money or other property in the territory of the Republic of Tajikistan, or this person is going **to run away** out of borders of the country on permanent residence;

3) if the decision on change of due date for tax payment concerning this taxpayer was cancelled within three years before date of filing of application in connection with violation of conditions of change of due date for tax payment;

4) if process of bankruptcy is begun.

2. The conditions specified in the part of 1 this article are not applied **in the cases provided** by Part 2 of Article 113 of this Code.

3. In the presence of **the cases** provided by the part of 1 this article, the decision on change of the payment due date of the tax is not made, and the made decision is subject to cancellation.

4. The authorized state body is obliged to notify in writing the taxpayer and tax authority in the place of its registration within three days from date following behind day of cancellation of the decision on change of due date for tax payment.

5. The taxpayer has the right to appeal **against the made decisions** in the order established by this Code.

Article 112. Making decision on the tax deferral

1. The decision on the payment deferral **of nation-wide taxes** is made by the Government of the Republic of Tajikistan on representation of the Ministry of Finance of the Republic of Tajikistan for the term of no more than 1 year.

2. The decision on the payment deferral **of the local taxes** is made by Madzhlis People's Deputies of the respective city (area) on representation of the relevant financial and tax authorities of the city (area) for the term of no more than 6 months.

Article 113. Conditions of granting delay or payment by installments of payment of the tax

1. The delay or **payment by installments of payment** of the tax is provided to taxpayers whose financial position does not allow to fulfill the tax liabilities for the certain reporting period, however, good reasons to believe are had that in case of the delay and payment by installments, the taxpayer will provide payment of the provided tax.

2. Irrespective of provisions of the part of 1 this article, the delay or payment by installments **of payment** of the tax **is provided** to taxpayers in the presence of at least one of the following bases:

1) damnification to the taxpayer as a result of the natural disaster, technogenic catastrophe or other force majeure circumstances;

2) probability of emergence of signs of insolvency of bankruptcy (neplatyozheshpobnost) of the taxpayer in case of single payment of tax liabilities;

3) the property status of natural person (without property on which **tax** collecting according to the legislation of the Republic of Tajikistan cannot be turned) excludes the possibility of single payment of the tax;

4) in the presence of the provisions established by the customs legislation of the Republic of Tajikistan concerning customs payments in connection with movement of goods through the customs border of the Republic of Tajikistan;

5) not financing of the taxpayer during contractual term in connection with execution of the state order, performance of works and (or) rendering services for the state needs and needs of local public authorities from the state budget.

3. In the presence of the bases specified in points 1) - 4) Parts 2 of this article, the delay or payment by installments **of payment** of the tax are applied according to the following requirements:

1) to the legal entity – net assets values of the taxpayer in relation to tax liabilities are not higher;

2) to natural person – it is not higher than a property value of the taxpayer (except for property on which collecting the tax according to the legislation of the Republic of Tajikistan cannot be turned) in relation to tax liabilities.

4. If the delay or payment by installments **of payment** of the tax is provided on the bases specified in points 1) or 5) of Part 2 of this article, interest on such tax liabilities is not accrued.

5. In case of application of the delay or **payment by installments of payment of the tax** on the bases **specified** provided by Subparagraphs 2) - 4) Parts 2 of this

article, on such tax liabilities are accrued interest on the rates operating during the period of the delay or **payment by installments of payment of the tax**.

6. Granting the delay or payment by installments **of payment of the tax** concerning the taxes withheld at the source of payment and social tax is forbidden.

7. Assignment of the right to execution of the tax liability for the changed terms is forbidden to other person, except as specified, **established** by this Code, by reorganization of the legal entity.

Article 114. Procedure of granting delay or payment by installments

1. The statement for granting the delay or payment by installments **of payment** of the tax moves the taxpayer in authorized state body.

2. The following documents are enclosed to the application of the taxpayer:

1) the reconciliation statement between tax authority in the place of registration and the taxpayer;

2) the certificate of schyota of the taxpayer in credit financial institutions;

3) **statements from schyot in the credit and financial organizations** about turnover and about balances in cash in **6** months prior to filing of application;

4) repayment schedule taxpayer of tax liabilities for the period delays or **payments by installments of payment of the tax**;

5) the documents confirming availability of the bases for change of the payment due dates of the tax specified in parts 3-8 these articles.

3. **According to the provisions provided** in point 1) of Part 2 of Article 113 of this Code the following documents are attached to the statement of the taxpayer for granting the delay or payment by installments **of payment** of the tax:

1) the conclusion of bodies of civil defense, protection of the population **and territorial authorities on emergency situations**, local public authorities about the fact of approach concerning the taxpayer of force majeure circumstances;

2) the act of bodies of civil defense, protection of the population **and territorial authorities on emergency situations**, local public authorities about assessment of the damage caused to the taxpayer as a result of force majeure circumstances.

4. Availability of the basis specified in point 2) of Part 2 of Article 113 of this Code is established by authorized state body or its representative by results of the analysis of the financial position of the taxpayer. The order of carrying out such analysis approves by the Ministry of Finance of the Republic of Tajikistan **in coordination with** the Ministry of Economic Development and Trade of the Republic of Tajikistan, authorized state body and National bank of Tajikistan.

5. Data on personal and real estate of natural person are attached to the statement of the taxpayer for granting the delay or payment by installments on payment of the tax on the basis specified in point 3) of Part 2 of Article 113 of this Code (except for property on which collecting according to the legislation of the Republic of Tajikistan cannot be turned).

6. The document of financial body on availability of such basis and the amount provided in the state budget is attached to the statement of the taxpayer for granting

the delay or payment by installments on payment of the tax on the basis specified in point 5) of Part 2 of Article 113 of this Code.

7. In the statement for granting the delay or payment by installments the taxpayer assumes liability on interest payment, added according to this chapter.

8. Upon the demand of authorized **state** body the taxpayer submits the documents of the bank guarantee or **on** the guarantee issued according to the legislation of the Republic of Tajikistan.

9. At the request of the taxpayer **authorized bodies** have the right to make the decision on temporary suspension (during consideration of the application) payments of the amount of tax liabilities and to notify on it the taxpayer and tax authority in the place of registration. The term of adoption of such decision cannot exceed 3 working days.

10. **Acceptance or refusal in making decision** on granting the tax deferral is **accepted** by authorized bodies and **about payments by installments of payment of the tax - authorized state body** within **30** days from the date of obtaining the statement of the taxpayer.

11. The decision on granting the delay or payment by installments **of payment** of the tax shall contain at least the following information:

- 1) name of the taxpayer;
- 2) **amount** of tax debt;
- 3) the tax on which payment the delay or payment by installments is granted;
- 4) the term and the payment procedure of the outstanding amount and the accrued interest.

12. The decision on **application** of the delay or payment by installments **of payment** of the tax becomes effective from the date specified in this decision.

13. The decision on refusal in granting the delay or payment by installments **of payment of the tax** shall be motivated.

14. The taxpayer has the right to appeal against the decision on refusal in granting the delay or payment by installments **of payment of the tax** in the order established **by legal acts of the Republic of Tajikistan**.

15. The copy of the decision on granting the delay or payment by installments **of payment** of the tax or about refusal in its representation is sent authorized body to the taxpayer and to tax authority in the place of registration of the taxpayer within **3 days** from the date of adoption of such decision.

Article 115. Cancellation of the delay or payment by installments of payment of the tax

1. Action of the delay or payment by installments **of payment** of the tax is considered stopped if:

- the added amounts of tax and percent are paid before the expiration of fixed term;

- validity period of the decision on the delay or payments by installments **of payment** of the tax **expired**;

- the taxpayer did not satisfy the condition of the delay or payment by installments **of payment** of the tax in the allotted time.

2. The notice of cancellation of the decision on the delay or payments by installments **of payment** of the tax is sent **respectively authorized bodies** and authorized state body to the taxpayer within 5 days from the date of making decision on cancellation, and the copy of such decision is sent to tax authority in the place of registration of the taxpayer in the order established by this Code.

3. The taxpayer has the right to appeal against the decision on cancellation of the delay or payment by installments **of payment of the tax** in the order established by the legislation **of the Republic of Tajikistan**.

Article 116. General provisions on offset and return of excessively paid and excessively collected taxes

1. Excessively paid amount of the tax, penalties and percent for the tax period, except as specified, the stipulated in Clause 274 presents of the Code, represents the positive difference between the paid amount and the amount of the accrued (in addition accrued) taxes, penalties and percent for this tax period.

2. Excessively paid or excessively collected amount of tax is subject to return to the taxpayer. In this case the taxpayer has the right to use excessively paid or collected amount of tax on account of coming platyozhy on this type of tax.

3. Repayment of tax liabilities at the expense of excessively paid or excessively collected amount of tax is performed in the following sequence:

1) for debt repayment on percent of excessively paid tax or the collected tax (in the presence of such circumstance);

2) for debt repayment on other types of tax and percent on them in the corresponding budgets;

3) for payment of penalties for tax offenses in the corresponding budgets.

4. The amount of excessively paid or collected tax is subject to return to the taxpayer in whole or in part on the basis of the statement of the taxpayer with respect **for the sequence** established by Part 3 of this article.

5. Return to the taxpayer of excessively paid or collected amounts of tax is performed according to parts 1-3 these articles and in the order established by Articles 117 and 118 of this Code.

6. The reliability of excessively paid or collected amounts of tax is defined by drawing up the reconciliation statement between tax authority and the taxpayer in the order established by this Code.

7. The rules established by this chapter are also applied to offset or return **of the following** of excessively paid or excessively collected amounts:

- advance and **current payments** of taxes, charges, percent and penalties;

- duties, the percent and penalties **imposed by other authorized bodies**;

- mistakenly paid **taxes, percent and penalties**;

- the amount of tax on added value, except for provisions of Article 274 of this Code.

Article 117. Order of offset or return of excessively paid amounts of the tax

1. Offset of the amount of the tax which is excessively paid by the taxpayer on account of repayment of its tax debt provided in Part 2 of Article 116 of this Code is

performed by tax authorities independently within 5 days from the date of identification of the fact of excessive payment of the tax (reconciliation statement) or from the date of entry into force of the relevant decision of court.

2. By consideration of the written application of the taxpayer about return of excessively paid amount of the tax, the tax authority within 10 days after obtaining such statement makes the motivated conclusion. In the presence of the circumstances demanding **additional studying**, submission due date of the conclusion lasts for 5 days.

3. The taxpayer has the right to submit the application for offset or return of excessively paid amount of the tax during the term of limitation period if this Code **does not provide other**.

4. Before the expiration established by Part 2 of this article, the tax authority sends to financial body the corresponding conclusion on return of excessively paid amount of the tax in the order established by this Code.

5. The tax authority is obliged to notify the taxpayer on the accepted conclusion, on refusal in implementation of offset or return within 3 days from the date of adoption of such conclusion.

6. At non-compliance with provisions of Part 2 of this article by tax authorities, according to Article 139 of this Code for benefit of the taxpayer interest for each calendar day of term of return of the sum of money is accrued.

7. The accrued interest is paid at the expense of means of the corresponding budget.

8. Mistakenly paid amount of the tax and also percent and (or) penalties, return to the taxpayer on the basis of the written address of the taxpayer or the credit and financial organizations, or financial body if the mistake was made from their party.

Article 118. The order of offset or return of excessively collected amount of tax

1. The taxpayer has the right to submit to tax authority the application for offset or return of excessively collected amount of tax during the term **of limitation** period or from the date of entry into force of the judgment.

2. Excessively collected amount of tax and the interest accrued in interests (advantage) of the taxpayer is subject to return on the basis of the statement of the taxpayer within 20 working days from the date of obtaining such statement by tax authority with observance of provisions of Article 116 of this Code.

3. Interest is accrued on the amount of the overpaid tax if the taxpayer within 60 days or from the date of entry into force of the relevant decision of court **submits about it the application**.

4. Interest is accrued from the date of excessively collected amount of tax till day of the actual offset or return.

5. The accrued interest is paid from the corresponding budget **with observance of provisions from** Article 139 of this Code at the rates operating for collection.

6. At factual determination of excessive collecting the tax, the tax authority makes the decision on offset and (or) return of excessively collected tax and also

interest accrued not for benefit of the taxpayer in the order established **by parts 4-5** these articles.

7. Offset of the amount of excessively collected tax on account of repayment of tax debt of the taxpayer or on account of its coming platyozhy therefore or to other taxes, established by Parts 2 and 3 of Article 116 of this Code, is performed by tax authorities in the order established by Parts 1-3 of Article 117 of this Code for offset of the amounts of excessively paid tax.

8. The order of return of excessively collected tax is similar to the order, stipulated in Clause 117 these Codes for return of the amounts of excessively paid tax.

CHAPTER 15. EXECUTION OF TAX LIABILITIES

Article 119. Tax liabilities

1. The tax liability **are obligations** of the taxpayer for **calculation and payment of taxes and fees** to the terms established by this Code.

2. Tax liabilities for calculation, deduction, payment of taxes in the budget in the terms established by this Code and (or) to tax refund to the taxpayer, assigned to tax agents are equated to tax liabilities of the taxpayer.

3. The tax liability arises, changes and stops according to provisions of this Code or other acts of the tax law.

4. Execution of the tax liability for each tax is assigned to the taxpayer from the moment of emergence of such obligation according to the tax law.

Article 120. Order and completion dates of tax liabilities

1. The taxpayer independently fulfills the tax liability if this Code **does not establish other**.

2. The tax liability of natural person, not being the individual entrepreneur, can be performed **other natural person**. In this case the material benefit received by this natural person is not recognized as the taxable **income**. **The amounts** paid for this purpose are not subject to return.

3. The tax liability shall be fulfilled in time, established by the tax law.

4. Completion date of the tax liability is established by this Code calendar date or the expiration of the period of time (year, quarter, month and day) according to this Code.

5. Completion date of the tax liability begins from the date of, following calendar date or from the date of commission of the action attracting emergence of the tax liability.

6. If the last day of execution of the tax liability falls on day off and (or) festive (non-working) day, the first working day following it is considered day of the termination of term.

7. The taxpayer has the right to fulfill the tax liability ahead of schedule.

8. Completion date of the tax liability changes in the order established by Articles 110-115 of this Code.

9. In the event of default or improper execution by the taxpayer of tax liabilities the tax authority provides execution of this obligation in the order established by Chapters 17-18 of this Code.

10. Execution of tax liabilities at bankruptcy (insolvency) of the taxpayer is performed according to provisions **of the legislation** of the Republic of Tajikistan.

Article 121. Temporary measures

1. Temporary measures are taken by tax authorities depending on results of tax audits and, in the presence of sufficient evidences, **non-execution whom** complicate or make impossible execution of the decision on prosecution and collecting tax debt.

2. For acceptance of temporary measures the authorized **state** body makes the relevant decision. Validity period of such decision **is valid** from the date of acceptance and before its execution, or about day of cancellation of the decision by court.

3. In the cases provided by Part 11 of this article, the tax authority has the right to make the decision on cancellation or replacement of temporary measures.

4. The decision on cancellation (replacement) of temporary measures becomes effective from the date of its acceptance.

5. Temporary measures consist from:

- suspension of transactions on bank the account **according to provisions** of Article 140 of this Code;

- the ban on alienation and (or) transfer to pledge of property without the consent of tax authority.

6. The ban on alienation and (or) transfer to pledge of property is performed concerning the following property:

- the real estate **which is not used** in production of goods or rendering services;

- **vehicles, securities, objects** of the decor of service premises;

- **other property**, except for finished goods and raw materials;

- **finished goods**, except for raw materials and perishable products, **with** the expiration date to three months.

7. For execution of the tax liabilities revealed during tax audit, **the sequence** of the ban on alienation **and (or)** transfer to pledge of property is performed according to provisions of Part 6 of this article if the total value of property from the previous groups is less than total amount of tax debt. At the same time the property value is determined by accounting data.

8. Suspension of transactions on bank is applied by the account before imposing of the ban on alienation **and (or)** transfer to pledge of property.

9. At the request of the taxpayer, the tax authority has the right to replace the temporary measures established by Part 6 of this article, the following measures:

- the bank guarantee of the credit and financial organization on payment of tax debt;

- pledge of the securities which are traded on organized market of securities;

- the guarantee issued as it should be, stipulated in Clause 137 these Codes.

10. At submission of the bank guarantee of reliable credit financial institution by the taxpayer about payment of the tax liability, the tax authority has no right to

refuse **request of the taxpayer for** replacement of the temporary measures established by Part 6 of this article.

11. The copy of the decision **on its cancellation** acceptance of temporary measures and decisions on its cancellation goes to the private office of the taxpayer or is issued to his representative **within 5 days** from the date of their acceptance.

Article 122. Termination of the tax liability

1. **If this article does not provide other**, tax liability it is considered stopped in the following cases:

1) execution of tax liabilities (percent and penalties);

2) **under circumstances when** the tax law establishes the termination of the tax liability, including:

- the expiration **of limitation** period on the tax liability;

- **recognition** of the taxpayer by the bankrupt **if the judgment does not provide other**;

- write-off of the tax liability in the order established by this Code.

2. The tax liability of natural person stops in the following cases at observance of requirements of Part 3 of this article:

- execution of tax liabilities;

- in connection with death of natural person;

- the announcement of the person the dead, is unknown gone or incapacitated by a court decision and also insufficiency of its property.

3. Tax debt of the dead individual or declared the dead is paid by successors within the cost of the inherited property as it should be, stipulated in Clause 129 these Codes.

4. The tax liability of the legal entity stops in the following cases:

- at liquidation of the legal entity according to Article 126 of this Code;

- by reorganization of the legal entity according to Article 127 of this Code.

Article 123. The term of limitation period on the tax liability

1. The term **of limitation** period on the tax liability is 5 years.

2. During the term of limitation period tax authorities have the right to estimate (in addition to add) the amount of tax which is subject to payment by the taxpayer, to reconsider and collect the amount of the estimated (in addition accrued) tax for the corresponding tax period.

3. The taxpayer has the right to make recalculation and correction of the tax liabilities during the term of limitation period and also to demand return or offset of excessively paid or collected amounts for the corresponding tax period.

4. Concerning the taxpayers applying preferential taxation, the term of limitation period lasts for preferential taxation, established according to regulatory legal acts of the Republic of Tajikistan, also lasts according to Article 37 of this Code.

5. The term **of limitation** period stops for operation of the moratorium on tax audits, the period of the delay or **payment by installments** of payment of taxes.

Article 124. Payment of the tax

1. The obligation of the taxpayer for payment of the tax is recognized performed in the following cases if Part 2 of this article does not provide **other**:

1) from the moment of reflection of transfer operation of money in the payment order of the taxpayer **provided** to the credit and financial organization about money transfer from the account of the taxpayer to the corresponding treasury account of the state budget - in the presence of sufficient money on the account of the taxpayer and the credit and financial organization in day of payment;

2) from the moment of delivery in cash desk of the credit and financial organization of cash for transfer to the corresponding account of treasury of the state budget without opening of the account in credit financial institution. Such rule is applied only at payment of the tax by natural persons on condition of sufficiency of means to payment of the tax;

3) from the date of pronouncement by tax authority of the decision on offset of excessively paid or excessively collected amounts of taxes, percent and penalties on account of discharge of duty on payment of the corresponding tax.

2. The obligation of the taxpayer for payment of the tax is not recognized performed in the following cases:

1) **the response** the taxpayer or **return** to it by the credit and financial organization of not performed order for transfer of the corresponding money in the budget;

2) **the response** the taxpayer or **return** to it by treasury of not performed order;

3) **the wrong instruction** in order for money transfer of bank details, the state budget which entailed not transfer of this money to the corresponding treasury account;

4) if on the date of presentation in the credit and financial organization **of order** for money transfer on account of payment of the tax the taxpayer has other not performed requirements imposed to its account which according to the civil legislation are performed as a matter of priority and if on this account there is no enough money for the satisfaction of all requirements.

Article 125. Execution of payment and collection orders by the credit and financial organizations

1. Credit financial institutions are obliged:

1) perform the payment order of the taxpayer (further in this article – the payment order) and the collection order of tax **authority** (further in this article - the collection order) in sequence, established by the civil legislation and this Code;

2) perform the collection order of tax authority if goes to the credit and financial organization with appendix of the decision of authorized state body and approved in accordance with the established procedure by tax authority and the taxpayer of the reconciliation statement in which information on justification of recognition by the taxpayer of tax debt, is provided in the written or electronic form;

3) on the payment order of the taxpayer or the collection order of tax authority to enlist (to transfer) into the account of the Central treasury of the Ministry of

Finance of the Republic of Tajikistan the amounts of taxes no later than **one day** of the next day after operation.

4) if execution of the payment order of the taxpayer and the collection order of tax authority is impossible at the scheduled time due to the lack of (insufficiency) of money on the account of the taxpayer, during the day, following behind day of the expiration of fixed term to notify on non-execution (partial execution) of the payment order of the taxpayer and the collection order of tax authority.

2. The form of the electronic notification of the credit and financial organization of non-execution (partial execution) of the payment order of the taxpayer or the collection order of tax authority and the order of its transfer in the electronic form are established by authorized state body in coordination with National bank of Tajikistan.

3. The credit and financial organizations bear responsibility for non-execution or improper execution of the obligations provided by this article **according to the legislation of the Republic of Tajikistan**.

4. Application of measures of responsibility does not exempt credit financial institutions from the duty to perform the payment order of the taxpayer and the collection order of tax authority.

Article 126. Execution of the tax liability at liquidation of the legal entity

1. The founder (founders) of the legal resident person, its authorized body or court within 5 working days from the date of making decision on liquidation are obliged to report about it in writing to tax authority in the place of the stay.

2. The liquidated legal entity is obliged within 3 working days from the date of the approval of the interim liquidation balance sheet to submit in tax authority in the location the application for conducting tax audit and liquidating tax statements.

3. The liquidated legal entity is obliged to pay the taxes reflected in liquidating tax statements no later than 10 calendar days from the date of submission to tax authority of liquidating tax statements.

4. The tax liability of the liquidated legal entity, is repaid at the expense of its money including received from sale of its property. Liquidation commission within 7 days from the moment of liquidation officially notifies tax authority in the location on appointment as the liquidator.

5. The tax authority is obliged no later than 20 working days after obtaining the statement of the liquidated legal entity to carry out complex tax audit.

6. Tax debt of the liquidated legal entity is paid for the account of the funds of the legal entity including received from sale of property in the order established by the civil legislation and this Code.

7. The person whom according to **provisions of the legislation of the Republic of Tajikistan** it is transferred the right of use by the earth of the liquidated legal entity (**any form of rural managing**) bear proportional (**equal share**) responsibility according to the share on the remained amount of tax debt of the liquidated legal entity.

8. If the funds of the liquidated legal entity, including means **received** from realization of its property is insufficient for repayment of its tax debt in full, the

remaining outstanding debt can be repaid by participants of this legal entity in the order established by the legislation if in constituent documents joint liabilities are established.

9. The sequence of execution of tax liabilities of the liquidated legal entity at the expense of other creditors of this legal entity is performed by mutual settlements according to the civil legislation.

10. The amounts excessively paid, the liquidated legal entity or the taxes (penalties, percent) which are excessively collected from it by tax authority are subject to offset on account of payment of tax debt on other taxes in the order established by this Code or is divided in proportion by the decision of the liquidated legal entity.

11. At absence at the liquidated legal entity of tax debt the amount of excessively paid or excessively collected taxes (penalties, percent) is subject to return to this legal entity no later than **15** days from the date of submission of the statement by it in the order established by this Code in time.

12. The provisions **provided** by this **article** are applied also at payment of taxes when moving goods through the customs border of the Republic of Tajikistan.

13. By results of exit tax audit and complete payment of tax debt, the liquidated legal entity represents the liquidation balance sheet to tax authority in the location.

14. Tax authorities are obliged on the basis of request of the liquidated legal entity in the order and in the terms established by this Code to issue the certificate of absence of debt **at** this person.

15. Execution of tax liabilities by branch or representation of the legal nonresident person, permanent mission of the foreign legal entity which stopped activity in the Republic of Tajikistan is performed in the order established by this article.

Article 127. Execution of the tax liability by reorganization of the legal entity

1. The tax liability of the reorganized legal entity is fulfilled by his successor (successors) in the order established by this article.

2. The legal entity within 5 working days from the date of making decision on reorganization by merge, accession, allocation, separation or transformation in writing reports about it to tax authority in the location.

3. The reorganized legal entity within 3 working days from the date of the adoption of the transfer act or the separation balance sheet submits in tax authority in the location the application for conducting tax audit and liquidating tax statements.

4. Liquidating tax statements are formed on types of tax on which the reorganized legal entity is the taxpayer and (or) the tax agent.

5. Tax audit shall be begun no later than 20 working days after obtaining by tax authority the statement of the reorganized legal entity.

6. Execution of the tax liability of the reorganized legal entity is assigned to his successor (successors) irrespective of whether before completion of reorganization the facts and (or) circumstances of non-execution or improper execution by the

reorganized legal entity of the obligation for payment of taxes were known to the successor (successors).

7. The successor (successors) **to the reorganized** legal entity is obliged to provide complete repayment of share tax debt, including payment of the penalties for tax offenses put on the reorganized legal entity before completion of reorganization.

8. The successor (successors) to the reorganized legal entity has the rights established by this Code for taxpayers.

9. Reorganization of the legal entity cannot change completion date of the tax liability his successor (successors).

10. In case of consolidation (merge) of several legal entities by their successor in execution of tax liabilities the newly established legal entity is considered. Tax documents (electronic data) of the joint legal entities are stored in tax authorities in the location of newly established **legal** entity.

11. **In case of joining** of one legal entity to another, regarding execution of the tax liability the legal entity which attached to it is recognized as the successor to the attached legal entity.

12. At separation of the legal entity, regarding execution of tax liabilities of the divided legal entity the legal entities created as a result of such separation on the divided shares are recognized as successors.

13. In the presence of several successors allocated, divided or the transformed legal entity, share of participation of each of them regarding execution of the tax liability of the reorganized legal entity is defined by the separation balance sheet made according to the civil legislation. If the separation balance sheet does not allow to define the share of each successor to the reorganized legal entity, tax liabilities of again formed legal entities are defined by a court decision.

14. Provisions of Part 13 of this article **are applied** also in cases when the separation balance sheet does not give the chance **to perform** in full at least one successor, the part of the tax liability of the reorganized legal entity falling on it if such reorganization is performed for the purpose of non-execution of the tax liability.

15. At allocation from the structure of the legal entity of one or several legal entities, succession concerning the reorganized legal entity regarding execution of its tax liability, does not arise if Part 12 of this article **does not provide other**.

16. If as a result of allocation from the structure of the legal entity of one or several legal entities, the allocated legal entity cannot fulfill in full the tax liability, the legal entities by a court decision allocated solidary fulfill the tax liability of this reorganized legal entity.

17. When transforming one legal entity to other, legal entity, including by change **of legal form**, regarding execution of the tax liability the newly established legal entity is recognized as the successor to the reorganized legal entity.

18. At allocation from the legal entity, the newly established legal entities which resulted from such allocation and also this legal entity regarding execution of tax liabilities are recognized as successors to the reorganized legal entity with equal shares.

19. The amount of tax (penalties, percent) which is excessively paid by the legal entity or excessively collected from it before its reorganization is subject to offset by tax authority on account of repayment of tax debt of the reorganized legal entity. Such offset is made no later than 1 month from the date of completion of the procedure of reorganization for benefit of the successor (successors) to the legal entity.

20. At absence at the reorganized legal entity of tax debt, the amount of tax (penalties, percent) which is excessively paid or excessively collected from it is subject to return to his successor (successors) no later than 1 month from the date of filing of application. In this case excessively paid or collected amounts of tax (penalties, percent) are subject to return to the successor (successors) of the reorganized legal entity in proportion to the share of each successor defined on the basis of the separation balance sheet.

21. Provisions of this article are applied also to discharge of duty on payment of charges and others obligatory platyozhy by reorganization of the legal entity.

22. The provisions provided by this article are applied also at determination of the successor (successors) of the foreign organization reorganized according to the legislation of the foreign state.

23. The provisions **provided** by this **article** are applied also to payment of taxes when moving goods through the customs border of the Republic of Tajikistan.

Article 128. Execution of the tax liability at cession of property in trust management

1. The tax liability at cession of property in trust management on the basis of the agreement between the authorized representative and the authorized person is performed by the authorized person according to provisions of this Code.

2. The authorizing founder person of trust management (beneficiary) independently fulfills the tax liabilities arising at it in connection with cession of property in trust management if execution of the tax liability (except for obligations for the value added tax) is not assigned to the trustee at cession of property in trust management to the confidential nonresident managing director of the Republic of Tajikistan. In case the founder of trust management is the natural person, not being the individual entrepreneur, execution of the tax liabilities arising from activity of the founder of trust management is performed by the trustee.

3. The trustee is obliged to keep separate account of the taxation objects on the activity of trust management performed for the benefit of the founder of management (beneficiary), and other activity.

4. If execution of the tax liability is assigned to the trustee and also the obligation for drawing up and submission of tax and financial statements for the founder of trust management (beneficiary), execution of such tax liability is performed on behalf of the person who is the trustee in the order established by the special part of this Code.

5. If the trustee does not fulfill the duties provided by this article on calculation or payment of taxes, or performs in incomplete amount, obligations for their execution are assigned to the founder of trust management (beneficiary).

Article 129. Execution of tax liabilities, in case of death of natural person or the announcement court his dead

1. In case of death of the natural person having tax debt, the amount of the accrued interest and penalties concerning it is recognized as hopeless to collecting. The remained tax debt of the dead individual is repaid by his successor (successors) who accepted the inherited property of the dead in the order of succession in proportion to the cost of the inherited property according to provisions of this article.

2. If tax debt of the died person exceeds the cost of the inherited property, the remained amount **of tax debt** is recognized as hopeless. The cost of hereditary property of successors (successors) is determined in the order established by the legislation of the Republic of Tajikistan, and the document on assessment is submitted to tax authorities.

3. In the absence of the successor or refusal of the successor (successors) of the inheritance right tax debt of the dead individual is recognized as hopeless. Bad tax debt is subject to write-off according to provisions of Article 131 of this Code.

4. In case of death of the natural person having tax debt, tax authority in the place of its registration and (or) in the location of its property it is obliged within 1 month from the date of obtaining information on the successor (successors) to report to him (it) about availability of tax debt.

5. The successor (successors) of the dead individual **is obliged** to repay the remained tax debt of the dead individual no later than 6 months from the date of inheritance acceptance.

6. The repayment period of debt of the dead individual on the decision of tax authority can be prolonged if the notice of availability of tax debt was received by successors (successors) less than in 3 months prior to the expiration of payment of tax debt.

7. The provisions provided by this article are applied also to tax debt of the natural person announced by the judgment by the dead in the order established by the civil legislation.

8. At **reversal of the judgment** about the announcement of natural person by the dead, action of the tax liabilities which are earlier written off according to Part 3 of this article is restored. In that case from the moment of the announcement of natural person penalties and interest are not accrued by the dead until making decision on reversal of the judgment on tax liabilities.

Article 130. Execution of the tax liability of the natural person recognized missing or incapacitated

1. The tax liability for payment of taxes of the natural person recognized by court missing is performed by the authorized person having according to **the law** the right to manage property of this person (further in this article - the authorized person) at the expense of this property of the missing person.

2. The authorized person is obliged to repay the tax debt on taxes of missing natural person which arose on the date of recognition by its court missing at the expense of money or other property of the missing person.

3. The tax liability of the natural person announced by court incapacitated is performed by his trustee (trustee) at the expense of money or other property of this incapacitated person.

4. Not fulfilled tax liabilities for payment of taxes of the natural person recognized by court missing or incapacitated and also for payment of penalties and percent at insufficiency (absence) of money or other property belonging to such persons in the order established by this Code are written off as bad tax debt.

5. In case of making decision on cancellation of recognition of natural person missing or incapacitated, execution of tax liabilities is restored from the date of decision-making. At the same time from the moment of making decision **on** recognition of the citizen (natural person) missing or incapacitated before making decision on cancellation of recognition of the person missing or incapacitated percent and penalties are not charged.

6. Authorized persons which according to this article are obliged to pay taxes on the natural persons recognized by court missing or incapacitated fulfill the tax liabilities in the order established by this Code and this article. At execution of the tax liabilities **authorized** persons are made for commission of tax offenses responsible. In this case authorized persons have no right to pay the penalties provided by this Code at the expense of property of the person recognized by court missing or incapacitated.

Article 131. Recognition of the bad tax debt and order of its write-off

1. Tax debt of certain taxpayers and tax agents is recognized as hopeless in the following cases:

1) **liquidation** of the legal entity – **according to provisions of Article 126** of this Code at insufficiency of property of the legal entity and (or) impossibility of its payment by founders (participants) of legal entity, in the order established by the legislation;

2) **recognition** by the bankrupt of the individual entrepreneur and legal entity in cases, stipulated in Clause 150 these Codes, at insufficiency of property;

3) **death or** the announcement of natural person the dead, **the missing person or recognition by incapacitated court of natural person as it should be, stipulated in Clause 129** these Codes, at insufficiency of property of such persons or transition of inheritance to state-owned property;

4) **decision-making** of court in connection with which the tax authority loses the right of collecting tax debt in connection with the expiration of collecting tax debt or the rejection of the statement for restoration of this term;

5) removal from **tax accounting of the foreign legal entity** in tax authority according to provisions of Article 78 of this Code at insufficiency of property of the permanent establishment of the foreign legal entity and impossibility of its repayment from the legal entity - the nonresident of the Republic of Tajikistan in the limits and the order established by the legislation of the Republic of Tajikistan. At new statement of this legal entity on accounting **according to** Article 78 of this Code tax liabilities are subject to restoration.

2. The order of write-off of tax debt, recognized hopeless, and the list of the documents confirming the circumstances specified in the part of 1 this article approve by the Government of the Republic of Tajikistan.

3. The tax debts defined in **the paragraph the third** point 2) of Part 1 and Parts 2-3 of Article 122 of this Code are recognized as hopeless and are written off **by the Government** of the Republic of Tajikistan.

4. The tax debts specified in **paragraphs the first and second** point 2) of Part 1 of Article 122 of this Code are recognized as hopeless and are written off by the decision of authorized state body.

SECTION IV. RECOVERY BY ENFORCEMENT OF TAXES

CHAPTER 16. ORDER AND COMPLETION DATES OF THE TAX LIABILITY

Article 132. Ensuring obligation fulfillment on payment of the tax

1. The taxpayer having the obligation for payment of the tax is obliged to provide the payment order to the serving credit financial institution no later than the payment due date established by this Code.

2. If at the taxpayer outstanding tax debt is had, the tax authority is obliged to send to the taxpayer the notice of repayment of tax debt no later than 3 days after the expiration of payment.

Article 133. Notice of repayment of tax debt

1. The notice of repayment of tax debt is the notice of the taxpayer on availability of tax debt and also on payment at the scheduled time **of the amount** of this debt.

2. The notice of repayment of tax debt is sent to the taxpayer in the presence at it the tax debt **provided** in Article 119 of this Code.

3. Data on the amount of tax debt, the size of the interest accrued from the date of emergence of tax liabilities, the amount of penalties and also measures for ensuring collecting tax debt are specified in the notice.

4. The form of the notice of repayment of tax debt approves by authorized **state** body.

5. The provisions provided by this article are applied also to tax agents.

6. In the cases **established** by this Code, the notice can be sent to other persons. In this case all provisions provided by this chapter are applied to other persons.

Article 134. Order and terms of the direction of the notice of repayment of tax debt

1. The notice of repayment of tax debt is sent to the taxpayer tax authority in which the taxpayer stays on the registry and (or) higher tax authority in the written or electronic type.

2. The notice of repayment of tax debt is sent to the taxpayer from the date of emergence of tax debt or from the effective date the decision on repayment of tax debt, by results of exit tax audit.

3. In the cases provided by Parts 8 and 9 of Article 144 of this Code, **the notice of repayment of tax debt** goes to other persons in the order established by Parts 1 and 2 of this article. From the date of receipt of the notice of repayment of tax debt other persons regarding execution of this notice are equated to the taxpayers having tax debt.

4. In case of need tax authorities at the direction of the notice, on the basis of the written request demands from the taxpayer to provide necessary documents (information), including the reconciliation statement, bank account details, debtors (debtors), the list of property for application of coercive measures of collecting tax debt.

5. In case the taxpayer voluntarily does not fulfill such requirement and does not submit required documents, the taxpayer bears responsibility according to the legislation of the Republic of Tajikistan.

Article 135. Change and execution of the notice of repayment of tax debt

1. If the tax authority after the direction to the taxpayer of the notice of repayment of tax debt found the reasonable circumstances leading to change of the amount of tax debt, penalties or percent, he **is obliged** to send officially to this taxpayer the specified notice and to withdraw earlier directed notice. This provision does not extend to cases of partial repayment with the taxpayer of the amounts of tax debt, penalties or the percent specified in the notice of repayment of tax debt.

2. The specified notice of debt repayment and **the withdrawal** of earlier directed notice **are sent** to the taxpayer within 3 days from the date of detection of the circumstances provided in the part of 1 this article.

3. Only in case of failure to pay or partial payment by the taxpayer of tax debt within 20 calendar days from the date of receipt of the notice of payment of tax debt, the tax authority **makes collecting tax debt** by means of application of the measures for ensuring execution of the tax liability provided by Chapters 17-18 of this Code.

CHAPTER 17. METHODS OF ENSURING EXECUTION OF THE TAX LIABILITY

Article 136. Methods of ensuring execution of the tax liability

1. Execution of the overdue tax liability of the taxpayer is provided with the following methods:

- 1) **bank guarantee**;
- 2) **guarantee**
- 3) **suspension** of account transactions on bank the account;
- 4) **charge** of percent on unpaid taxes and payments in the budget;
- 5) **restriction** for the order with property of the taxpayer;

- 6) **seizure of property** of the taxpayer
- 7) **collecting** tax debt from bank schyot of the taxpayer;
- 8) **collecting** tax debt at the expense of the money which is on bank schyota of debtors (debtors) of the taxpayer;
- 9) **collecting** tax debt from cash of the taxpayer.

2. Property attachment and suspension of account transactions in the credit and financial organizations as interim measures for execution of the tax liability of the taxpayer for his statement can be replaced on:

1) submission of the bank guarantee issued as it should be, **stipulated in Clause 138** these Codes;

2) pledge of the securities which are in circulation in organized market of securities;

3) the guarantee of the third party issued as it should be, stipulated in Clause 137 these Codes.

3. In case of providing the bank guarantee by the taxpayer, tax authorities have no right to deny the request of the taxpayer for replacement of the measures of providing provided by this article.

4. If the taxpayer did not repay tax debt within 20 working days after obtaining the notice of payment of the tax, tax authorities have the right to apply to the taxpayer the methods of ensuring accomplishment of tax liabilities established by points 3) and 5)-9) parts of 1 this article.

5. The decisions made according to points 3) and 5) - 9) parts of 1 this article, **are subject to cancellation** taking into account the following cases:

1) from the date of the introduction in legal force of the judgment on the announcement of the taxpayer by the bankrupt;

2) complete grievance settlement of the taxpayer on the basis of **the judgment** on results of the act of tax audit;

3) from the date of the introduction in legal force **of the judgment** on involuntary liquidation of the credit and financial organization;

4) elimination of the circumstances which led to application of methods of ensuring execution of tax liabilities.

6. In case of agreement signature about the delay or **payments by installments of payment of the tax** application of methods of ensuring execution of the tax liabilities provided by points 3), 5) - 9) parts of 1 this article, temporarily stops.

7. In case of change by tax authority of measures for ensuring obligation fulfillment of the taxpayer with the bank guarantee and pledge, action of measures, stipulated in Item 1) this article, it is cancelled or temporarily stop.

8. After elimination of the bases which led to application of methods of recovery by enforcement of taxes according to points 3 and 5-9 of the part of 1 this article tax authority on the basis of written data of the credit and financial organizations about collected from schyot of the taxpayer and (or his debtors of money and (or) the reconciliation statement of tax liabilities of the taxpayer with tax authorities within one working day **recognizes** earlier made decisions performed and at the same time directs the notification to the corresponding persons. The decisions which are earlier accepted by tax authorities are considered fulfilled for the relevant

credit and financial organizations and the taxpayer from the date of the direction of the written notice of tax authorities of their execution.

9. Methods of providing tax liabilities, the order and conditions of their application are established by this chapter and Order of application of methods and measures for ensuring accomplishment of tax liabilities which is developed and approves by authorized state body in coordination with authorized state body in the field of finance.

10. Other measures for ensuring execution of tax liabilities as it should be and in accordance with the terms, established by the customs legislation can be applied to the taxes which are subject to payment in connection with movement of goods through the customs border of the Republic of Tajikistan.

Article 137. Guarantee

1. The guarantee is made out according to the civil legislation **of the Republic of Tajikistan** by signing of the contract between tax authority and the guarantor.

2. The legal entity or physical person **can** be the guarantor. Simultaneous use of several guarantors in respect of one obligation for payment of the tax is allowed.

3. In case of failure to pay by the taxpayer of the amount of taxes and percent at the scheduled time, the guarantor is obliged to pay completely on the basis of the signed agreement the amount of the tax delayed by the taxpayer.

4. At non-execution by the taxpayer **of the tax liability**, provided with the guarantee, the taxpayer and the guarantor bear joint liability on payment of taxes.

5. At failure to pay or incomplete payment of the tax at the scheduled time, the duty on which is provided to payment with the guarantee, the tax authority within 5 days from the date of the expiration of payment of the tax sends to the guarantor the requirement about payment of the sum of money for the guarantee agreement.

6. If the guarantor does not perform at the scheduled time the requirement about payment of the sum of money for the guarantee agreement, tax authority in the order and in the terms provided by Chapters 17-18 of this Code applies measures for recovery by enforcement of the amounts to the guarantor.

7. The legal relations arising at determination of the guarantee as measures of ensuring execution of the tax liability are regulated according to provisions of the civil legislation if the tax law **does not provide other**.

8. Provisions of this article **are applied** also **to the guarantee** at payment of others obligatory platyozhy and duties.

Article 138. Bank guarantee

1. The bank guarantee is made out in the order established by the legislation of the Republic of Tajikistan on the basis of request of the taxpayer according to which the credit and financial organization (guarantor) pays tax debt of the taxpayer in full in case of failure to pay by the taxpayer taxes and percent.

2. The bank guarantee shall conform to the following requirements:

1) be irrevocable and not transferred to other person;

2) shall not contain requirements of other tax authorities about execution of the bank guarantee provided by the credit and financial organization guarantor or the taxpayer;

3) validity period shall expire not earlier than in 6 months from the date of the expiration of fixed term of execution by the taxpayer of the obligation for payment of the tax, the secured bank guarantee if this Code **does not provide other**;

4) contain all amount of the duty of the taxpayer, including payment of taxes, penalties and percent if this Code **does not provide other**;

5) provide regulations on recovery by enforcement of the sum of money by tax authority from the guarantor in the event of default the guarantor at the scheduled time of the requirement about payment of the sum of money for this bank guarantee.

3. In case of failure to pay or incomplete payment of the tax at the scheduled time by the taxpayer, discharge of duty on payment of the tax **which is provided** with the bank guarantee the tax authority within 5 days from the date of the expiration of execution of the requirement about payment of the tax sends to the guarantor the requirement about payment of the sum of money for the bank guarantee.

4. **The guarantor is obliged to fulfill the requirements of tax authorities for payment of the sum of money within 5 days from the date of obtaining the requirement for the bank guarantee by him.** The guarantor has no right to dismiss to tax authority the requirement about payment of the sum of money for the bank guarantee.

5. Money recovery from the guarantor is made in the order and in the terms **provided** by Articles 144 and 148 of this Code if the specified requirement of tax authority was sent to the guarantor before the termination of validity period of the bank guarantee.

6. The provisions provided by this article are applied also to the bank guarantees providing discharge of duty on payment of taxes and penalties.

7. In the order and on the conditions **determined** by the Ministry of Finance of the Republic of Tajikistan, the obligation for payment **of tax debt** by the legal entity of the Republic of Tajikistan or the foreign legal entity can be provided with the bank guarantee of the foreign credit and financial organization having the high ratings of the international rating agencies. Such guarantee of the foreign credit and financial organization shall **meet** the requirements provided by points 1) - 4) Parts 2 of this article.

8. **The guarantor has no right to refuse the requirement of the tax authority about obligation fulfillment provided with the bank guarantee if it is provided during validity period of such guarantee.**

Article 139. Percent

1. Percent - the sum of money charged to the taxpayer in case of non-compliance **by him** with the due dates for tax payment established by the tax law.

2. Interest **is accrued and transferred into the state budget** irrespective of the amount of the paid taxes, applications of other measures for ensuring execution of tax liabilities and also measures of responsibility for violation of the tax law.

3. Interest is accrued for each calendar day of delay of execution of the tax **liability**, since the day following behind the day of payment of the tax established by the tax law **if this Code does not establish other**.

4. Filing of application about granting the delay or payment by installments of payment of the tax does not stop charge of percent for the amount of tax, subject to payment, until adoption of the relevant act.

5. Percent on the outstanding amount on the tax which the taxpayer could not extinguish owing to **application of interim measures** in the form of suspension of transactions on its bank account and seizures of its money within cash on bank schyota or cash desk of the taxpayer **are not charged**. In that case interest is not accrued for the entire period of actions of the specified circumstances.

6. Interest is accrued for each day of delay of 0.04% in the following cases:

1) for the amount of tax which is not paid at the scheduled time;

2) for the amount of tax which is excessively paid according to requirements of Article 117 of this Code;

3) for the amount of tax, Article 118 of this Code levied according to provisions.

7. Percent are paid to the state budget to destination **of taxes**.

8. Percent are collected forcibly at the expense of money of the taxpayer on schyota in the credit and financial organizations and other property of the taxpayer according to Chapters 17-18 of this Code.

9. Recovery by enforcement of percent from legal entities and individual entrepreneurs is performed in the order **provided** by Articles 145-149 and 152 of this Code, and from other natural persons - as it should be, the stipulated in Clause 151 this Code.

10. Interest is not accrued:

- for the amount of the penalty and percent;

- for the amount of tax debt of the dead individual, at submission of the document confirming the death of this person.

- for the amount of tax debt of the person recognized by the missing person by a court decision from the date of adoption of such decision before its cancellation;

- for the amount of tax debt of the person recognized by the missing person by a court decision - from the date of adoption of such decision before its cancellation;

- for the amount of tax debt of individual entrepreneurs and legal entities on whom the judgment on bankruptcy (insolvency) - from the date of adoption of the case of bankruptcy by court is made;

- for the amount of tax **debt on one type of tax** if there is excessively paid amount of the tax on other types of tax - from the date of completion of transaction;

- for the amount **of the hardly collected** debt - from the date of making decision on inclusion in such category of debt according to provisions of this Code;

- for the amount of tax debt which payment due date is delayed or spread according to provisions of this Code - from the date of adoption of the relevant act.

11. The provisions provided by this article extend also to tax agents.

Article 140. Suspension of account transactions with business bank accounts and individual entrepreneurs

1. Suspension of account transactions with business bank accounts and individual entrepreneurs (tax agents) in the credit and financial organizations means the termination of all account transactions from the schyotama, except for correspondent schyot of credit financial institutions, salary payment and another equated to it platyozhy and taxes.

2. The decision on suspension of account transactions with **business bank accounts** and individual entrepreneurs is accepted by authorized state body.

3. The decision on suspension of transactions with bank schyota is sent authorized state body in written or in electronic form to the credit and financial organization and to the private office of the taxpayer.

4. Suspension of account transactions with business bank accounts and individual entrepreneurs by authorized state body is performed for ensuring execution of tax liabilities of these legal entities and individual entrepreneurs in the following cases:

1) **non-presentation** by the legal entity and individual entrepreneur tax and (or) reportings in tax authority during two months under report, **availability** of specific information on risk of failure to pay tax debt by the taxpayer or **escape** of responsible persons of legal entities and individual entrepreneurs from the territory of the country, transfer of assets (money) to other person or **acceptance** of other measures interfering taxation and also **not response** by the taxpayer to the notification of tax authority, including in case of practical non-use of the official legal address or non-presentation of information on change of the legal address;

2) in case of non-compliance **with requirements** by the taxpayer Article 50 and 51 of this Code.

5. Suspension of account transactions with business bank accounts and individual entrepreneurs is performed with respect for the sequence established by the Civil code of the Republic of Tajikistan concerning platyozhy.

Article 141. The order of cancellation of the decision on suspension of account transactions with bank schyota of the taxpayer (tax agent)

1. The decision on suspension of account transactions with business bank accounts and individual **entrepreneurs** in the credit and financial organizations is cancelled on the following bases:

1) on point 1) of Part 4 of Article 140 of this Code - no later than one day after submission of financial and (or) tax statements by the taxpayer (tax agent) and also no later than date of recognition by tax authority of justification of absence of the taxpayer to the stated address. For such recognition legal entities and individual entrepreneurs or their representatives are obliged officially (in writing or electronically) to provide necessary explanations to tax authority in the place of registration;

2) on point 2) of Part 4 of Article 140 of this Code – after day, following, behind day when the official of tax authority gets admission to the documents necessary for check, and the place of implementation of business activity.

2. The absence of legal entities and individual entrepreneurs (tax agents) on the official legal address is considered reasonable **in case** information on change of the place of registration is not known to tax authorities in the previous place of registration because of technical mistakes or other similar circumstances.

3. The absence of branch or separate division of legal entities and individual entrepreneurs on the official legal address is recognized as reasonable **in case** information in tax authorities at liquidation of branch or separate division is not provided.

4. The decision on cancellation of suspension of account transactions with business bank accounts and individual entrepreneurs (tax agents) is sent to the credit and financial organization in the written or electronic form no later than one **day** after adoption of such decision.

5. The order of the direction of the decision of authorized state body on stay and (or) cancellation of suspension of account transactions with business bank accounts and individual entrepreneurs (tax agent) in credit financial institution in the electronic form is established by authorized state body in coordination with authorized state body in the field of finance and National bank of Tajikistan.

6. If the tax authority breaks the term of cancellation of the decision on suspension of account transactions with bank schyota of the taxpayer (tax agent) or the term of the direction of such decision in credit financial institution, or makes the decision contradicting provisions of this Code for each calendar day of non-compliance with the specified term and action of term **of the contradicting** decision concerning which the procedure of stay is performed, for benefit of the taxpayer interest, **at the rates used** in this period is accrued. In such cases the accrued interest is enlisted for the covering of the subsequent tax liabilities of the taxpayer.

Article 142. The order of execution by the credit and financial organizations of decisions on suspension of account transactions with bank schyota

1. **The credit and financial** organizations are obliged to perform the decision of tax authority on suspension of account transactions with bank schyota of the taxpayer (tax agent).

2. The credit and financial organizations do not bear liability for damages, suffered by the taxpayer (tax agent) as a result of suspension of its account transactions with bank schyota according to the decision of tax authority.

3. Suspension of account transactions with bank schyota of the taxpayer (tax agent) is performed from the moment of obtaining by the credit and financial organization the decision on suspension of transactions before cancellation of this decision if this Code does not provide other.

4. At the direction in credit financial institution in the electronic form of the decision on suspension of account transactions with bank schyota of the taxpayer (tax agent) date and time of receiving by credit financial institution of such decision is considered from the moment of receipt in the information system of credit financial institution.

5. The credit and financial organizations are obliged to perform the decision of tax authority or court on suspension of transactions from the schyotama of the

taxpayer (tax agent) and have no right to open to it new the account, deposits and deposits, to give cash from its schyot, except schyot on which according to the law collecting is not allowed. The credit and financial organizations are obliged to provide information in tax authorities before obtaining the written notice of cancellation of the decision on suspension of account transactions of the taxpayer. The tax authority has the right to check compliance to the requirements stated in this section and (or) accuracy of the information, the provided credit financial institution.

6. Credit financial institutions bear responsibility for non-execution or improper execution of the obligations provided by this article according to the legislation of the Republic of Tajikistan.

Article 143. Restriction on hand property of the taxpayer (tax agent)

1. The authorized state body has the right to limit the order to property of the taxpayer (tax agent) on the basis of the decision after application of provisions of **Part 4** of Article 140 of this Code and its non-execution.

2. The decision on restriction on hand with property of the taxpayer (tax agent) is made by authorized state body.

3. The decision on restriction on hand with property of the taxpayer (tax agent) with authorized state body is sent in the written or electronic form to the relevant state bodies on registration of real estate, pledge of property, the state notarial and customs authorities about the ban of alienation, pledge and the ban on export transactions with this property. The decision on restriction on hand with property of the taxpayer (tax agent) does not mean imposing of the ban on use of the taxpayer of such property, except for alienation, pledge and the ban on commission of export transactions with such property.

4. Execution of the decision of authorized state body on restriction on hand with property of the taxpayer (tax agent) is obligatory to register the bodies specified in Part 3 of this article which have powers actions for alienation, pledge and export transactions with this property.

5. The bodies specified in Part 3 of this article bear responsibility for observance of requirements of this article according to the legislation of the Republic of Tajikistan.

6. The authorized state body is obliged to send the decision on restriction on hand with property to the taxpayer (tax agent) in the written or electronic form.

7. The decision on restriction on hand is cancelled by property of the taxpayer on the bases specified in **Part 1** of Article 141 of this Code.:

8. The decision on cancellation of restrictions on hand with property of the taxpayer (tax agent) is sent to the bodies specified in Part 3 of this article, in the written or electronic form no later than the day following behind day of signing of the letter or adoption of such decision.

9. Restriction **on hand does not extend in the relation:**

- objects necessary for health and life;
- **power objects**, heating and other types of power;
- food or raw materials, the term of consumption and (or) the period of storage **of which** does not exceed one year;

- the property taken or which is handed over in **finance lease (leasing)** and also pledged property before the expiration of the agreement of leasing and pledge.

10. The objects necessary for the health and life for the purpose of specified in the paragraph the first Part 9 of this article are technology devices and units of the organizations **for supply** of gas, power, heating, **water** and sewerages which restriction can lead to destruction of engineering infrastructure of settlements.

CHAPTER 18. MEASURES OF RECOVERY BY ENFORCEMENT TAX DEBT

Article 144. General provisions on recovery by enforcement of tax debt

1. At partial or incomplete execution of the notice of repayment of tax debt at the scheduled time, recovery by enforcement of this debt in the order provided by this chapter is made.

2. The tax debt **recognized by the taxpayer forcibly is collected** from the taxpayer and other persons, in the cases provided by this Code.

3. If the obligation of the taxpayer for payment of taxes is provided with the bank guarantee or the guarantee of the third party, at non-execution by the taxpayer of tax liabilities the tax authority collects tax debt from the credit and financial organization guarantor or the guarantor.

4. Tax debt is forcibly collected from the legal entity or the individual entrepreneur in the order provided by Articles 145-149 and 152 of this Code.

5. Tax debt of natural person, not being the individual entrepreneur, is forcibly collected as it should be, the stipulated in Clause 152 presents of the Code.

6. Tax debt is forcibly collected from the legal entity or the individual entrepreneur first of all at the expense of money on its schyota in the credit and financial organization, and at their insufficiency, at the expense of other property of this person.

7. If it is impossible to collect tax debt of the taxpayer or other person at the expense of money on its schyota in the credit and financial organization, then in the cases provided by this article, tax debt forcibly is collected from other persons.

8. If revenue of the taxpayer from sales of goods (performance of works, rendering services) or other income arrived on bank the account of other persons, recovery by enforcement of tax debt of the taxpayer can be made from these faces.

9. If since the moment as the taxpayer learned about tax audit and transferred the money or other property to other persons, recovery by enforcement of tax debt can be made from these faces.

10. Provisions of Parts 8 and 9 of this article are applied also in cases when transfer from sales of goods (performance of works, rendering services) or other income, or transfer of money and other property to other persons were made through set of transactions.

11. In the cases provided by parts 8-10 these articles, recovery by enforcement of tax debt from other persons is made within the proceeds from sales of goods

which arrived it (performance of works, rendering services), other income of the taxpayer transferred to them in cash and also costs of other property. **On the basis of** the available information and depending on the amount of tax debt of the taxpayer the tax authority has the right to define independently the number of other persons and the ratio of amount of tax debt to each person and to make collecting this debt.

12. Collecting the tax debt which is not recognized by the taxpayer from bank schyot of the taxpayer **is made** according to Article 152 of this Code only judicially. In case of recognition by the taxpayer of the amount of tax debt, tax debt is collected by tax authorities from bank schyot of the taxpayer as it should be, stipulated in Clause 145 these Codes.

13. Provisions of this chapter extend **also** to collecting tax debt in connection with movement of goods through the customs border of the Republic of Tajikistan and also to tax agents.

Article 145. Recovery by enforcement of tax debt from bank schyot

1. At partial or incomplete execution of the requirement of the notice of repayment of tax debt at the scheduled time, the amount of tax debt is forcibly collected from bank schyot (including means on corporate cards) the taxpayer.

2. Provisions of this article are applied **only** to legal entities and individual entrepreneurs.

3. The order of recovery by enforcement of tax debt of the taxpayer or tax agent provided **by this article**, Articles 146-149 and 152 of this Code extends also to other persons.

4. Collecting tax debt from the bank account of the taxpayer is made by the direction in the credit and financial organization of the decision of the tax authority, the collection order and reconciliation statement approved in accordance with the established procedure by tax authority and the taxpayer in the written or electronic form. Collecting tax debt from schyot of the taxpayers included in the list of irresponsible taxpayers is performed by the direction of the decision of tax authorities and the collection order in **the credit and financial** organization.

5. The order of execution and cancellation of the decision, **the form and the order of signing** of the reconciliation statement approved by tax authority and the taxpayer in the written or electronic form **the form and the order of departure in the credit and financial organization** of the collection order of tax authority approves by authorized state body in coordination with authorized state body in the field of finance and National bank of Tajikistan.

6. The credit and financial organization is obliged to perform the collection order of tax authority on write-off of tax debt from schyot of the taxpayer in the order established by the civil legislation.

7. The withdrawal of not performed decisions and collection orders is performed by the official appeal of authorized state body to the credit and financial organization in the following cases:

1) **repayment** of tax debt, including by means of offset of excessively paid or excessively collected amounts according to Chapter 15 of this Code;

2) **granting** the delay and payment by installments of tax debt according to Chapter 15 of this Code;

3) **recognition** of the bad tax debt according to article of 131 presents;

4) **reduction** of the amounts of tax and percent on the specified tax statements provided according to Article 100 of this Code.

8. Tax debt is collected from the on-demand deposit account in national currency, and at insufficiency of means on such schyota - from the on-demand deposit account in foreign currency of the taxpayer. Tax debt is collected from the account of the taxpayer in foreign currency at the rate of National bank of Tajikistan in the size sufficient for repayment of tax debt.

9. Collecting tax debt from term deposit accounts of the taxpayer before the expiration of their action is forbidden.

10. **When collecting tax debt from the currency account of the taxpayer, the authorized state body along with the collection order sends to the credit and financial organization, the decision having data on foreign currency sales of the taxpayer.** The credit and financial organization is obliged to execute this order no later than the next working day. Payment of the operating expenses connected with foreign currency sales bears the taxpayer.

11. The credit and financial organization is obliged to execute the collection order of authorized state body directed according to requirements of this article from the bank account of the taxpayer in national currency no later than one working day after obtaining the collection order, and at write-off of funds from schyot in foreign currency, no later than two working days.

12. If in day of receipt in the credit and financial organization of the collection order of tax authority on schyota of the taxpayer, there are not enough money for its execution, it is performed in process of cash receipt on these the account no later than one or two working days after receiving order depending on the account currency. The collection order of authorized state body is performed **by the credit and financial** organization in the order established by the civil legislation **of the Republic of Tajikistan.**

Article 146. Recovery by enforcement of tax debt from bank schyot of debtors (debtors) of the taxpayer

1. **As required** impossibility of collecting tax debt from bank schyot of the taxpayer, the tax authority has the right to collect the amount of tax debt of the taxpayer from schyot of his debtors (debtors), however the collectible amount cannot exceed the tax liability of the taxpayer.

2. The amount of tax debt is collected from bank schyot of debtors of debtors of the taxpayer on the basis of the decision of authorized state body.

3. The taxpayer (tax agent) is obliged to provide the list of debtors (debtors) with indication of amounts receivable within **10** working days from the date of receiving request for submission of documents to the tax authority which sent such request.

4. On the basis of the list of debtors (debtors) and (or) documents confirming such debt, the tax authority directs the notification to debtors (debtors) of the taxpayer.

5. Debtors (debtors) **of the taxpayer** are obliged within **20** working days from the date of obtaining the notice to provide to the tax authority which directed the notice, the settlement reconciliation statement with the taxpayer (tax agent).

6. The settlement reconciliation statement between the taxpayer and his debtors (debtors) shall contain the following information:

1) name and uniform taxpayer identification number (tax agent) and his debtors (debtors);

2) outstanding amount of debtors (debtors) to the taxpayer (tax agent);

3) personal data, seal and signature of the taxpayer (tax agent) or digital signature of the taxpayer and his debtors (debtors);

4) bank details of the taxpayer and debtors (debtors);

5) date of drawing up reconciliation statement.

7. The settlement reconciliation statement between the taxpayer and his debtors (debtors) shall be formed after the date of receipt of the notice.

8. In case of non-compliance with requirements **of the specified** notice and non-presentation of the requested information the debtor (debtor) bears responsibility according to the legislation of the Republic of Tajikistan.

9. The decision of tax authority on collecting the amount of tax debt from the bank account of debtors (debtors) of the taxpayer is made out and sent in written or to the credit and financial organizations in electronic form and debtors (debtors) for execution.

10. The credit and financial organization is obliged to perform the decision and the collection order of tax authority on collecting tax debt from the bank account of the creditor of debtors (debtors).

11. In case of complete repayment of the outstanding amount debtors (debtors), the decision on collecting the amount of tax debt and the collection order of tax authority **responds** within 2 working days

12. If the excessive amount is collected from bank schyot of debtors (debtors) of the taxpayer in the credit and financial organizations, excessively collected amount on the basis of **the statement** of the taxpayer returns tax authority to debtors (debtors).

13. Stay and cancellation of the decision on collecting the amount of tax debt from bank schyot of debtors (debtors) of the taxpayer is performed according to Articles 136 and 145 of this Code according to the decision of authorized state body.

Article 147. Recovery by enforcement of tax debt from cash of the taxpayer

1. In the absence of money on bank schyota of the taxpayer or in the absence of means for payment of tax debt, the tax authority can collect the amount of tax debt in the size which is not exceeding **the tax liability** from the money which is available in cash desk of the taxpayer. If on bank schyota of the taxpayer there are not enough means for the covering of tax liabilities of the taxpayer or the tax

authority reasonably believes that the delay in collecting the tax on its bank schyot can take place, the tax authority has the right, in addition to any actions taken according to Article 144 of this Code at the same time to collect tax arrears in the size which is not exceeding the tax liability from the money which is available in cash desk of the taxpayer.

2. Acceptance or cancellation of the decision on collecting tax debt from cash of the taxpayer is performed by authorized state body according to provisions of this Code.

3. After adoption by authorized state body of the decision on collecting tax debt from cash of the taxpayer the copy of the decision is transferred to the taxpayer for execution. From the moment of decision-making the taxpayer is obliged to use all cash which came to cash desk of the taxpayer (except for money for salary payment and equivalent payments), only for the covering of tax debts.

4. The official of tax authority carries out inventory of the cash which is available in cash desk of the taxpayer in the presence of the cashier.

5. At execution of the decision on collecting tax debt from cash of the taxpayer **the employee** of tax authority draws up the statement of the balance in cash **in cash desk of the taxpayer**. At the same time the taxpayer or his responsible person in writing confirms and undertakes to fulfill this requirement.

6. Cash withdrawal of money of the taxpayer from its cash desk is performed by tax authority on the basis of requirements of this article about what the statement in triplicate in the presence of the taxpayer or his representative understood with indication of the total found amount is drawn up. The specified amount **is transferred** by tax authority on the same day to credit financial institution for transfer in the corresponding budget.

7. To the covering of this debt the taxpayer has no right to perform other payments, except for salary payment and payments equated to it.

Article 148. Seizure of property and its realization

1. The seizure of property and its realization **are** action of tax authority for ownership limitation of the taxpayer and collecting tax debt.

2. The seizure of property and its realization for repayment of tax debt which is recognized by the taxpayer is performed according to the decision of authorized state body. In case of non-recognition by the taxpayer of tax debt, the seizure of property of the taxpayer and his realization are performed judicially.

3. The partial or complete seizure of property is restriction of the right of the taxpayer for the order of the distrained property. In this case ownership and use of the distrained property is performed with the written permission and under control of tax authority.

4. The seizure of property and its realization **are performed** only in case of insufficiency or lack of means on the bank account of the taxpayer and or cash at the checkout for execution of tax liabilities (tax debt, percent and penalties).

5. The seizure of property and its realization **are performed** after the direction by tax authority of the notification to the taxpayer according to Article 133 of this Code.

6. Only those assets, cost which it is sufficient for repayment of tax debt are subject to arrest and realization.
7. All distrained property can be subject to realization for ensuring execution of tax liabilities.
8. Arrest of fixed assets of the state enterprises is forbidden.
9. Arrest and realization of real estate of the foreign legal entity performing activity in the Republic of Tajikistan without formation of the permanent establishment is performed concerning property of this foreign person in the Republic of Tajikistan.
10. The seizure of property of the taxpayer is performed with participation of the taxpayer (his authorized representative), witnesses and in case of evasion of the taxpayer, with involvement of the representative of law-enforcement bodies.
11. Their rights and duties are explained to the persons participating in the course of the seizure of property as witnesses, the taxpayer or the authorized representative of the taxpayer.
12. Before carrying out the seizure of property officials of tax authority are obliged to provide to the taxpayer (his representative) the decision on arrest and the documents confirming them powers.
13. At arrest by the official of tax authority the protocol on the seizure of property is formed.
14. The protocol on the seizure of property and the list of objects attached to it shall contain the list of the distrained property with indication of the name, quantity and individual properties of objects and whenever possible, their costs.
15. Witnesses and the taxpayer (his representative) examine all arrested objects.
16. In the solution on arrest and realization of property the place of storage of the distrained property is established.
17. Alienation (except as specified when alienation is carried out under control or with written, or electronic permission of tax authority which carried out the seizure of property), or waste of the distrained property is not allowed.
18. At the request of the taxpayer on whose property the decision on arrest and its realization is made the tax authority has the right to replace the seizure of property with the bank guarantee and or the guarantee according to Article 137-138 of this Code.
19. In the presence at tax authority of data on intentions at the taxpayer to hide or take other actions which can complicate or make impossible execution of the decision of tax authority on the seizure of property the tax authority has the right to arrest property of such taxpayer in time off.
20. The tax authority is obliged to notify other relevant state bodies on the ban to make any actions concerning the distrained property of the taxpayer.
21. The ban on implementation of any actions concerning the distrained property is obligatory **for all state bodies** according to Part 20 of this article.
22. Non-compliance with requirements of this article by the state bodies provided by Part 20 of this article attracts the administrative responsibility, **according to** the legislation of the Republic of Tajikistan.

23. At complete payment of tax debt, providing the bank guarantee or guarantee, the decision on the seizure of property is cancelled by authorized state body.

24. The tax authority notifies the taxpayer on cancellation of the decision on the seizure of property within 3 days from the date of adoption of such decision.

25. The decision on the seizure of property works from the moment of arrest before cancellation of the decision by authorized state body or judicial authorities.

26. Provisions of this article, extend also to the seizure of property of the legal person tax agent.

27. Assessment of the distrained property is performed by the state authorized bodies in the sphere of assessment and also the physical persons and legal entities having the license for implementation of estimated activity.

28. Selling of the arrested finished goods (goods), agricultural products (except for perishable products) and also other material values which are not intended for direct use in production is performed by means of the auction.

29. Cost determination of securities, jewelry and other products from precious metals, and gemstones, antiques, works of the fine arts and the sculpture concerning which arrest is executed is made at obligatory involvement of specialists in these areas.

30. The distrained property of the taxpayer is implemented by tax authorities at the auction according to this Code, the relevant legislation and Order of realization of methods and measures for ensuring accomplishment of tax liabilities.

Article 149. Agreement on the order and conditions of payment of tax debt

1. The taxpayer in respect of whom the measures provided in Chapters 17 and 18 of this Code are taken can provide the plan for repayment of tax debt and conclude with tax authority the agreement on the order and repayment periods of the amount of tax debt for a period of up to 6 consecutive calendar months.

2. In case of agreement signature about the order and repayment periods of the amount of tax debt accomplishment of earlier made decisions on application of the measures provided in Chapters 17 and 18 of this Code stops the duration of the agreement.

3. The head of authorized state body can prolong in addition operation **of the specified** agreement with the taxpayer **once** for a period of up to six consecutive months.

4. Completion dates **of the specified** agreement and suspension of earlier made decisions of tax authority on application of measures for **recovery by enforcement** of taxes cannot be prolonged over the terms specified in Parts 1 and 3 of this article.

Article 150. Bankruptcy of the taxpayer (tax agent)

In the case, **nonpayments by the taxpayer** (tax agent) **of tax debt** before the budget after acceptance of all measures provided in Chapters 17 and 18 of this Code or if the taxpayer has no money on its bank account and (or) **property** and (or) accounts receivable, with signs of bankruptcy, the tax authority has the right to take

legal action with the statement for recognition of the taxpayer by the bankrupt according to the legislation of the Republic of Tajikistan on bankruptcy.

Article 151. Recovery by enforcement of tax debt from natural person

1. If the natural person (except for the individual entrepreneur) did not fulfill in established by this Code term the obligation for payment of taxes, the tax authority files the petition about collecting tax debt from property of natural person further in this article – the statement for collecting).

2. The tax authority also has the right to take legal action about property attachment of natural person for ensuring execution of the notice.

3. The copy of the application about collecting **the tax** no later than day of its giving goes to court tax authority to natural person.

4. The statement for collecting taxes is brought into court in case the total amount of tax debt of natural person is more than 250 indicators for calculations.

5. Tax debt of natural person **is collected at the expense of property** on the basis of the judgment and provisions of this article.

6. Collecting tax debt of natural person is performed in the following sequence:

1) from the bank account of natural person;

2) at the expense of cash of natural person;

3) at the expense of property of natural person, except as specified, when arrest and sale are prohibited by the legislation of the Republic of Tajikistan.

7. Violation of the sequence of collecting the tax debt of natural person established by Part 6 of this article is not allowed.

8. From the date of property attachment of natural person about day of execution of tax liabilities, **for non-payment of taxes at the scheduled time** penalties are not imposed and interest is not accrued.

Article 152. Collecting tax debt judicially

1. In case of non-recognition by the taxpayer of tax debt (the amount of the accrued taxes which are (additionally accrued) of percent and penalties) the authorized state body in the order established by the legislation and provision of Part 3 of Article 151 of this Code files the action for declaration to court and **sends** the copy of the action for declaration to the taxpayer.

2. The statement of authorized state body for collecting tax debt from the legal entity or the individual entrepreneur is considered economic by court.

3. The application of authorized state body for collecting tax debt from natural person is considered by court in the location of the taxpayer - natural person.

4. The judgment on recovery by enforcement of tax debt after the introduction in legal force is performed in the order provided by the legislation of the Republic of Tajikistan.

CHAPTER 19. CONSULTATIONS ON TAX QUESTIONS

Article 153. Consultation on tax questions

1. Consultation on tax questions is the rendering the qualified and professional help by independent tax consultants to taxpayers for application of provision of this Code and other regulatory legal acts regulating tax questions.

2. Consultation is performed on the basis of the agreement on the following questions:

1) consultation of taxpayers on tax questions, including on financial accounting and reporting, and **development** of documents and tax reports;

2) consultation regarding return of excessively paid and collected amount of taxes, percent and penalties, and the indemnification caused by officials of tax authority;

3) consultation on the tax questions considered in **judicial, tax and other state bodies**.

Article 154. Independent tax consultants

1. Can be independent tax consultants:

1) the natural person having the confirming qualification **certificate** of the independent tax consultant in the order established by the legislation;

2) the legal entity – economic entity as a part of **which** not less than 3 **persons** have the qualification certificate of the independent tax consultant;

2. Implementation of activity as the independent tax consultant without competence certificate is forbidden.

3. The consultant of the taxpayer has the right to participate in judicial and other authorities as the independent expert on tax disputes.

4. The order and conditions of activity of independent tax consultants of their **qualification** certification, are established by authorized body in the field of **finance**.

Article 155. Rights and duties of the independent tax consultant

1. The independent tax consultant has the right to be called "the tax consultant" at implementation of the professional activity.

2. Independent tax consultants are independent of state bodies, taxpayers and the third parties.

Article 156. Responsibility of the tax consultant

1. The tax consultant otvetstven for the protection of the trade secret and data on activity of the taxpayer revealed by him during the course of performance contractual commitments with taxpayers for nonprofessional rendering the advisory services in tax questions which entailed **causing material damage** to the taxpayer as a result of the wrong consultation for providing illegal consultation with the purpose of evasion of the taxpayer from payment of taxes.

2. The tax consultant cannot be brought by tax authorities and other state bodies in as a witness on the questions **which became known** to him during the course of performance **contractual instructions with the taxpayer**.

CHAPTER 20. RESPONSIBILITY

Article 157. Tax offense

1. Illegal act (actions or failure to act) of taxpayers, tax agents and their officials and also officials of authorized bodies which led to non-execution or improper execution of requirements of this Code and other regulatory legal acts of the Republic of Tajikistan which control is imposed on tax authorities is recognized as tax offense.

2. Commission by taxpayers, tax agents, their officials and officials of authorized bodies of violations of the tax law attracts the responsibility provided by this Code and other regulatory legal acts of the Republic of Tajikistan.

Article 158. The circumstances excluding responsibility for commission of tax offense

1. In addition to the cases provided by the legislation of the Republic of Tajikistan involvement **of the person** to responsibility in the case is not allowed:

- **accomplishment** by the taxpayer (tax agent) of written explanations of authorized state body on execution of tax liabilities;

- **independent elimination** by the taxpayer (tax agent) of tax offense before the date of receipt of the notice of tax audit.

2. **If the legislation of the Republic of Tajikistan does not provide other**, the person does not bear responsibility in the presence of at least one of the following cases:

- lack of the event of tax offense;

- lack of fault of the person in commission of tax offense;

- commission of the act containing signs of tax offense, the natural person which did not reach by the time of commission of act of 16-year age;

- the expiration **of limitation** period of prosecution for commission of tax offense.

CHAPTER 21. DISPUTE RESOLUTION

Article 159. Appeal

1. Each taxpayer has the right to appeal against decisions and acts of tax authorities, actions or failure to act of their **workers**. Decisions and acts of tax authorities adopted with violation of requirements of this Code and limiting or forbidding the rights and legitimate interests of taxpayers have no legal force.

2. The appeal of acts of tax authority means the simultaneous appeal of decisions, the acts adopted on the basis of it.

3. The taxpayer can file the complaint to higher tax **authority and (or)** to court.

4. Complaints (actions for declaration) of the taxpayer which are filed a lawsuit are considered and permitted in the order established by the legislation of the Republic of Tajikistan.

5. The complaint to the act of tax audit, charge of the amount of tax, penalties and percent and also other decisions of tax authority can be submitted within 30 calendar days from the date of receipt by the taxpayer of the decision of tax authority.

6. In case of the admission on reasonable excuse of submission due date of the complaint in tax authority the term established by Part 5 of this article according to the reasonable statement of the person, will be restored by higher tax **authority** within the term of **limitation** period established by this Code.

7. The tax authority considers the complaint of the taxpayer and makes according to it the decision and officially (in writing or electronically) notifies the applicant in time, not exceeding 30 calendar days from the date of receipt of the complaint in tax authority. At necessary cases, the term of consideration of the complaint lasts up to 10 calendar days if change of term is not connected with accomplishment of provisions of Part 10 of this article.

8. If the taxpayer did not receive the official answer from territorial **tax** authority in the time established by Part 7 of this article, **he** addresses with the complaint to higher **body** or to court.

9. The tax authority has the right to prolong at the request of the taxpayer submission due date of the complaint of the taxpayer for a period of up to 30 days.

10. The tax authority by consideration of the complaint of the taxpayer has the right:

- in accordance with the established procedure to appoint tax audit, including repeated tax audit;

- send inquiries to the taxpayer and (or) to the tax authority which was carrying out tax audit for providing the additional information or explanation by the questions stated in the complaint;

- send inquiries to the relevant state bodies and also to competent tax authorities of the foreign states by the questions connected **with** thematic check;

- consider the submitted address with participation of the taxpayer (his authorized person) and the person responsible for the tax authority which was carrying out tax audit.

11. By results of consideration of the complaint the higher tax authority or authorized **state** body makes the relevant decision and the copy sends to the taxpayer and **tax authority** concerning which decision the complaint is provided.

12. The taxpayer has the right to appeal in court of action (failure to act) of officials of tax authorities in the order provided by the legislation of the Republic of Tajikistan.

Article 160. Council of the pre-judicial dispute resolution

1. **Council of the pre-judicial dispute resolution** (further - Council) is interdepartmental advisory body on pre-judicial consideration of tax disputes at authorized state body which structure is formed of number of representatives of bodies **in the sphere of finance**, justice, support of the entrepreneurship, **taxes**, industry bodies, experts and independent consultants.

2. Activity of Council within objectives and professionalism of its participants is performed free of charge.

3. Activity of Council consists of pre-judicial consideration of the questions connected with taxation of taxpayers and tax authorities, complaints of taxpayers to acts and decisions of the tax authorities and other questions demanding the industry conclusions.

4. By results of consideration of the questions posed Council introduces **the recommendatory conclusion** about adoption of the relevant decision in authorized state body.

Article 161. Consequences of filing of application (complaint) concerning charge of the amounts of tax, penalties and percent

1. Before completion of consideration of the application (**complaint**) of the taxpayer concerning the act or the decision of tax authority, according to provisions of Chapters 17 and 18 of this Code only the part of recognized tax liabilities is paid or collected.

2. Interest for failure to pay is accrued at the scheduled time only concerning the amount of the recognized taxes which are in addition accrued including the amount of tax recognized by the taxpayer after consideration of the address of the taxpayer.

SECTION V. TAX AUTHORITIES

CHAPTER 22. TAX AUTHORITIES

Article 162. Main objectives of tax authorities

1. Tax authorities perform the activity according to this Code and other **regulatory legal acts** of the Republic of Tajikistan in interaction with other state bodies, self-government institutions of settlements and villages and also tax authorities of other states.

2. Fundamental obligations of tax authorities are:

- ensuring performance of the tax law of the Republic of Tajikistan with participants of the tax relations;

- ensuring receipt of taxes and others obligatory platyozhy in the budget in fixed term participants of the tax relations;

- participation within the powers in the course of **development** and improvement of the tax law of the Republic of Tajikistan;

- participation within the powers in the course of development and improvement of the legislation of the Republic of Tajikistan on state registration of economic entities;

- assistance to taxpayers in accomplishment of tax liabilities by them and observance of the tax law;

- determination of procedures and methods of carrying out the analysis of corruption risks in tax authorities and their realization;

- **development and realization of state policy** about state registration of economic entities in limits the powers;
- accomplishment of other tasks assigned to tax authorities by regulatory legal acts of the Republic of Tajikistan.

Article 163. Legal status and structure of tax authorities

1. Tax authorities of the Republic of Tajikistan (further - tax authorities) consist of authorized state body and territorial tax authorities which in general form the uniform centralized system of tax authorities of the Republic of Tajikistan.

2. The structure, the management plan and the list of the enterprises (organizations) of the system **of tax authorities**, the order of their activity and structural divisions and also relationship of tax authorities with other bodies, the organizations, organizations and citizens are established by provisions of tax authorities.

3. Territorial tax authorities are accountable and submit to the relevant higher tax authorities. Territorial tax authorities consist of internal revenue service on taxation of large taxpayers with inspections in the Gorno-Badakhshan Autonomous Region, areas and the city of Dushanbe, internal revenue services of the Gorno-Badakhshan Autonomous Region, areas and the city of Dushanbe, the tax inspections in the cities (areas) and also regional bodies of authorized state body for state registration of legal entities and individual entrepreneurs.

4. Financing of activity of tax authorities is performed at the expense of means of the republican budget.

5. Tax authorities are legal entity, have separate balance, special the account in the central treasury of the Ministry of Finance of the Republic of Tajikistan or its local bodies, the seal with the image of the State Emblem of the Republic of Tajikistan and its name in the state language.

6. Tax authorities have the symbol and the departmental **breastplate** which description approves by the Government of the Republic of Tajikistan.

Article 164. Employees of tax authorities and their responsibility

1. **Employees** of tax authorities are public servants, their legal status and social guarantees **are regulated** by the Law of the Republic of Tajikistan "About Public Service".

2. Official IDs which sample approves by authorized state body are issued **to employees** of tax authorities in confirmation of their powers.

3. **To employees** of tax authorities qualification ranks are in accordance with the established procedure awarded.

4. Samples and criteria of issue by tax authorities of the special form according to their ranks approve by the Government of the Republic of Tajikistan.

5. Qualification ranks **of employees** of tax authorities are established by Madzhlisi namoyandagon Majlisi Oly of the Republic of Tajikistan. Regulations on the order of assignment of qualification ranks to employees of tax authorities affirm the President of the Republic of Tajikistan.

6. **When** carrying out tax control and checks causing is forbidden to employees of tax authorities by wrongful acts of damage to taxpayers or the property which is in their use or the order.

7. **For** non-execution or improper execution of the duties **and also** non-compliance with the state, official, tax, trade and bank secrecy **protected by the law**, abuse of official position, causing damage to the taxpayer when carrying out tax control and **tax** audits and other illegal acts according to the legislation of the Republic of Tajikistan, employees of tax authorities are brought to disciplinary, administrative or criminal responsibility.

8. The damage caused to taxpayers by illegal decisions of tax authorities or actions of their officials when carrying out tax control and **tax** audits is defined by the judgment and are subject to compensation in full in **the order established** by the legislation of the Republic of Tajikistan.

9. The damage caused to taxpayers or their representatives by lawful actions of officials of the tax authorities, except as specified, provided by the legislation is not subject to compensation.

Article 165. Interaction of tax authorities with other state bodies

1. Tax authorities perform the activity irrespective of other central and local public authorities, self-government institutions of settlements and villages. **Execution** of the decisions made by tax authorities within the powers are obligatory for all physical persons and legal entities.

2. The central and local public authorities, self-government institutions of settlements and villages are obliged to render assistance to tax authorities performed by the tax law of the Republic of Tajikistan, ensuring completeness and timeliness of receipt of taxes in the budget. Intervention in activity of tax authorities is forbidden to the specified bodies **if the legislation of the Republic of Tajikistan does not establish other**.

3. Exchange of information between tax authorities and other relevant state bodies is performed according to the legislation of the Republic of Tajikistan.

4. Customs authorities, social security authorities of the population, other state bodies and the credit and financial organizations are regularly obliged to provide in accordance with the established procedure to tax authorities the information necessary for performance of the tax law of the Republic of Tajikistan which is available for them.

Article 166. Reports

1. The authorized state body within **6** months after the termination of each calendar year publishes the activities report of tax authorities on the official site.

2. The annual report of authorized state body shall contain the following information:

- the detailed analysis of realization of tax revenues, including by each type, taking into account their belonging to areas, the cities and areas;
- data on application of tax benefits to taxpayers and **the tax deferral** according to regulatory legal acts;

- the analysis of the reasons and factors of emergence of tax shortages on types of tax in areas, the cities and areas, their ratio to cumulative annual tax revenues;
- analysis of state registration of legal entities and individual entrepreneurs;
- information on supervising work of bodies and **its** results;
- information on complaints of taxpayers and results of their consideration;
- about the taken measures for improvement of tax administration, including introduction of modern digital programs and technologies;
- assessment of level of satisfaction of taxpayers with services of tax authorities;
- about the existing problems and the prospects of activity of tax authorities for the medium term.

3. The authorized state body posts on the official website and constantly updates the list of taxpayers whose tax was estimated (is added), but remains unpaid in the amount exceeding 5000 indicators for calculations with indication of the size of the shortage.

Article 167. Rights of tax authorities

1. Tax authorities according to this Code have the right:
- participate in process of development and improvement of the tax law;
 - develop and approve the regulatory legal acts following from this Code **in the order established by this Code and other regulatory legal acts**;
 - exercise control **of observance of provisions of the tax law**;
 - perform the international cooperation on taxation;
 - have electronic access to the information system containing source accounting documents of taxpayers (tax agents) for viewing of data of the software of automatic accounting and tax accounting;
 - **make** according to provisions of this Code withdrawal of documents of the taxpayer and also the data which are in the electronic media connected with operations on taxation;
 - according to this Code to count the size of the tax liability (using methods of direct and indirect assessment, market prices or data of time inspection);
 - **perform** when conducting tax audits of verification of the finance documents, ledgers, reports, estimates, cash, securities and other values, calculations, declarations and other documents connected with calculation and payment of taxes, to receive from officials and other employees of the organizations and natural persons information, data and written explanations on the questions arising during the specified checks;
 - during tax audit in the order established by this Code to conduct examination and inventory of property of the taxpayer (except premises);
 - **examine** production, trade, warehouse and other premises of the enterprises and natural persons **used** for income acquisition or the maintenance of the taxation objects during tax audit;
 - give to heads and other officials of the organizations and also natural persons, obligatory instructions on elimination of tax offenses and control their accomplishment;

- petition for suspension (cancellation) of action of licenses for implementation of separate types of activity;
 - **apply** for the assumption of tax offenses of the sanction and penalties provided by this Code and the legislation of the Republic of Tajikistan;
 - levy according to provisions of this Code taxes, accrued fines and percent on taxpayers, their officials and natural persons, including by means of presentation of claims in court;
 - **apply** in case of violation by the taxpayer of requirements of the tax law, the established types of responsibility;
 - demand from the taxpayer (tax agent) of submission of the documents validating calculations and timeliness of payment of the taxes **made** by the taxpayer (tax agent) of tax statements, financial statements of the taxpayer with appendix of the audit report in case for such person legal acts of the Republic of Tajikistan establish obligatory carrying out audit;
 - in the order determined by this Code, the legislation of the Republic of Tajikistan on enforcement proceeding and other regulatory legal acts of the Republic of Tajikistan to apply measures for compulsory collection of taxes, penalties and percent, to collect the amounts of tax debt and to control their **execution** in activity of taxpayers and the credit and financial organizations;
 - attract (to invite) to carrying out tax control **of consultants**, specialists, experts, witnesses and translators;
 - in terms and in the cases provided by this Code to notify taxpayers on accomplishment of tax liabilities;
 - according to provisions of this Code to request from state bodies, organizations, the organizations of the Republic of Tajikistan and competent authorities of the foreign states of data, connected with operations on taxation;
 - perform other rights established by this Code and other regulatory legal acts.
2. Higher tax authorities have the right to cancel decisions of subordinate tax authorities in case of their discrepancy to the tax law of the Republic of Tajikistan.

Article 168. Obligations of tax authorities

1. Tax authorities are obliged:

- observe the Constitution of the Republic of Tajikistan, this Code, the constitutional laws and other laws of the Republic of Tajikistan, Madzhlisi Millie and Madzhlisi's joint resolutions namoyandagon Majlisi Oly of the Republic of Tajikistan, Madzhlisi Millie's resolution, Madzhlisi's resolution namoyandagon, the regulatory legal acts of the President of the Republic of Tajikistan and the Government of the Republic of Tajikistan protected by the law of the right and the interests of the enterprises, organizations and other organizations and also citizens;
- control correctness of calculation, completeness and fixed terms of payment of taxes in the budget, completely and to precisely observe the tax law of the Republic of Tajikistan;
- observe and protect the rights and legitimate interests of taxpayers;
- provide the publication of acts of the tax law on the official site of authorized state body and access for taxpayers to other questions connected with taxation;

- assist taxpayers in application of the tax law;
- to regularly introduce new types of rendering electronic services for taxpayers for the purpose of optimization of execution of tax liabilities;
- perform state registration of legal entities and individual entrepreneurs according to the Law of the Republic of Tajikistan "About State Registration of Legal Entities and Individual Entrepreneurs";
- provide the complete and timely taxpayer registration, including payers of value added tax, the taxation objects, accounting of the taxes and shortages estimated (added) and paid;
- make arrival reports of taxes in the budget;
- keep account and make the reporting on the amounts of the provided tax benefits by groups of taxpayers, types of tax and privileges and also regions;
- collect the penalties and percent provided by this Code and other regulatory legal acts of the Republic of Tajikistan;
- exercise tax control according to regulatory legal acts of the Republic of Tajikistan;
- develop rules, **orders**, methodical instructions and instructions according to provisions of this Code;
- **to regularly carry out explanatory work on questions of execution of tax liabilities by means of mass media and to publish benefits, brochures and posters;**
- according to the statement of the taxpayer within 5 working days to provide the statement from its personal account about the condition of calculations with the budget for execution of tax liabilities;
- apply measures of recovery by enforcement of tax debt of the taxpayer according to this Code and other regulatory legal acts of the Republic of Tajikistan;
- represent to taxpayers the second copy of the act of tax audit and the relevant decision of tax authority by results of tax audit;
- keep account of control and cash devices with fiscal memory;
- review in accordance with the established procedure requests, statements, complaints and offers on the questions **referred to competence** of tax authorities;
- to monthly represent to financial bodies **necessary** data on the added and paid tax and non-tax amounts, tax shortages, tax benefits, sources of taxation and the number of taxpayers within the bilateral agreement;
- collect, analyze and estimate information on violations of the tax law, make **recommendations** about elimination of the reasons and conditions leading to emergence of similar cases in the relevant state bodies;
- read and return **to taxpayers** of the amount, paid over the accrued tax, according to provisions of Article 117 of this Code;
- provide confidentiality of the mystery of activity of the taxpayer;
- carry out explanatory work on application of the tax law of the Republic of Tajikistan, represent in accordance with the established procedure to taxpayers of the form of tax statements and explain the order of their filling, make explanations, including written, about the order of calculation and payment of taxes;

- ensure during the term **of limitation** period safety of tax statements, payment documents, acts of tax audits and other documentation concerning this specific taxpayer;

- make personal records of taxpayers concerning legal entities, individual entrepreneurs and also natural persons obliged to represent tax declarations according to this Code;

- in case of identification of the signs of crime in activity of the taxpayer connected with execution of tax liabilities within 10 working days according to Parts 2 and 6 of Article 170 of this Code to direct materials **to the relevant** law enforcement agencies for taking measures;

- exercise control **of activity** of subordinate territorial tax authorities and other jurisdictional enterprises, organizations and organizations.

2. Tax authorities carry out also other duties provided by the tax law of the Republic of Tajikistan.

Article 169. Conflict of interest

The employee of tax authority is forbidden to fulfill service duties in relation to taxpayers with whom it consists in the related relations, or has direct or indirect interest.

Article 170. Secrecy of data (tax secret)

1. Tax authorities, substructures of tax authority, tax agents and their **workers** (in operating time or after dismissal) are obliged to keep confidentiality of any information on taxpayers, except for the following information:

- **about the taxpayer identification number;**
- about shareholders and participants of legal entities;
- about tax regime of the taxpayer;
- about the number **of workers** specified in declarations;
- about paid amounts and tax debt;
- about the amount of income and expenses in accounting records;
- about violation by the taxpayer of requirements of the Tax Code and the measures applied to it;
- other information published with the consent of the taxpayer.

2. Tax authorities and tax agents **have the right** to provide the information about the taxpayer in the order **established by this article**, only to the following persons:

- To the Ministry of Finance of the Republic of Tajikistan and **employees** of tax authorities for the purpose of execution of service duties;
- to law enforcement agencies in case of non-compliance with the tax **law** and in case of commission of crime in the sphere of taxation;
- to vessels by hearing of cases about determination of tax liabilities of the taxpayer or responsibility for commission of tax offenses;
- to competent authorities of other states according to the international tax agreements recognized **by Tajikistan;**

- to other bodies within bilateral agreements and also for realization of branch powers;
- to authorized state body on public service for implementation of authorized powers concerning the persons obliged to submit the income statement;
- to customs authorities for performance of the customs legislation of the Republic of Tajikistan;
- to other **authorized bodies** having the right to levy taxes according to this Code.

3. Information transfer, received from authorized state bodies, the third parties have enough, except as specified, if the taxpayer agreed to disclosure of information to the third parties.

4. Disclosure of information on the taxpayer to competent authorities of other states is regulated and performed only in the amount established within the international agreements recognized **by Tajikistan**.

5. Submission to other state bodies of any documents created during activity of tax authorities, including personal records of taxpayers, acts of the tax audits, notices and other documents received for implementation of tax control, except as specified, provided by Part 2 of this article is forbidden.

6. Originals of the documents specified in Part 5 of this article are provided to law enforcement and **judicial authorities** on the basis of official request according to provisions of the part of 1 this article at initiation of legal proceedings against the specific taxpayer.

7. Originals of the documents received according to Part 6 of this article are returned to the relevant tax authorities within 30 calendar days from the date of the termination of criminal case or the introduction of the judgment in legal force.

SECTION VI. REGULATION OF THE INTERNATIONAL TAXATION

CHAPTER 23. SPECIAL PROVISIONS UNDER INTERNATIONAL TREATIES IN THE SPHERE OF TAXATION

Article 171. The order of application of international treaties in the sphere of taxation

1. International treaties in the sphere of taxation are applied for the purpose of avoidance of double taxation and tax avoidance on income and property (capital) on the basis of the agreements recognized by Tajikistan.

2. Instructions for application of international treaties in the sphere of taxation are developed by authorized state body in coordination with the Ministry of Finance of the Republic of Tajikistan for the purpose of prevention of double taxation and tax avoidance on income and property (capital).

Article 172. Taxation of income of nonresidents from activity in the Republic of Tajikistan, without formation of the permanent establishment

1. The taxation of income of the nonresident which is not leading to formation of the permanent establishment is performed according to provisions of **international treaties** in the sphere of taxation, except for the income specified in Articles 173-177 of this Code.

2. The nonresidents gaining income from the sources which are in the Republic of Tajikistan without creation of the permanent establishment have the right to pay taxes according to the international treaties recognized **by Tajikistan**.

3. In case of non-use of provisions of this article to the nonresidents provided **Parts 2** of this article and to residents of the foreign states which did not sign international treaties on prevention of double taxation and tax avoidance with the Republic of Tajikistan, tax agents are obliged to hold the tax at the source of payment and to make payment in accordance with the established procedure.

4. The nonresidents gaining income from the sources which are in the Republic of Tajikistan without creation of the permanent establishment in case of application of the international treaty on prevention of double taxation and tax avoidance, are obliged to submit in accordance with the established procedure to tax authorities the application, the original document, confirming residence in the contracting state for the corresponding **calendar** year (with the notarized or apostilled translation).

5. At payment of income to the nonresident the tax agent shall observe provisions of international treaties in the sphere of taxation. In the event of default by the tax agent of provisions of this article, the obligation for tax withholding at the source of payment and also payment of penalties and percent for non-execution of tax liabilities at the scheduled time are assigned on the tax agent.

6. The tax authority performs accounting of the following money:

- **the amount** of income from the sources which are in the territory of the Republic of Tajikistan, irrespective of the place of their payment, paid by tax agents to nonresidents;

- **the amount** of the paid (returned) taxes to the nonresidents having the right to apply provisions of international treaties;

- **the amount** of the taxes withheld by tax agents from the income of nonresidents in the Republic of Tajikistan and paid to the budget.

Article 173. The order of application of international treaties in the sphere of taxation of income from transport services in international transport

1. The income of the legal nonresident person from activity of transport services in international transport, one of the parties of which the Republic of Tajikistan is, are exempted from taxation without filing of application on the basis of the document confirming residence if the following conditions are satisfied:

- provisions of international treaties in the sphere of taxation are applied to the legal nonresident person;

- the legal nonresident person in the Republic of Tajikistan has the permanent establishment for implementation of such activity.

2. Taking into account provisions **of the part** of 1 this article, the legal nonresident person is obliged to keep separate account of income from transport services in the international transport not taxable according to international treaties, and from transport services in the territory of the Republic of Tajikistan and to include **the gross** income in the declaration on income tax.

3. At calculation of income tax the income non-taxable according to the international treaty is subtracted from the total of income specified in Part 2 of this article.

4. In case of the non-compliance with provisions of international treaties which caused partial or complete non-payment of taxes in the budget of the Republic of Tajikistan, the legal nonresident person (permanent establishment) is made responsible according to the legislation of the Republic of Tajikistan.

5. The income of the legal nonresident person who is engaged in rendering transport services in international transport, one of the parties of which is the Republic of Tajikistan, without creation of the permanent establishment in the Republic of Tajikistan and having the right to carry out provisions of international treaties, the stipulated in Clause 172 presents of the Code are subject to release from taxation as it should be.

Article 174. The order of application of the international treaty in the sphere of taxation concerning taxation of dividends, percent, the royalty

1. At payment of income to the nonresident in the form of **dividends**, percent and the royalty, the tax agent has the right to apply to the nonresident of provision of international treaties **in the sphere of taxation** on the basis of the following documents and conditions:

- the statement of the nonresident for application of provisions of international treaties in the sphere of taxation;
- the document confirming residence;
- if the nonresident is the final recipient of income;
- if the nonresident has the right to apply provisions of international treaties in the sphere of taxation.

2. The tax agent is obliged to specify the amounts of the paid (estimated) income and (or) the withheld taxes according to provisions of the international treaty and also the tax rate and the name of the international treaty and data from the document confirming residence of the nonresident at the calculation of the tax at the source of payment represented to tax authority.

3. In case of the non-compliance with provisions of international treaties which caused partial or complete non-payment of taxes in the budget of the Republic of Tajikistan, the tax agent is made responsible according to the legislation of the Republic of Tajikistan.

Article 175. The order of application of international treaties in the sphere of taxation concerning taxation of net profit from activity through the permanent establishment

1. The nonresident **has the right** to apply provisions of international treaties to taxation of net profit from activity in the Republic of Tajikistan through the permanent establishment without filing of application on the basis of the document confirming residence if such nonresident is the final recipient of net profit and has the right to application of provisions of the relevant international treaties **in the sphere of taxation.**

2. The legal nonresident person is obliged to specify in the declaration on the tax from the net profit of the permanent establishment the tax rate, the amount of tax on net profit and parameters of the international treaty on the basis of which the corresponding tax rate was applied.

3. In case of the non-compliance with provisions of international treaties which caused partial or complete non-payment of taxes in the budget of the Republic of Tajikistan, the tax agent is made responsible according to the legislation of the Republic of Tajikistan.

Article 176. The order of application of international treaties in the sphere of taxation concerning taxation of other income from the sources which are in the Republic of Tajikistan

1. The nonresident gaining income from the sources which are in the Republic of Tajikistan having the right to file the petition for application of provisions of international treaties to tax authority in the place of registration of the tax agent, **before payment by the tax agent of the income amount** except as specified, provided by Articles 173-175 of this Code.

2. Tax authorities within 5 calendar days represent the reasonable conclusion according to the statement of the nonresident for application (non-use) of provisions of international treaties **in the sphere of taxation.**

3. Taking into account provisions of Part 2 of this article, the nonresident has the right to address to authorized state body with involvement of competent authorities of the country of the resident for reconsideration of the statement.

Article 177. General requirements at filing of application about application of provisions of international treaties in the sphere of taxation

1. The nonresident together with the statement for application of provisions of the international treaty in the sphere of taxation is obliged to submit the following documents to tax authorities:

- the legalized document confirming residence or **apostilization** of the nonresident if the international treaties recognized by Tajikistan **do not provide other;**
- copies of constituent documents;
- copies of agreements on performance of works (**rendering services**) or on other activity (actions);

- the documents confirming accomplishment by the nonresident of works (services and other types of activity (actions));
- data on income from transport services at international transport and in the territory of the Republic of Tajikistan.

2. The tax agent submits to tax authorities the accounting documents confirming the amounts of the added and (or) paid income and the withheld taxes.

3. The documents specified in paragraphs the fourth and fifth the part of 1 this article are represented no later than 10 working days after performance of works and rendering services.

Article 178. The certificate of the amounts of taxes paid in the Republic of Tajikistan

At the request of the nonresident tax authorities represent the certificate of the income and taxes paid from the sources which are in the territory of the Republic of Tajikistan in the order established by authorized state body.

CHAPTER 24. EXCHANGE OF INFORMATION

Article 179. Exchange of tax and financial information

1. The authorized state body has the right to obtain information necessary for calculation and taxation, consideration of the complaints connected with taxation and criminal prosecution including information distributed within the international practice which does not contradict other laws and to provide such information to other contracting states.

2. The request of authorized state body to competent authorities of other contracting state shall contain the following financial **information**:

- calculation of the tax liability;
- check of the property **inherited** or to donation;
- check of accuracy of the information or proof of tax avoidance;
- about property of the taxpayer who did not fulfill tax liabilities.

3. The authorized state body has the right to request from the credit and financial organizations of submission of financial information on financial transactions of the residents, the local companies, nonresidents and the foreign companies responsible for calculation of taxes, charges and administration of taxes of other contracting state, and as necessary to perform regular exchange of financial information with other contracting state by the principle of reciprocity according to the international treaty.

4. Irrespective of request of authorized state body, the credit and financial organizations can store information on the taxpayer identification number, participants of financial transactions and the other information necessary for exchange of financial information between contracting states.

5. The authorized state body and competent authorities of other contracting state, are obliged to provide process of receiving, exchange and providing any tax or financial information on the financial transactions specified in the third paragraph of Part 2 of this article.

6. Each employee of financial institution and other persons shall refrain from providing financial information, having accepted the request contradicting Parts 2 or 3 of this article.

7. Any person having financial information according to Parts 2 and 3 of this article having no right to transfer or disclose this information to the third parties except for competent authorities of other contracting state, or **is illegal to use such information**, and nobody has the right to demand providing financial information from the person possessing such information.

8. Any person which obtained financial information provided or opened in violation of Parts 2, 3 and 4 of this article will know of the violation having no right to provide or disclose such information to the third parties.

9. Irrespective of Part 3 of this article, the authorized state body can limit providing financial information to other **contracting** state on the agreement based on the principles of mutual exchange of information.

10. The head of finance company and other persons intending to provide financial information according to Part 3 of this article, or to check financial information according to requirements of this article can demand information from the contractor of the financial contract for verification of the obtained information.

PART II. SPECIAL PART

SECTION VII. TAX ON INCOME CHAPTER 25. GENERAL PROVISIONS

Article 180. Taxpayers

1. Payers of tax on income are the legal and physical resident persons and nonresidents having the taxation objects except for the persons answering to conditions of the special tax modes.

2. In the cases established by this Code, obligations for collection of the tax on income at the source of payment are performed by the tax agent.

3. Any foreign subject which is not natural person is considered for the purposes of this section as the taxpayer enterprise if **does not prove that** it acts as the participant of joint tenancy according to Article 94 of this Code.

4. The national bank of Tajikistan, except for provisions of Part 2 of this article, is not the payer of tax on income.

Article 181. Taxation object of the tax on income

1. The taxable income of the taxpayer for the reporting period, irrespective of the place and the payment method is subject to taxation of the tax on income.

2. Income gained from all sources in the Republic of Tajikistan and outside the Republic of Tajikistan is subject to taxation of the tax on the income of the resident taxpayer.

3. Only income gained from sources in the Republic of Tajikistan is subject to taxation of the tax on the income of the nonresident taxpayer.

4. **The gross** income of the taxpayer shares on:

- the income assessed at the source of payment;
- the income which is not assessed at the source of payment.

Article 182. Tax base

1. Base of the tax on the income of the resident taxpayer for the reporting period is the difference between the gross income and deductible expenses permitted according to this section for such period.

2. Base of the tax on the income of the nonresident taxpayer performing business activity through the permanent establishment in the Republic of Tajikistan for the reporting period is the difference between the gross income from sources in the Republic of Tajikistan relating to the permanent establishment and the deductible expenses permitted according to this section for reporting such period.

3. **The gross** income of the nonresident to which Part 2 of this article is not applied and which is received from sources in the Republic of Tajikistan is subject to taxation at the source of payment without deduction of expenses according to Article 241 of this article.

4. Base of the tax on income for the nonresident taxpayer from the sale or property acquisition or property rights which are not connected with the permanent establishment performing activity in the Republic of Tajikistan is the difference between the gross income from sale or alienation and the deductible expenses permitted according to this section for reporting such period. If the tax on income from sale or cession of property and (or) property rights of the nonresident taxpayer was not paid, the legal entity in which this nonresident had (has) property rights, or the tax agent paying income to the nonresident taxpayer is obliged to hold and pay the tax without deductions.

Article 183. Tax rates

1. The taxable income of the physical resident person on the principle place of employment over the size of the personal deduction **is assessed with the tax at the rate** of 12 percent.

2. The taxable income of the physical nonresident person from the work for hire gained from sources in the Republic of Tajikistan is assessed with the tax at the rate of 20 percent.

3. The taxable income **of natural persons** which is not specified in Parts 1 and 2 of this article is assessed with the tax at the rate of 15 percent without deductions, the stipulated in Clause 191 this Code, except for social tax for the insured person.

4. The taxable income of the legal entity is assessed with the tax at the following rates:

- for activities for production of goods - 13 percent;
- for activity of the credit and financial organizations and mobile companies - 20 percent;
- for activities for production and processing of natural resources and also for all other types of activity, except for the first and second **paragraphs** of this part - 18 percent.

CHAPTER 26. GROSS INCOME

Article 184. Gross income

1. All income types and the remunerations in the monetary, material and non-material form paid for benefit of the taxpayer, including other benefits received by the taxpayer except the income exempted from the tax income according to Chapter 27 of this Code are recognized as the gross income of legal entity and physical person, including:

- entrepreneurial income;
- salary income;
- any other income from the activity which is not hired labor or business activity.

2. **The gross** income of the taxpayer is the income defined without deductions.

Article 185. The gross income from business activity

Gross income from business activity is any income, remunerations and benefits received by the taxpayer in the monetary, material and non-material form from business activity including:

- the sale **revenue**, transfer or alienation of the assets used by the taxpayer in business activity according to Article 213 of this Code;
- **the exchange difference of the currency received** by the taxpayer for the reporting period according to Article 212 of this Code.

Article 186. The gross income in the form of the salary

Any payments, remunerations, awards or benefits, including in the monetary, natural and non-material **form** (proceeding from the restrictions on goods, objects and the size established by the legislation), received by the worker from employer within labor relations (or without it), irrespective of the form and the place of payment, reckon with the employment contract as income gained in the form of the salary including:

- hired labor revenues;
- income from the former work for hire gained in the form of pension or in other type or the forthcoming hired labor revenues.

2. The following income types, paid to the worker by the employer in the material or non-material form (proceeding from the restrictions on goods, objects and the size established by the legislation), are recognized as income from the salary, including:

- the property value paid instead of the salary;
- the property value (works, services) paid to the worker as it should be, stipulated in Item 2) Parts 3 of this article;
- the cost of goods, the performed works, the rendered services paid by the employer for the worker to the third parties;
- the amount of the benefit or cost of reimbursement of expenses paid by the employer to the worker for reimbursement of expenses for the material, social benefits, including expenses on the food, accommodation, training of children in

educational institutions, the expenses connected with rest including *the trip* of members of their families during the labor holiday;

- travelers or compensation of traveling expenses over the established regulations of travelers established in Part 4 of this article.

3. For the purposes of the part of 1 this article amount of remuneration of the worker is equal to the following amount, less any payment to the worker for such remuneration:

1) the difference of the amount received by the worker from employer of the loan in relation to the interest weighted **average rate** determined by National bank of Tajikistan depending on types of the loan;

2) in case of sale or voluntary conveyance of goods, performance of works or rendering services by the employer to the worker:

a) by delivery (or voluntary conveyance) goods, performance of works or rendering services by the employer to the worker – 75 percent from the usual selling price of goods, works or services to other buyers if the employer is the producer of goods performing works or rendering services;

b) in other cases – cost for the employer of the goods, works or services received by the worker from employer;

3) the cost of the help rendered to the worker or his dependents on education except for the program of the preparation which is directly connected with accomplishment by the worker of its duties;

4) the compensation amount to the worker of the expenses which are not connected directly with its work for hire;

5) the amount of the remitted debt or employee obligation to the employer;

6) the cost of payments of insurance premiums for life insurance contracts and health and other similar amounts the employer if the insurance policy works for benefit of the worker or the dependent of the worker - the size of these insurance premiums or the amounts for the employer;

7) the cost of use by the worker of the vehicle of the employer for personal reasons determined by the formula $(A \times 10\%) / 12$ for calendar month, where:

A - the expense amount, suffered by the employer on acquisition and the maintenance of the vehicle or the market value of lease of the vehicle;

8) in other cases - the market value of benefit.

4. **The gross** income of the worker does not include compensation of such expenses, including:

- compensation of traveling expenses by the employer according to the regulations established by regulatory legal acts;

- compensation of traveling expenses by the international organizations and their organizations, funds, public nonresident organizations.

5. The income connected with payment of entertainment **expenses** and other similar income, including income on holding celebrations, accommodation of guests and another, received by natural person does not join in its **gross** income if the cost of such income is not exceeded by the rates established by Part 3 of Article 192 of this Code.

6. The cost of the material (non-material) payments listed in Parts 2 and 3 of this article, benefits and other payments performed for benefit of natural persons include the amount of the excise tax, value added tax and any other tax which is subject to payment by the employer in connection with the estimated agreement.

Article 187. The gross income from the activity which is not relating to hired labor or business activity

1. The following income of the taxpayer from the activity which is not connected with hired labor or business activity is not entrepreneurial income:

- income in the form of percent;
- income from Islamic deposits and savings;
- dividends;
- the sale revenue, transfers or alienations of the assets of the taxpayer used in business activity defined according to Article 213 of this Code;
- income in the form of the royalty;
- the amount of the remitted debt of the taxpayer the creditor, except for the debt of the taxpayer recognized insolvent or the debt remitted within the agreement on debt review for the purpose of restoration of the strong financial position of the taxpayer;
- any benefits and income gained by natural person except for the salary income and (or) individual business activity revenues.

2. Provisions of this article are not applied to the income included in **the gross** income of the taxpayer according to Articles 184 or 185 of this Code.

Article 188. Correction of the gross income

Income gained by the taxpayer in the form of the salary, dividends, percent, prizes, the royalty and other income for the tax period it is adjusted for the purpose of determination of the final amount of tax on income by the deduction from income or addition to income if income is assessed with the tax at the source in the Republic of Tajikistan.

CHAPTER 27. TAX RELEASES

Article 189. Tax releases

1. The following income types of natural persons are not subject to taxation:

1) income from the official diplomatic (consular) and equated to it activity of the person who is not the citizen of the Republic of Tajikistan in the Republic of Tajikistan and outside the Republic of Tajikistan in the size provided by the international treaty;

2) property value in natural (non-material) and (or) monetary forms, inherited from natural persons **or in the gift**, except for income gained by the successor from sale (alienation) or **from** giving in lease of the inherited property, including remuneration (award) **paid** to successors (successors) of authors **of scientific works**, literary **works**, **works of art** and also opening, inventions and industrial samples;

- 3) the cost of the gifts received from legal entities and also prizes (prizes) won at tenders and competitions including in cash, if:
- a) the cost of the gifts received from legal entities does not exceed 100 indicators for calculations in the year;
 - b) the cost of prizes (prizes) won on international contests and competitions does not exceed 500 indicators for calculations in the year;
 - c) the cost of prizes (prizes) won at republican tenders and competitions does not exceed 100 indicators for calculations in the year;
- 4) national and insurance pensions, state awards and awards, state grants, welfare payments and state compensations;
- 5) the amount of alimony at the persons receiving them;
- 6) the remunerations issued to donors for blood donation, **to donors** of breast milk and **other donor help**;
- 7) the amounts of lump sum payments and financial support from the state budget provided according to regulatory legal acts;
- 8) the means paid by the employer according to the established regulations to the physical resident person for traveling expenses;
- 9) the compensation amount of traveling expenses paid by the international organizations and their organizations, funds, the public nonresident organizations;
- 10) the means paid in the form of the humanitarian and charitable aid including at natural disasters;
- 11) the difference of increase in value from sale or other form of alienation of real estate, **if**:
- a) **residential buildings (rooms)**, were the main place of residence of the taxpayer within not less than 2 last years until alienation. **These privileges** provision is applied only on the relation of one main place of natural person;
 - b) other real estate objects, **were owned** by the taxpayer not less than 2 years from date, registration before date of alienation (except for the real estate objects used for the purpose of **the entrepreneurship**);
- 12) the difference of increase in value from sale or other form of alienation of personal estate, except for the following cases:
- a) if the property is used by the taxpayer for business activity;
 - b) if increase in value from sale of property, historical values (antiques), works of art, the jewelry and **other objects** of collecting is more than 200 indicators for calculations. These provisions are not applied in cases of sale of historical values (antiques), works of art, the jewelry and other objects of collecting by two or several transactions to one or related **person**. In this case the total value of the property specified in this subparagraph is considered;
 - c) sale, transfer, assignment and other alienation of events and shares in authorized capital of the enterprises;
 - d) vehicles and trailers which are subject to state registration and owned by the taxpayer less than one year before date of alienation;
- 13) the insurance payments received under agreements of accumulative and returnable character in the limits made by natural person platyozhy on account of such agreements;

14) insurance payments (insurance indemnity) according to **insurance** agreements on types of insurance and also the insurance payments received **in case of** the death of the insured person;

15) the amounts of the monetary allowance, the monetary rewards and other payments received in connection with service (execution of job responsibilities) by the military personnel, the faces of the private and the commanding structure of the system of the Ministries of Defence, internal affairs, state bodies of national security, on emergency situations and civil defense, law-enforcement divisions of state bodies on the state financial control and fight against corruption, customs authorities, Agency on control of drugs, National guard, the system of execution of criminal sanctions of the Ministry of Justice of the Republic of Tajikistan;

16) prizes from the government bonds and the state lotteries of the Republic of Tajikistan released the Ministry of Finance of the Republic of Tajikistan in the size which is not exceeding two indicators for calculations on one bond or the lottery;

17) the amounts of the address social help, the benefit and compensation, except for platyozhy, connected from **the salary**, paid for the account of means of the state budget in the sizes and the order established by the corresponding regulatory legal acts;

18) the amount paid according to the legislation of the Republic of Tajikistan at approach of death of the worker, physical abuse, or other **harm to health** of the worker at execution of labor duties by it;

19) cost issued special and (or) the uniform, footwear, individual protection equipment and first aid, washed, the disinfecting means, milk or other equivalent foodstuff on the regulations established by the Government of the Republic of Tajikistan;

20) insurance payments under agreements of compulsory liability insurance of the employer (at the expense of means of the employer) for causing (when causing) harm of life and to health of the worker at execution of labor (office) duties by it;

21) the compensation amounts of material damage **determined on the judgment**;

22) income from sale of the agricultural products which are grown up (made) on the personal plot without industrial processing;

23) the amounts of bonuses, cashbacks and other mechanisms of stimulation of clients when carrying out transactions with use of electronic means of payment;

24) the grants provided to the person for full-time courses in preschool, initial, general main, general averages, initial professional and average professional, highest professional, postgraduate professional and special educational institutions;

25) income gained in the form of the salary by disabled people **since** the childhood and disabled people of the I group;

26) the insurance compensations and other platyozh received by investors, performed by Fund of savings of natural persons or from his name.

2. The following income types of legal entities are not subject to taxation:

1) organizations, religious associations, charitable, intergovernmental and interstate (international) non-profit organizations, except for income gained by them from business activity. Such organizations and the organizations are obliged to keep

separate account of primary activity (the activity exempted from the tax on income) and business activity;

2) the non-paid transfers received by non-profit organizations, the non-paid property and grants used for non-commercial activity and also membership fees and donations received by them;

3) revenues of Fund of insurance of savings of natural persons;

4) the dividends received by the resident enterprises from the resident enterprises;

5) the subsidies received by public institutions at the expense of budgetary funds for maintenance of the activity;

6) revenues of the new enterprises from delivery of manufactured goods if their founders during 12 calendar months from the date of primary state registration bring in authorized capital of these enterprises amounts of investment stated below for the following terms:

a) 2 years if the volume of investment is over 200 thousand US dollars to 500 thousand US dollars;

b) 3 years if the volume of investment is over 500 thousand US dollars to 2 million US dollars;

c) 4 years if the volume of investment is over 2 million to 5 million US dollars;

d) 5 years if the volume of investment exceeds 5 million US dollars;

7) income **gained** from tourist activity within 5 years from the date of state registration, in the presence of licenses for conducting tourist activity.

3. Exemption from the tax on income **according to** points 6) and 7) of Part 2 of this article is not applied in case of the re-registration or reorganization of the enterprise, change of legal form, merge, lease of the operating production enterprises (to income gained from production of goods of leased or joint ventures).

4. Any losses during the period of tax benefits according to Part 2 of this article, at the end of the period of tax benefits are not postponed to other tax period.

5. Provisions point 6) of Part 2 of this article do not extend to the enterprises performing mineral extraction or transactions in the oil and gas sector.

CHAPTER 28. DEDUCTIONS FROM THE GROSS INCOME

Article 190. The deduction of the expenses connected with income acquisition

1. All confirmed actually performed expenses provided by this Code and (or) other regulatory legal acts which are not contradicting this Code relating to the reporting period connected with receiving such income are subtracted from the gross income including:

- documented costs on tax liabilities taking into account the restrictions set **by the subparagraph** of N) Parts 8 of Article 192 of this Code;

- documented costs on **the salary**, traveling expenses of workers within the established regulations and in that measure in which any traveling expenses over the established regulations join in the income of the worker according to Article 186 of this Code;

- the confirmed expenses for the raw materials which are actually used during the tax period, materials, advertising expenses, energy, except for construction costs, acquisition of fixed assets and their installation (including expenses from the negative currency exchange difference, penalties and percent on the credits which belong to fixed asset cost during construction and installation) and also other expenses having capital character according to Article 214 of this Code, and the expenses which are not deductible according to Article 192 of this Code and other provisions of this chapter;

- the sale revenue, transfer or the asset retirement used by the taxpayer in the business activity defined according to Article 213 of this Code;

- the exchange difference received by the taxpayer for the reporting period determined by Article 212 of this Code.

2. Deductions of expenses are allowed in the presence of properly processed documents confirming the actual expenses connected with receiving such income.

3. Any expense shall be supported by the relevant document on the made expense in terms of money provided by the legislation of the Republic of Tajikistan, including the Law of the Republic of Tajikistan "About Financial Accounting and Financial Statements". The document confirming expenses is **also** the civil agreement disclosing the nature of expenses of the taxpayer and explaining its economic feasibility.

4. In case the same costs are provided in several items of expenditure, **when** calculating **the taxable** income the specified costs are subtracted only once.

5. The awarded or recognized penalties, percent (penalty fee), penalties connected with receiving the gross income which are subject to payment (paid) at the expense of the taxpayer, except for **those which** are subject to entering into the budget are deductible.

6. The value added tax and excises which offset for the purpose of the value added tax and excises is not allowed are considered in the cost of goods, performance of works and services.

Article 191. Personal deductions of natural persons

1. From the gross income of the physical person - the resident, being the hired employee, in the form of the salary the personal deduction at a rate of two indicators for calculations is performed per every calendar month.

2. From the salary income of the following categories of physical resident persons the personal deduction at a rate of 10 indicators for calculations is performed per every calendar month:

- the Heroes of the Soviet Union, heroes of socialist work, heroes of Tajikistan, participants of the Great Patriotic War and persons equated to them, participants of other military operations on protection of the Union of Soviet Socialist Republics including the military personnel serving in the military units, headquarters and organizations which were the part of field army, the former guerrillas, soldiers internationalists and also disabled people of the II group;

- the citizens who got sick and **received radiation** as a result of accidents on nuclear objects, the persons participating in mitigation of consequences of such

accidents within the zone of isolation, persons during mitigation of consequences of the accidents which were taking part in operational or other works on nuclear objects.

3. From the income of the physical person hired employee in the form of the salary one largest personal deduction on the basis of supporting documents according to Parts 1 and 2 of this article is allowed.

4. In case the natural person was the hired employee less than sixteen calendar days within the month, then at determination of the taxable income of the worker the personal deduction according to Parts 1 and 2 of this article is not made.

5. The personal deduction from the taxable income according to Parts 1 and 2 of this article is allowed on income gained only on one (main) place of employment of the worker. In case the natural person is not the hired employee and the individual entrepreneur, the personal deduction established by Parts 1 or 2 of this article is allowed only in one place of payment of income defined on the basis of the application submitted by it.

6. At calculation of the taxable income of natural person from its income the amount of social tax for the insured persons which is withheld in compliance by provisions of Part 2 of Article 332 of this Code is subtracted.

7. The person paying income to natural person bears responsibility for proper implementation of the personal deduction. In case of violation of the provisions established in this article, the tax which did not come to the budget in connection with the wrong deduction is subject to compensation by this person.

8. Including through bank the account, bank payment cards in the territory of the Republic of Tajikistan the deduction of such expenses at the rate to 10 percent from the total amount of the gained income, but no more than 150 minimum **indicators** for calculations in the year on the basis of supporting documents (the receipt (check) or other bank document) in the order approved by the Government of the Republic of Tajikistan is allowed to natural persons at implementation of expenses in the non-cash form.

Article 192. Expenses which are not deductible

1. Deductions concerning the expenses which are not connected with business activity and also the expenses connected with purchase of goods (works, services) at the individual entrepreneurs performing activity on the basis of the patent are not allowed. Deductions are not allowed concerning construction expenses, operation and the maintenance of objects and also other expenses which are not connected with entrepreneurial (the main production) **by activity**.

2. The deductions provided in this chapter are not allowed if they do not conform to requirements of Article 190 of this Code.

3. Deductions are not allowed concerning the following expenses:

1) **the entertainment and other similar expenses** (holding celebrations, accommodation of guests and another) exceeding 1 percent from the gross income of the taxpayer for the reporting period;

2) the advertizing expenses (marketing) exceeding 5 percent from the total amount of income of the taxpayer for the reporting period;

3) irrespective of requirements of points 1) and 2) of this part, the newly created taxpayer in the first year of the activity can carry up to 300 indicators for calculations of entertainment, advertizing and other similar expenses (holding celebrations, accommodation of guests and another) on deductible expenses, in the presence of supporting documents.

4. Point 1) of Part 3 of this article is not applied to the taxpayer whose business activity has entertaining character if expenses are performed within such activity.

5. Deductions to contributions to reserve funds are made only according to provisions of this Code.

6. The cost of the donated (humanitarian) property, the works and services rendered on the non-paid (charitable) basis except for the case, stipulated in Clause 193 and **the paragraph** the third point 1) of Part 2 of Article 206 of this Code is not deductible.

7. Deductions concerning the expenses connected with passenger vehicles, **being** during **all** tax period at the disposal of workers or shareholders (participants of the taxpayer) for private use, including its use for transportation of workers for work and from work, except as specified, when the worker is assessed with the tax on income on the cost of benefit according to point 7) of Part 3 of Article 186 of this Code are not allowed.

8. Deductions are not allowed also concerning the following expenses:

a) **contributions** to the authorized (depository) capital, **shares, payments** for excess emissions of pollutants, **voluntary membership fees** to public organizations;

b) investment into authorized capital of other taxpayer;

c) the expenses of financial aid (subsidy) **received** by public institutions at the expense of budgetary funds for maintenance of the activity;

d) the amounts received by the taxpayer issuer from the share issue;

e) **the amounts** received by the taxpayer according to commission, custom or other similar agreements, which are subject to payment for benefit of the committent, the principal except for payment and expenses on repayment of the commission fee;

e) payment (repayment) of the principal amount of debt;

g) loss of goods over the regulations established by authorized body defined **according to the relevant** legislation;

h) payment of the utilities provided non-paid for use by catering establishments;

i) the expenses which are considered as benefit of natural person according to Articles 186 and 187 of this Code which are not assessed with the tax on income;

j) payment of the excess rate established for use of the personal vehicle by the employee in the office purposes, in that measure in which this excess does not join in the income of the worker;

k) damage from theft and shortage if perpetrators are unknown;

l) following amounts:

- **the tax** on the income **levied** according to this Code and **any taxes** on the income and profit paid or which are subject to payment in the foreign state;

- penalties or **percent (penalty fee)** paid to **the state** budget of the Republic of Tajikistan or to the budget of the foreign state;
- **the value added tax** and **the excise** permitted to accounting;
- **the revealed taxes established** by results of additional tax audits;
- m) the expenses connected with the goods delivery, performance of works and services which actually were not executed and are defined by a court decision.

Article 193. The deduction on charitable payments

1. The deduction on payments, the made charitable organizations and for implementation of charity during the reporting period is allowed to the taxpayer. The amount of such payments cannot exceed 10 percent from the taxable income of the taxpayer for the reporting period.

2. At implementation of charitable payments in the form of property the amount of actually performed charitable payments is considered equal to the smallest of two sizes – or the market value of property at the time of transfer, or its prime cost.

3. The deduction for payments or other help for prevention of consequences or assistance in connection with technogenic or natural disasters, or epidemics is allowed to the taxpayer.

Article 194. Restriction of deductions on percent

1. If Part 2 of this article does not provide other, the deduction of actually paid interests for each credit in the reporting period, but at a rate of no more triple amount of interest, added (subject to charge) with use of the refunding rate of National bank of Tajikistan operating in the tax period is allowed to the taxpayer. This provision is applied also to the interest paid under agreements of finance lease (leasing).

2. The interest on the credits **paid** in connection with acquisition and (or) creation of depreciable fixed assets, or connected with the expenses influencing change of their cost before commissioning is not deductible from the gross annual return, and increases the cost of such fixed assets.

3. The restrictions for interest contribution specified in this article are applied before application of Article 224 of this Code.

Article 195. Deductions concerning bad debts

1. Taxpayers have the right to deductions on the bad debts arising in connection with delivery of goods, performance of works and rendering services if the related income was included in **the gross** income gained from business activity earlier.

2. The deduction concerning the bad debt is allowed at the time of debt relief as not having **cost**, in ledgers of the taxpayer provided that write-off conforms to international standards of financial accounting.

3. Provisions of this article are not applied to the credit and financial organizations to which provisions of Part 2 of Article 204 of this Code are applied.

Article 196. Deductions concerning expenses on scientific research, project developments and developmental works

1. The deduction of the expenses performed on the scientific research, project developments and developmental works connected with receiving the gross income except expenses on acquisition of fixed assets, their installation and other costs of capital character is allowed to the taxpayer. The basis for the deduction of such expenses are the technical specifications, the design and estimate documentation, the act of the performed works and acceptance acts of the completed stages of such works.

2. Provisions of the part of 1 this article do not extend to expenses on scientific research, project developments and (or) developmental developments in the organizations which are carrying out these types of activity as the contractor (the contractor or subcontractor). The specified expenses are considered as expenses on implementation by these organizations of the activity directed to profit earning (income).

3. In this article scientific research is understood as any experimental activity which results cannot be known or defined on the basis of the available knowledge, information or experience in advance, and can be defined by carrying out the systematic research process based on the established scientific principles. Scientific research does not include search of natural resources. Costs for scientific research include any contribution of the taxpayer made in research organization and **used** for carrying out researches for the purpose of business development of the taxpayer.

Article 197. Transfer of losses for other period, losses at sale or cession of property

1. Excess of the deductions permitted the taxpayer on the gross income (losses from business activity) for the reporting period is postponed to the next period by duration up to 3 years inclusive, and becomes covered from income before taxation of the future period.

2. The losses arising at sale, transfer or property acquisition (except for the property used for business activity, or property, the sale revenue or transfers of which is exempted from the tax), are compensated for the income account, received from sale or transfer of such property.

3. If the losses provided by Part 2 of this article cannot be compensated the same year, they are carried forward up to 3 years inclusive and compensated by income, received from sale or transfer of such property. The losses provided by Part 2 of this article are not deductible from the gross income for the purposes of the tax on income.

CHAPTER 29. DEDUCTIONS ON THE CAPITAL AND INTANGIBLE ASSETS

Article 198. Deduction of depreciation charges and other deductions on depreciable fixed assets

1. Under depreciable assets for the purposes of this article the fixed assets and intangible assets used in business activity are recognized.

2. The taxpayer has the right to subtract from the taxable profit for the reporting period the share of depreciation of fixed assets and intangible assets at the rates established by this article.

3. Depreciation charges in the fixed assets and intangible assets which are not used in business activity are not permitted.

4. Deductions from depreciation charges are not allowed for the following assets:

- the earth, **the cattle**, works of art, **tovaromaterialny** values, including incomplete construction objects and not assembled equipment and also property which cost is completely subtracted at determination of the source of taxation for reporting year;

- highways, sidewalks, avenues and avenues of public use, subjects to improvement which are at the disposal (maintenance) of the government;

- the fixed assets received free of charge;

- fixed assets which cost is already completely subtracted;

- fixed assets of non-profit organizations, public **institutions** and public associations, including the fixed assets **used by them** for income generation.

5. Depreciable fixed assets, except for non-material values, are divided into groups with the following depreciation rates:

| Group | List of fixed assets | Depreciation rate on the straight-line method (percent) |
|-------|---|---|
| 1 | Devices, tools and accessories; devices and local means of data processing; electronic equipment and servers | 12.5 |
| 2 | Trucks, buses, autotractor road-building machinery, special cars and trailers; machines and equipment for all industries, foundry production, forge equipment and press, construction equipment, agricultural machinery and equipment, railway, sea, river and air vehicles; containers | 9 |
| 3 | Cars; office furniture, computers, the connected equipment and its parts | 10 |
| 4 | Power Machines and equipment, technical equipment; turbine equipment, electric motors and diesel generators; equipment for power transmission; electronic equipment and means of communication; pipelines | 8 |
| 5 | Buildings, constructions and designs | 7 |
| 6 | The depreciable assets which are not referred to other categories | 4 |

6. The taxpayer shall determine the size of the depreciation deduction permitted according to the part of 1 this article for all asset classes on the basis of separate assets with **use of the straight-line method**.

7. Depreciation charges for each fixed asset of group 5 are performed separately for the entire period of operation.

8. Depreciation charges on fixed assets and (or) intangible assets which arrived (left) within calendar year, are made (stop) from the following calendar month after the actual use (the actual leaving) but in case of the building, not earlier, than the regulating authority will grant the certificate on completion of its construction.

9. Fixed asset cost, received on the basis of the agreement of finance lease (leasing), joins in cost balance of the corresponding group of tenants, and depreciation charge pays off depending on the criteria established for the corresponding groups.

10. The principal amount paid to the lessor for finance lease (leasing) of fixed assets is considered the amount received at sale of such fixed assets if fixed assets are transferred to the financial balance of group before their transfer to finance lease (leasing) are included. For the tenant the principal amount which he pays to the lessor is considered as the purchase price of fixed assets.

11. The taxpayer has the right to use in addition to deductions of the depreciation charges permitted according to **the part** of 1 this article for separate assets as well investment deductions.

Article 199. Straight-line method of the depreciation deduction

1. This article is applied **in** cases when for the purposes of Part 1 of Article 198 of this Code the taxpayer counts depreciation charges for depreciable fixed assets of separate assets with the straight-line method.

2. The taxpayer counts the depreciation deduction permitted for the reporting period on depreciable fixed assets with use of the straight-line method, applying the depreciation rate extended to the fixed asset concerning its cost (without value addition of assets as a result of revaluation) as it is specified in Part 5 of Article 198 of this Code.

3. If the taxpayer uses the fixed assets, depreciable **according to this article**, which are subject partially for the taxable income, and partially for other purposes, **the permitted depreciation** deduction according to Part 5 of Article 198 of this Code is allowed only to the pro rata share of the taxable income for the reporting period.

4. If the taxpayer does not use depreciable fixed assets to which operation of this article is applied, during all reporting period for receiving the taxable income, depreciation charges pay for this period according to the following formula:

$$A \times B / \text{with,}$$

where And: - the depreciation deduction counted according to Part 2 of this article taking into account Part 4 of this article;

B - the number of days in the reporting period during which the taxpayer used depreciable fixed assets for receiving the taxable income;

C - the number of days in the reporting period.

Article 200. The order of calculation of depreciation charges on the straight-line method

1. Depreciation charges of fixed assets the straight-line method pay proceeding from the book value of fixed assets in proportion equal parts for the entire period of their use.

2. Upon transition from the residual method to the straight-line method, depreciation charges pay off proceeding from the book value of fixed assets.

Article 201. Investment deductions

1. The taxpayer putting into operation the fixed assets specified in Part 2 of this article during the reporting period has the right to the additional deduction for this period in the order established by Part 2 of this article.

2. Investment deductions are performed on the following regulations:

1) 10 percent from cost:

- new processing equipment - the equipment, devices, parts and mechanisms used by the taxpayer in the production process of goods (works, services), not exceeding three years from the date of their production;

- re-equipment (modernization) - the works connected with change of technology or office purpose of the fixed assets allocated for performance improvement or improvement of other their quality characteristics;

- technical and (or) technology rearmament - the complex of actions for improvement of technical and economic indicators of fixed assets or separate parts due to introduction of the modern equipment and (or) advanced technology, mechanization and automation of production, replacement of the outdated and (or) worn-out equipment by new more productive equipment and also the organization and expansion of the existing production;

- funds for submission of the software of domestic production within investment projects on creation of information systems;

2) 5 percent from cost:

- reconstruction of the buildings and constructions used in production process;

- the reconstruction of the existing buildings and constructions used by production of goods and services (more than 50% of renovation of buildings and constructions on the area) directed to improvement of technical and economic indicators of fixed assets within the project of retrofitting of production capacities;

- expansions of production in the form of new construction are constructions of new buildings and constructions for the purpose of their use in the production process of goods or services.

3. Investment assignments are made during the reporting period in which new processing equipment is put into operation or re-equipment (modernization), technical and (or) self-produced technology rearmament, expansion of production in the form of new construction, reconstruction of the buildings and constructions used

in production process are performed and the software for domestic production within investment projects on creation of information systems is provided.

4. Investment assignments are resolved concerning the investments performed according to requirements of this article after December 31, 2021.

Article 202. Deduction of cost of repair of depreciable fixed assets

1. Deductions concerning each group on repair expenses of the fixed assets entering into this group at a rate of the actual amount of such expenses, but no more than 10 percent of the cost group balance sheet for the end of calendar year are allowed.

2. The amount of actual expenses on repair over 10 percent of the cost group balance sheet joins in increase in cost balance of this group.

Article 203. The deduction of depreciation charges on intangible assets

1. The cost of intangible assets joins expenses on non-material objects (objects of non-material property as licenses, the patent for inventions, the trademark, the service mark, author's rights, the agreement for use of the trade name, the software and other intellectual property items) with the limited term of use and which are used not less than twelve months.

2. The taxpayer counts the depreciation deduction permitted by Article 198 of this Code for the intangible asset **taking into account that** the depreciation rate makes:

- for the intangible asset with the useful life more than 10 years or for which determination of the useful life – 10 percent is impossible;
- for any other intangible asset - the percent calculated by division of 100 percent on the number of years of useful use of the intangible asset.

3. Provisions of this article are not applied to the intangible assets specified in Article 196 of this Code.

CHAPTER 30. FEATURES OF TAXATION OF INCOME OF CERTAIN SECTORS

§1. Taxation of credit institutions

Article 204. Income and expenses of credit institutions

1. The positive difference between their income and expenses, taking into account the following requirements is subject to taxation of the tax on income for credit institutions:

1) revenues of credit institutions consist of the income **provided** in this article taking into account requirements, the stipulated in Clause 182 presents of the Code, including:

a) in the form of percent on investment of funds and issuance of credits, including the amount of penalties and the penalty according to the loan agreement;

б) in the form of the service fee on opening and maintaining bank schyot, clearing, crediting, mutual settlements and money transfers, including use of

- electronic means of payment, issue or service of means of payment, providing the statement and other documents on the account and **search** of means;
- в) in the form of the service fee on merchant acquiring transactions and from participants of electronic commerce;
 - г) from performing transactions in foreign currency, taking into account fee on purchase and sale of foreign currency, including for the account and at the request of clients;
 - д) from performing transactions with precious metals and stones, currency reserves, including operations on purchase and sale of foreign currency for or the clients;
 - е) from the positive difference **of operations on revaluation** of foreign currency, precious metals and stones, including measured ingots from precious metals, **securities**;
 - ж) from purchase and sale of instruments of the money market (including checks, bills of exchange, obligations and deposit certificates), events and other translated securities, for or clients;
 - з) from forward agreements, the swap agreements, the futures, options and other derivative tools connected with **currency**, events, bonds, precious metals and stones or belonging to the rate and **interest rates**, for or the clients;
 - и) from issue of guarantees, accounting of contingent obligations, including guarantees and credentials (letters of credit) for and clients, issue of the guarantee providing execution of monetary obligations before the third parties;
 - к) from safe transactions, storage and asset management (money, securities, metals, jewelry, etc.);
 - л) from provision of services on the basis of the trust (cash management, securities, etc. for benefit of the trust and on the basis of its instructions);
 - м) from cash transactions: acceptance, recalculation, exchange, forming and storage of banknotes and coins;
 - н) from transportation (collection), receiving and sending banknotes, coins and values;
 - о) from the agreements connected with purchase and sale of commemorative (collection) coins as differences in the price between **purchase and** sale;
 - п) in the form of the amount of return of assets which loss was included in deductible expenses earlier and reduced tax base or it was excluded from the reserve (fund) and earlier reduced tax base;
 - р) from operations on factoring and forfaiting;
 - с) from finance lease (leasing);
 - т) from services as the financial agent, services as the consultant or the financial consultant, services in the financial and credit information;
 - у) in the form of the compensated amount of the reserve (fund) for the covering of possible losses for assets which cost was included in the expenses earlier, reducing the source of income tax;
 - ф) from remote services and on the Internet;
 - х) other income;

2) the taxable income of credit institutions does not include the following income:

a) upon purchase of bad or doubtful (inactive) loans from other credit institution - the principal amount of the loan or earlier accrued interest which can be received over the purchase price if such **overestimated** amount is actually not received;

b) the accrued interest, penalties and **penalties** on the bad or shaky (inactive) loans which were not paid credit institution, except as specified, **connected with the interconnected** parties;

c) insurance payments for the insurance contract on the case of death or disability of the debtor of credit institution and also the insurance payments for the insurance contract of property accepted as providing on the credit, within the amount of the outstanding loan of the borrower, the accrued interest, penalties recognized by court are paid to credit institution at the expense of insurance means;

d) income gained in the form of increase in net assets as a result of increase in authorized capital of the affiliated organizations of credit institution.

2. Expenses of credit institutions include the expenses provided by Articles 190, 192, 193, Parts 1 and 2 of Article 194, **Articles 196-203, 208, 214, 215** these Codes and **expenses provided by this article** are defined **with** the following requirements:

1) for the purposes of this section the following expense types, **connected from** banking activity belong to expenses of credit institutions:

a) on the accrued interest of borrowed funds (including on deposits, savings and the credits), on the money which is on bank schyota on securities and on the deposited money which is stored on special customer accounts;

б) on commission fees for opening and maintaining bank schyot, clearing, the credits, calculations, cashing in and money transfers, including electronic money transfers, release and (or) service of means of payment, obtaining the statement and other documents on the account and search of money;

в) on performing transactions with foreign currency, **taking into account commission fees** at operations on purchase or foreign currency sales, including for the account and at the request of the client;

г) on operations of purchase and sale of precious metals and **stones**, currency values, including on transactions of purchase and sale of foreign currency for and clients;

д) on the negative **difference of operations on revaluation** of foreign currency, precious metals and stones, including measured ingots from precious metals, **securities**;

е) on purchase and sale of instruments of the money market (**including checks, bills of exchange, guaranty letters and deposit certificates**), events and other translated securities for or clients;

ж) according to forward contracts, the swap agreements, to the futures, options and other derivatives connected with currency, events, bonds, precious metals and stones or belonging to the rate and **interest rates**, for or clients;

з) for receiving guarantees, opening of letters of credit for and clients;

- и) for safe transactions, storage and asset management (money, securities, metals, jewelry product and **another**);
- к) for cash transactions: **acceptance**, exchange, storage and **examination** of banknotes and coins;
- л) for transportation (collection), acceptance and **sending** banknotes, coins and values;
- м) losses on transactions of purchase and sale of commemorative coins (collection) in the form of the difference between the purchase price and realization;
- н) for operations on release and service of traveler's checks, electronic means and other **means of payment**, including on bank payment cards;
- о) **duties** and other platyozh for registration of pledge (including for the mortgage), modification of registration registers and notarized **agreements**;
- п) for lease of buildings **and** constructions, vehicles and other related expenses and also other means connected with banking activity;
- р) losses from sale, discounting and (or) write-off from balance of securities, credits, interbank credits, urgent placements and their derivatives;
- с) on transactions of factoring and forfaiting;
- т) on finance lease (leasing);
- у) on services of the financial agent, adviser or financial consultant, **financial information services and the credit**;
- ф) on payment of bonuses, the cashback and other mechanisms **of stimulation** to clients when using electronic means of payment;
- х) on calendar payments for deposits insurance (savings) in Fund of insurance of savings of natural persons;
- w) on allocations to reserve (fund) on the covering of possible losses for assets according to the instruction of National bank of Tajikistan, except for the assets issued to the interconnected parties or according to **obligations of the interconnected parties to the third parties** and without the mortgage credits for the amount exceeding 2500 indicators for calculations;
- х) on remote services and by means of the Internet of networks;
- bb) other expenses.

§2. Taxation of Islamic banking

Article 205. General provisions

1. Taxation of Islamic banking is applied to transactions of the credit and financial organizations performing transactions according to the principles, standards of Islamic financing and also agreements within the Law of the Republic of Tajikistan "About Islamic Banking Activity" (**further – activities for Islamic banking**).

2. The credit and financial organizations performing Islamic banking activity pay the tax on income according to provisions of this paragraph and other taxes **according to provisions** of this Code.

3. Passive Islamic financing – financing at which principal amount, income or profit (for passive financing) are not paid according to requirements of the agreement of financing according to the instruction of National bank of Tajikistan.

4. The credit and financial organizations **performing** Islamic banking activity are obliged to keep account of income and expenses according to the Law of the Republic of Tajikistan "About Financial Accounting and Financial Statements" and on the accrual method and also for separate transactions (**the muzarab**, the musharak and the vocal) on the cash method.

5. In case the credit and financial organization along with **popular banking activities**, also **performs** transactions of Islamic banking, it is obliged to keep separate financial accounting on banking activities and transactions of Islamic banking.

Article 206. Income and expenses of the credit and financial organizations performing activities for Islamic banking

1. The taxation object on the profit of the credit and financial organizations performing **activities for Islamic banking** is the positive difference between their income and expenses taking into account the requirements established by this article.

1) revenues of the credit institutions performing **activities for Islamic banking** consist of the income provided by Subparagraphs b) - t) point 1) of Part 1 of Article 204 of this Code, taking into account requirements, the stipulated in Clause 182 presents of the Code, and the following income, including:

- in the form of income from correspondent or current schyot in other banks, the deposited placement, the subordinated financing, interbank financing, transactions of the Islamic repo, the overdraft, credit financing of Hassan, trade operations (murobakh), tavarruk, lease, the vocal, lease the muntakhiya bittamlik, the muzaraba, the musharaka, the musharaka **of the mutanakis**, fat, the istisna of unlimited or restricted investment accounts, mortgages, letters of credit and other financing;

- other income.

2) The following income does not join in income of the credit and financial organizations performing Islamic banking activity:

- income from Islamic financing, unpaid penalties and **penalties** for unpaid penalties on passive Islamic financing which were not paid to Islamic credit institution;

- penalties and accrued penalties on Islamic financing;

- insurance payments for the insurance contract on the case of death or disability of the debtor of the credit and financial organization and also insurance payments for the insurance contract of the property **accepted** as ensuring Islamic financing;

- the penalties recognized by court, paid to the credit and financial organization at the expense of insurance means;

- property value, used by the credit and financial organization, as the subject of the bargains concluded within Islamic banking activity;

- income gained in the form of increase in net assets due to increase in authorized capital or value of the stock of subsidiary companies of the credit and financial organization.

2. Expenses of the credit and financial organizations performing **activities for Islamic banking** consist of the expenses provided by Articles 190, 192-193, Parts 1 and 2 of Article 194, Articles 196-203, 208, 214, 215 and the expenses provided by this article and are defined **taking into account from requirements** of this article. **Expenses** of the credit and financial organizations performing Islamic banking activity consist of the expenses provided by Subparagraphs b) - t) point 1) of Part 2 of Article 204 of this Code, and the following expenses, including:

- expenses on demand deposits, savings, urgent, restricted and unlimited investment accounts, other deposits and similar obligations;

- lease of buildings, constructions, transport and other, related expenses and also other means connected from **Islamic banking activity**;

- the amount of the penalties paid on Islamic financing for the charitable purposes;

- losses from sale, discounting or write-off from balance of securities, Islamic investments and derivatives;

- services of the financial agent, adviser or financial consultant, granting Islamic financial services and Islamic financing;

- contributions to the reserve (fund) for the covering of potential losses for assets according to instructions of National bank of Tajikistan, except for assets of the interconnected parties or assets transferred to the third parties, according to obligations **of the interconnected** parties, and unsecured financing - more than 2500 indicators for calculations;

- other expenses.

§3. Deductions of assignments for insurance companies

Article 207. Deductions of contribution to insurance reserve funds for insurance companies

1. The legal entity performing activity in the sphere of general insurance is allowed to subtract the remaining balance of the reserve of risks created according to the current agreement of insurance by the end of the reporting period during the reporting period. The amount of the deduction in connection with forming of the reserve cannot exceed the size established by the Law of the Republic of Tajikistan "About the Insurance Activity".

2. The legal entity performing activity in the sphere of general insurance is obliged to include in the income of the legal entity for the reporting period the amount read according to the part of 1 this article for the previous reporting period.

3. The deduction for the reporting period of the following amounts is resolved the legal entity performing activities for life insurance:

- the amount of the initial reserves created on financial schyota of the organization for the new life insurance policies issued during **this** period, but the

size of the permitted deduction shall not exceed the amount defined for creation of the initial reserve according to the insurance legislation;

- the amount of the annual increment of reserves to the life insurance policy specified in financial statements of the organization, but the size of the permitted deduction shall not exceed the amount demanded for the annual gain of the reserve according to the insurance legislation.

4. If during the reporting period the legal entity performing activities for life insurance is cancelled by the life insurance policy, the amount of the subtracted reserves concerning the cancelled policy joins in the income of the legal entity for the current period.

5. The legal entity performing activities for life insurance makes the following insurance payments for the reporting period:

- if the total amount of payments for the requirements **made** during **this** period is less than total amount of the subtracted reserves concerning these payments, the surplus joins in income of the organization for the current period;

- if the total amount of the payments for requirements made during the period is less than total amount of the subtracted reserves concerning these payments, the deduction in the year for the amount of surplus is allowed to the enterprise.

6. No deductions are allowed for the amount deactivated the legal entity conducting activities for general insurance or life insurance, except as specified, provided in this article.

7. In this article the concepts "general insurance" and "life insurance" are meant as the concepts defined in the Law of the Republic of Tajikistan "About the Insurance Activity".

Article 208. Deduction of expenses on the insurance premium

1. The insurance premium paid by the legal entity under the agreement of general insurance for the risk insurance connected with business activity of the legal entity is allowed to the deduction. The deduction is resolved irrespective of whether insurance is obligatory or voluntary.

2. The insurance premium paid by the legal entity according to the life insurance contract is allowed to the deduction if:

- insurance is insurance of the key face, and insurance payment under the agreement is subject to payment to the legal entity;

- insurance concerns the employee of legal entity, and the insurance payment made under the agreement is subject to payment to the worker or the dependent of the worker, but only in case the insurance premium is included in labor earnings of the worker according to Article 186 of this Code.

§4. The deduction of costs for users of natural resources

Article 209. Deduction of costs of the user of natural resources for exploration and production

1. **Provisions** of Article 203 of this Code **are applied** to expenses on the exploration works suffered by the user of natural resources during the reporting

period proceeding from the fact that these costs are non-material expenses with the 100 percent depreciation rate.

2. According to Article 198 of this Code the depreciation rate for machinery and equipment, natural resources purchased by the user only and especially for the purposes of conducting exploration works, and used for this purpose, makes 100 percent of cost of machinery and equipment.

3. Article 203 of this Code is applied to the expenses on production incurred by the user of natural resources during the reporting period on the basis of the fact that these costs are non-material expenses with the depreciation rate equal to the greatest of the following sizes:

- the percent calculated by division 100 on the expected number of years of implementation of production on the basis of right to use **by natural resources** to which costs belong; or
- 10 percent from expenses.

4. If **the user of natural resources** incurs expenses for production or acquisition of fixed assets for use in activities for the license for production prior to activity, provisions of this Code are applied on **the costs basis** from the moment of the beginning of activities for production.

5. The amount of depreciation charges to which **provisions of Part 4 of this article are applied** for the reporting period in which activities for production began, is calculated by the following formula:

$$A \times B /_{\text{with}},$$

where: A - the amount of costs for production or fixed asset cost;

B - the number of days in the period which is beginning with start date of activities for production and coming to an end in the last day of the reporting period in which activities for production began; and

C - the number of days in the reporting period in which activities for production began.

Article 210. Basic provisions for calculation of costs of users of natural resources for exploration and production

For the purposes of this paragraph the following basic concepts are used:

- the beginning of activities for production - the first day of the first period from 30 consecutive days;
- costs for investigation are capital costs of search, including the costs incurred when buying users of natural resources except for purchase costs of fixed assets;
- costs for production are capital costs at production of resources, including the costs incurred when buying users of natural resources except for purchase costs of fixed assets.

Article 211. Restrictions on deductions to users of natural resources

1. The deductible expenses incurred by the user of natural resources at implementation of the agreement on use of natural resources are allowed depending on the gross income gained under such contract during the reporting period.

2. If the amount of the general permitted deductions made during the reporting period exceeds the gross income gained according to the usage contract of natural resources, such excess is transferred to term more than three years and subtracted.

§5. Profit and losses at currency exchange

Article 212. Profit and losses at currency exchange

1. **The gross** income of the taxpayer from business activity for the reporting period includes income from the exchange difference of foreign currency gained by the taxpayer for the reporting period.

2. Admissible deductions of the taxpayer for the reporting period include the loss from the exchange difference suffered by the taxpayer during the reporting period.

3. Losses from the exchange difference are estimated according to Part 2 of this article only if the taxpayer proved the size of losses.

4. Income or the loss of the nonresident from the exchange difference is considered only if they are connected with the business activity performed through the permanent establishment of the nonresident.

5. For the purposes of this article income and the loss of the taxpayer at currency exchange - respectively the income and losses caused by change of the exchange rate of foreign currency.

6. Foreign currency transactions - one of the following transactions performed for the purpose of receiving the gross income:

- transactions with foreign currency;
- obligations for crediting and loan in foreign currency;
- any other foreign currency transactions.

7. At determination of income or losses of the taxpayer from the exchange difference on transactions with foreign currency, provisions of the insurance contract of risks or hedging are considered.

CHAPTER 31. REGULATIONS OF ASSETS

Article 213. Profit and losses at sale or transfer of assets

1. The profit on sale, transfer or **other type** of alienation of assets represents the positive difference between sales proceeds or transfers of assets defined according to Article 215 of this Code and the asset cost determined according to Article 214 of this Code.

2. Losses from sale, transfer or other alienation of assets represent the negative difference between sales proceeds or transfers and the asset cost determined according to Article 214 of this Code.

3. **Provisions of Parts 1 and 2** of this article are not applied to the assets which are subject to depreciation on groups and also to inventory stocks.

4. In this Code the reference to "alienation" of assets includes:

- destruction of assets;
- cancellation, repayment, expiration or refusal of the intangible asset.

Article 214. Asset cost

1. Asset cost joins the expenses connected with their acquisition, production, construction, installation and installation and also other expenses increasing their cost **except for revaluation of fixed assets and expenses concerning which the taxpayer has the right to the deduction.**

2. If assets are the fixed assets depreciable on the basis of the straight-line method according to Article 199 of this Code, or the non-material property depreciable according to Article 203 of this Code, asset cost at the time of sale, transfer or **other type** of alienation decreases by the amount of the provided depreciation concerning such assets.

3. If only the part of assets is on sale, transferred or alienated, then asset cost is calculated by the following formula:

$$A \times B / (B + C), \text{ where:}$$

And - asset cost;

In - the amount received from the sold, transferred or aloof part of property;

C - the market value of the rest of the asset at the time of sale, transfer or alienation.

4. In case of application of provisions of Part 3 of this article:

- the rest of the asset is considered as the separate **asset**;

- the cost of the rest of the asset represents the remaining balance of asset cost taking into account the cost carried to that part **of assets** which is sold, transferred or aloof according to Part 2 of this article.

5. **At consolidation** of two or more assets (initial assets) in one asset (the integrated asset) the following criteria are applied:

1) initial assets at the time of consolidation are considered as sold;

2) at alienation of initial assets profits or losses are not considered;

3) the person at the time of consolidation **of assets** is recognized as the buyer of these assets;

4) the cost of the integrated asset is equal to the amount of the following:

a) the total cost of initial assets at the time of consolidation;

b) the expenses incurred by the person when transforming initial assets to the integrated asset.

6. In case of damage of the asset, asset cost decreases by the amount received according to the insurance policy, compensation or other agreement or by a court decision. If the received amount exceeds asset cost, the amount of excess **is considered** as income gained at the time of receiving the specified amount, and asset cost **is equated** to zero.

Article 215. Rules of determination of the amount received by the seller at sale or transfer of assets

1. The price of the sold asset - the total amount received or which is subject to receiving for the asset with the person, including the market value of any asset, **received** in the natural form on the sale date of the asset.

2. In case of destruction of the asset, the amount received for the asset, including the compensation amount, of the restoration or compensation received or which is subject to receiving by the person is defined as a result of destruction of the asset.

3. If two or more assets leave within one transaction and the cost of each asset is not determined separately, the total received amount is divided between two or more assets on the basis of market value into date of alienation of such asset.

4. If the pledge transferred to the owner of the asset in whole or in part remains in ownership of the owner of the asset, and expected sale or transfer of the asset does not take place, then the amount of the pledge which remained with the owner of the asset is recognized as income.

5. If the person cannot submit the document confirming the received amount for the asset, **asset cost** is determined proceeding from the market value of the asset at the time of alienation.

Article 216. Transactions between the interconnected parties

1. At alienation of assets asset cost is determined as follows:

- for the transferring party – **the cost of the transferred asset** is calculated at the market value of assets at the time of alienation;
- for the recipient – the cost of the received asset is calculated at the market value of assets at the time of acceptance.

2. If Chapter 33 of this Code is applied to alienation of the asset requirements, provisions of this article are not used.

Article 217. Non-recognition of income or losses

1. At determination of the taxable income, income or the loss is not recognized in cases:

- transfers of assets between spouses, but only in case the spouse purchasing the asset by the subsequent their transfer is assessed with the tax according to this Code;

- transfers of the asset between the former spouses in the course of the divorce, but only in case the former spouse purchasing the asset at the subsequent their alienation is assessed with the tax according to this Code;

- transfers of the asset in case of the death of the taxpayer to the successor, but only in case the successor is subject to taxation according to this Code, concerning the subsequent alienation of the asset;

- inadvertent destruction of the asset or its alienation with reinvestment of income (for example, the insurance indemnity received for inadvertent destruction of the asset) in the similar asset or in the asset with the same characteristic (the

replacing asset) before the termination of the second year following after the year in which the asset was destroyed or aloof.

2. **At application of provisions of the paragraph of the fourth** of the part of 1 this article **if** the acquisition value of the replaced asset exceeds the amount received for the replaced asset, the cost of the replaced asset increases by the amount of excess of cost of the replaced asset.

3. **At application of provisions of the paragraph** of the third of the part of 1 this article **if** the cost of the replaced asset exceeds the cost **of the acquired** asset replacing **the replaced asset**, the cost of the replacing **asset** falls from the cost of the replaced asset for date of alienation for **the amount** of excess, but not it is below zero. Any excess which is not used for reduction of cost of the replaced asset joins in **the gross** income of the taxpayer for the tax period during which the replacing asset was purchased.

4. Asset cost for the spouse or the former spouse purchased as a result of the agreement at which profit is not considered for the purposes of taxation according to paragraphs to the first and second part of 1 this article is asset cost for transferring his spouse or the former spouse to trade date.

5. In property value, purchased by the successor according to the paragraph the third parts of 1 this article, the property value of the died taxpayer for date of his death is.

6. **Provisions of this article** are not applied to the assets **which are subject** to depreciation on groups, except for paragraphs of the first, second and third of the part of 1 this article which are applied in cases when all assets of group are transferred to the spouse, the former spouse or the successor in at one time.

Article 218. Assets conversion cycle between participants of group of companies

1. **Provisions of this article are applied** in case of observance of the following conditions:

- the company transferring capital assets hereinafter is referred to "the transferring company", and the company receiving these assets hereinafter is referred to "the receiving company";

- all assets of the transferring company in group shall be transferred to the receiving company if the transferred assets are fixed assets which will be amortized by the transferring company according to Article 198 of this Code on group;

- the amount of the obligations connected with fixed assets of the transferring company cannot exceed the residual cost of the transferred fixed assets;

- the receiving company in case of the subsequent realization of assets is assessed with the tax on income;

- the transferring company in relation to the receiving **company is the group company;**

- the transferring company and the receiving company before date of transfer of assets in writing agree that this article is applied at fixed asset transfer.

2. In the following cases turnover of assets in the company is not subject to taxation:

- in case of transferring income (profit) and losses do not arise by the company of transfer of assets;

- asset cost, transferred to the receiving company, is equal to the asset cost of the transferring company at the time of transfer.

3. At application of **provisions of the paragraph of the second** of the part of 1 this article the receiving **company** is considered the purchaser of groups of fixed assets for the amount equal to the residual cost of group at the time of transfer.

4. For the purpose of this Code any company is recognized as the member of the group of the company if there is one of the following conditions:

- one company owns directly or through one or several related companies 100 percent of shares or share in other company;

- other company owns directly or through one or several related companies **100** percent of shares or share in both companies.

5. The reference in the part of 1 **this article** to "company" is the reference to separate company which is the resident of the Republic of Tajikistan.

CHAPTER 32. GENERAL RULES OF THE INTERNATIONAL TAXATION

Article 219. Sources of income

1. Income is considered received from sources in the Republic of Tajikistan if income in the monetary, material or non-material form (without any deductions) is received from any kind of activity, property (property rights) and other sources which are in the Republic of Tajikistan irrespective of the place of payment of income, including:

a) the hired labor revenue specified in Article 186 of this Code if one of the following conditions is applied:

- work is performed in the Republic of Tajikistan;

- working costs are paid by the Government of the Republic of Tajikistan, residents and permanent establishments of the nonresident of the Republic of Tajikistan irrespective of, work in the Republic of Tajikistan or abroad is performed;

b) the entrepreneurial income, the performed resident, except for the income connected with **permanent** foreign establishment of the resident;

c) the entrepreneurial income, the performed nonresident who can be carried to the permanent establishment **located** in the territory of the Republic of Tajikistan including:

- income from sales of goods of the same or similar type, as goods delivered (sold) through such permanent establishment in the Republic of Tajikistan;

- income gained from any other business activity **performed** in the Republic of Tajikistan which has the same or similar character, as the activity performed through such permanent establishment;

d) income gained in the form of dividends **from** the legal resident person and income gained from sale and transfer to other person of share in such legal entity;

e) income in the form of pensions, percent, prizes, prizes, royalty, technical charges and other **paid** income;

- the resident, except as specified, when platyozhy expenses of the foreign permanent establishment of the resident are;
- the nonresident, if platyozhy expenses of the permanent establishment of the nonresident in the Republic of Tajikistan are.
- e) income gained from the real estate which is in the Republic of Tajikistan including income from sale or transfer to other person of share in such real estate;
- g) income from sale or transfer to other person of stocks or shares in the legal entity at any time within 365 days before sale or transfer to other person stock value or share directly or indirectly, is defined generally from real estate value, being in the Republic of Tajikistan;
- h) other income from sale or transfer to other person of property by the resident which is not connected with implementation of business activity behind the exception;
 - real estate which is outside the Republic of Tajikistan;
 - events or other shares in the legal entity the nonresident.
- i) the income paid in the form of awards on insurance or risks reinsurance in the Republic of Tajikistan;
- j) income from telecommunication or transport services at implementation of the international telecommunication or transportations between the Republic of Tajikistan and other states;
- k) the fees of heads and (or) other payments received by members of the supreme body of management (Board of Directors, board or other similar body) the legal resident person, irrespective of the place of the actual accomplishment of the duties assigned to such persons;
- l) the income (fees) paid to stage and film actors, employees of radio and television, musicians, artists and athletes in connection with their activity in the Republic of Tajikistan irrespective of whether it directly is paid to actors of theater and cinema, employees of radio and television, musicians, artists and athletes or legal entities under control of them;
- m) income which the Republic of Tajikistan has the right to tax according to tax agreements, irrespective of provisions of the above-stated subparagraphs of this part.

2. Any income gained from sources outside the Republic of Tajikistan is foreign income.

Article 220. Offset of the foreign tax

1. The foreign income of the resident is income or the profit got by the resident who is subject to taxation on income in the Republic of Tajikistan.

2. The amounts of tax on the income paid by the resident outside the Republic of Tajikistan from foreign income for the tax period at representation of payment confirmation of such taxes, in the order established by this Code become engrossed in reading at payment of the taxes listed in this part.

3. The amount which is subject to offset, stipulated in Item 2 these articles cannot exceed the amount of tax, established in the Republic of Tajikistan concerning such income at the rates operating in the Republic of Tajikistan.

4. The tax accrued on the income or net profit received by the resident outside the Republic of Tajikistan is calculated with use of the average tax rate for income in the Republic of Tajikistan for residents. For this purpose:

- the average tax rate for income counted for residents in the Republic of Tajikistan means the tax rate for the income of the resident of the Republic of Tajikistan paid by residents percentage of the taxable income for the tax period according to this Code;

- income or the net taxable profit **got** outside the Republic of Tajikistan for the tax period is recognized as the gross income of the resident with the deduction permitted according to this Code;

- in case of tax withholding at the source of payment outside the country, the resident submits the supporting document.

5. Offset of the foreign tax permitted the resident for the tax period pays off separately for the profit got by the resident abroad and which represents income gained from business activity, and other foreign income of the resident for the current period.

6. Offset of foreign income of the resident according to this article is allowed only **in the following cases** if:

- the resident paid the foreign tax within two years after the end of the tax period in which foreign income was gained by the resident, or during such extra time which is authorized tax **authority**;

- the resident submitted the document on payment of the foreign tax and any additional documents from foreign tax authority in tax authority in the place of registration confirming payment of the tax abroad.

7. If the tax paid **by the resident** abroad exceeds the tax paid within the country such excess according to **provisions of Part 2** of this article does not become engrossed in reading, does not return and is not postponed to other period.

Article 221. Transfer of losses from foreign income for other period

1. Deductions of expenses from the amount of the foreign income gained by the resident are permitted according to this Code, but with restriction that such expenses can be subtracted only from foreign income. If the deductible expenses incurred by the resident in the tax period when receiving foreign income exceed the amount of this income for this period, such excess is considered as the foreign loss for this period.

2. The resident can postpone the foreign loss for the tax period to the next tax period as the deduction from the foreign income of the resident who is subject to assessment in the next tax period. Such deduction is allowed until the loss is not completely subtracted or the permitted period of transfer of losses will not end. The period of transfer of losses is 3 tax periods after the end of the period in which the loss was suffered. If the resident has the foreign loss postponed according to this article for more than one tax period the foreign loss suffered during the earliest tax period is deductible first of all.

3. This article is applied separately to the foreign income of the resident for the period in which the entrepreneurial income and to any other taxable foreign income of the resident pays for this period.

Article 222. Taxation of net profit of the permanent establishment of the foreign legal entity

The permanent establishment of the foreign legal entity performing the activity in the Republic of Tajikistan in addition to the tax on income, is assessed with the tax on **the net profit of this** permanent establishment for the tax period at the rate of 15 percent.

Article 223. Income gained by controlled foreign legal entities in the countries with preferential taxation

1. If the direct or indirect share of the resident in the foreign legal entity located in jurisdiction with low tax rates makes more than 25 percent within tax year, the income of such resident for this year includes the amount calculated by the following formula:

$$A \times B,$$

where: A - percent of the share of the resident in the foreign legal entity; and
B - the taxable profit of the foreign person in the year reduced by any foreign tax or the tax in the Republic of Tajikistan paid by the foreign legal entity from the taxable profit.

2. The percent of the share of the person in the foreign legal entity is the greatest of percentage shares of the resident in the following assets:

- voting power in the foreign legal entity;
- the right to the dividends and the right to other **income** paid by the foreign **legal** entity;
- **right to the share of the capital in the foreign legal entity.**

3. When calculating **the percentage** share of the legal entity in the foreign legal entity any straight lines or the indirect interests of the legal entity concerning the connected person are considered.

4. With **low rates of taxation** the country in which one of the following conditions is observed is recognized as the country:

- the nominal tax rate **or its parts** in the country are 30 percent lower than the rate applied to the resident according to this Code;
- the country does not tax the foreign income of residents, or the foreign income of residents is assessed with the tax only in case income is transferred to the country;
- the current legislation of the country provides protection of confidentiality of financial information or information on **the companies**, allowing to provide confidentiality **of information** on the beneficial owner of property or final **the recipient** of income (profit).

5. The legal entity is considered the resident **of the offshore zone** - the countries with **low rates of taxation** if one of the following conditions is carried out:

- the legal entity is created and registered in the country with the low level of taxation; **or**

- control and control **of the legal entity** is exercised from the country with **low rates of taxation**.

6. The dividends paid in the country with **low rates of taxation** to the resident are exempted from the tax in that measure in which the tax on income (added) was paid by the resident according to this article. For this purpose dividends are considered paid from the imputed income.

Article 224. Thin capitalization

1. Taking into account requirements of Part 2 of this article if for the reporting period the ratio **of the average** credit of the resident person who is under control of the nonresident to average **authorized capital** exceeds twice, the permitted interest contribution to such person for this period is limited.

2. Concerning the person - the resident who is under control of the nonresident if more than 25 percent of its share on average authorized capital directly or indirectly belong to nonresidents, or to legal entities exempted from income tax on each credit utilized during **the reporting** period, paid interests **vychityvatsya** according to **the part** of 1 this article, but the maximum amount of percent which can be read according to point 1 of this article is limited to the amount of interest exceeding the maximum interest rate.

3. For the purposes of this article the maximum interest rate is determined by division of amount of interest by the credits of average coefficient of authorized capital. The coefficient of average authorized capital is defined by division of the average amount of the outstanding loan by the end of the reporting period on average value of the share of the foreign founder in authorized capital and **its divisions** into 3 (three). The credit any commercial loan, the bank deposit and other loans, irrespective of their registration form is considered.

4. This article is applied to the nonresident with the permanent establishment in the Republic of Tajikistan on the following bases:

- the permanent establishment is considered the legal resident person under foreign control;

- the ratio of the average **credit** of the permanent establishment of the nonresident to average equity is calculated on the basis of credit obligations of the permanent establishment and the capital invested in activity of the company through the permanent establishment.

5. For the purpose of application of provisions of this article the following concepts are used:

- the average **credit** of the legal resident person who is under foreign control for the tax period represents the amount calculated by division into 3 amounts, received by addition **of the credit** of this legal entity at the end of the first, average and last days of the tax period;

- average equity of the legal resident person who is under foreign control in the tax period is the amount **calculated** by division into 3 amounts, received by addition of the capital of this legal entity for the end of the first, average and last days of the tax period;

- **the credit** of the legal resident person who is under foreign control are the **credit** obligations of the legal entity defined according to International Financial Reporting Standards and which are not including accounts payable;

- equity of the legal resident person who is under foreign control represents equity of the legal entity according to International Financial Reporting Standards;

- the legal resident person who is under control of the nonresident is the legal resident person in whom more than 25 percent of shares or other **shares** belong to the nonresident, one or together with **the interconnected** parties.

CHAPTER 33. TRANSFER PRICING

Article 225. Agreement on transfer pricing

1. The agreement on transfer pricing is **the agreement including** transaction or the series of transactions with accomplishment of all following conditions:

- if the purpose of transaction is delivery or property acquisition, services, handling of intangible or tangible assets, allocation of the credits;

- if transaction is performed between **the interconnected** persons;

- if transaction is cross-border.

2. Transaction is cross-border if it is made:

- between the resident person and the nonresident person, except as specified, when transaction is performed completely in **the Republic of Tajikistan**;

- between two resident persons it is also connected with the business activity performed through the permanent establishment outside Tajikistan, one or both residents;

- between two nonresident persons, except as specified, when transaction is connected with the activity performed through permanent establishments in Tajikistan, both nonresidents.

Article 226. The principle of signing of the contracts on market conditions

1. The principle **of signing of the contract on market conditions** is applied in case the income, expenses, the profit or loss created on the basis of the agreement on transfer pricing **of the interconnected** persons differ from income, expenses, the profit or loss **of the not interconnected** faces created in real market conditions.

2. The difference between income, expenses, the profit or loss between **the interconnected** and **not interconnected** persons is defined by comparison of cases.

3. Circumstances are considered as comparable to the actual circumstances specified in the agreement on transfer pricing in case such cases correspond to market conditions and or with distinctions, one of the following conditions is applied:

- distinctions are insignificant, transfer pricing is not applied;

- distinctions are essential, transfer pricing is applied.

4. At determination of compliance of agreements to market conditions the following requirements are considered:

- the obligations and risks accepted by the parties within the agreement on transfer pricing for implementation of transactions;
- characteristics of property, the services, intangible or tangible assets delivered or purchased within the agreement on transfer pricing;
- contractual conditions within the agreement on transfer pricing;
- market condition on which there was transaction, and any other economic factors relating to the mechanism of transfer pricing;
- the business strategy of agreement parties about transfer pricing.

5. **The principle of market conditions** shall be applied according to international standards of transfer pricing to the transnational enterprises and tax authorities. In case of discrepancy **of this Code to such standards** of transfer pricing, the priority is given to this Code.

Article 227. Methods of transfer pricing

1. **Transfer pricing consists of the following methods:**

- **comparable market price;**
- **resale prices;**
- **costs plus;**
- **comparable profitability of transaction;**
- **separations arrived on transaction.**

2. The methods of transfer pricing established **by the part** of 1 this article shall be applied to destination separately or is combined according to the legislation of the Republic of Tajikistan.

3. The taxpayer can apply the method of transfer pricing which is not specified in the part of 1 this article if he can prove both below-mentioned elements:

- any of the methods specified in the part of 1 this article cannot be properly applied to determination of compliance of the income, expenses, profit and losses arising within the agreement on transfer pricing, **to the principle of market conditions;**

- the method used by this taxpayer results in result which is comparable to the results achieved in the relations between the impartial persons operating by **the principle of market conditions.**

Article 228. Corrections of transfer pricing

1. The taxpayer who signed the contract taking into account requirements of the agreement on transfer pricing shall by means of the method of transfer pricing or its combination to define the income, expenses, the profit and loss suffered under the agreement on **the principle of market conditions:**

- corresponding strong and weaknesses of each method of transfer pricing in terms of the contract about transfer pricing;
- accuracy of each method of transfer pricing taking into account the nature of the agreement on transfer pricing defined by means of the analysis of the carried-out transactions, the used assets and risks assumed by each agreement party;

- availability of the reliable information necessary for application of each method of transfer pricing;

- degree of comparability of conditions within the agreement on transfer pricing and **the principle of market conditions** and also reliability of adjustments if those are available which can be required for elimination of distinctions.

2. The method of comparable market prices is the most exact and reliable method of use **of the principle of market conditions** to the resources sold by users **natural resources**.

3. If the person does not define the income, expenses, **profit** and losses arising under the agreement on transfer pricing according to **the principle of market conditions**, the tax authority can make necessary corrections for providing that income, the expenses, profits and losses arising within the agreement on transfer pricing corresponded **to the principle of market conditions**.

4. If taking into account the methods specified in the part of 1 this article, the person uses the exact and reliable method of transfer pricing, determination of compliance of income, expenses, profits and the losses created within the agreement on transfer pricing, shall be performed by tax authority on the basis of **the principle of market conditions** used by the person.

Article 229. Documentation on transfer pricing

1. The taxpayer according to the requirements established by this Code is obliged to make documents (the agreement, the way bill, the cargo customs declaration, copies of accompanying documents) certifying compliance of the transactions made by the taxpayer under the agreement on transfer pricing, **the principle of market conditions**. In documentation the basis for use of the method or methods of transfer pricing shall be specified.

2. The taxpayer is obliged to prepare and submit to tax authorities the documents for tax year provided by the part of 1 this article before submission of the annual declaration of the tax on income.

3. The taxpayers who did not fulfill the requirements to documentation specified in Parts 1 and 2 are made responsible according to the legislation of the Republic of Tajikistan.

4. Any obligation for accounting established according to this Code shall supplement the obligation for accounting of the taxpayer who signed the agreement on transfer pricing.

5. The authorized **state** body in coordination with the Ministry of Finance **of the Republic of Tajikistan** can establish requirements to the simplified documentation on transfer pricing for the following taxpayers and separate transactions:

- distributors;
- taxpayers with the low amount of cross-border transactions;
- subjects of the average entrepreneurship;
- intra group services of the companies;
- loan granting;
- technical services.

6. The simplified requirements to documentation on transfer pricing according to Part 5 of this article are not applied to the royalty, license fees, agreements on research and development and other intangible assets.

Article 230. The concept of the interconnected parties

1. For the purposes of this Code two parties are considered **interconnected** in the following cases if:

- one of the parties is the direct or indirect owner not less than 25 percent of the capital or **voting power** of other party;

- any third party is the direct or indirect owner not less than 25 percent of the capital or **voting power** in each of these two or more interconnected parties;

- more than a half of Board of Directors or board members or one or several chief executives or executive board members of one party are appointed by other party;

- more than a half of Board of Directors or board members or one or several chief executives or executive board members of both parties are appointed by the same third party;

- the loan granted or provided with one party to other party makes more than fifty (50) percent of book value of all assets **of other party**;

- the party directly or indirectly draws not less than 25 interest **of income** in result of agreement performance about cooperation between both parties;

- one of the parties is the permanent establishment of other party.

2. For the purposes of the first and second paragraphs of the part of 1 this article, the natural person is considered the owner of the share in the regulatory capital or voting power if the event is in immediate or indirect possession of one of members of the same family, including spouse, direct relatives, brothers and sisters, children of brothers and sisters, spouses of brothers and sisters, brothers and sisters of the spouses, parents of the wife or the husband, brothers and sisters of parents of the wife or the husband, trustees and parents **adopted**.

3. For the purposes of this Code all commercial and financial transactions made by the resident of the country with the low rate of taxation **defined** according to **provisions** of Part 4 of Article 223 of this Code are considered as transactions with **the interconnected** parties. In that case, if taxpayers provide to tax authorities information on the identity of shareholders of other party and will prove that they are not connected among themselves, the specified provisions will not be applied to them.

Article 231. The report with breakdown by the countries

1. The report with breakdown by the countries provides to tax authorities access to information on global profit and the taxes paid by the large corporate groups working in the Republic of Tajikistan. This information can be used by tax authorities for risks assessment of transfer pricing.

2. Provisions of Articles 233-235 of this Code provide the report with breakdown by the countries for some resident organizations.

3. The tax authority will receive the reports with breakdown by the countries submitted to tax authorities of foreign countries in accordance with the terms of exchange of information, **established** in Chapter 24 of this Code.

Article 232. Determination of the terms connected with reports with breakdown by the countries

1. The group with global influence is the group of the legal entities answering to all following criteria **in that number**:

a) not less than two or more legal resident persons in the different countries and the legal resident person of the Republic of Tajikistan, having the permanent establishment in the foreign state enter into group;

b) the group of companies is consolidated for the purposes of financial accounting according to the accounting standards applicable to mother company of group, or the group will be subject to consolidation if shares (shares) of any member of the group are sold on the stock exchange;

c) the total annual turnover of group previous financial year made 4.7 billion somoni;

2. The member of the group with global influence is the legal entity corresponding **to all following criteria**:

a) the legal entity answering to one of the following conditions:

- the legal entity is included in the consolidated financial reportings of the group having global influence or will be included in these consolidated financial statements if shares (shares) of the company were sold on the stock exchange;

- the legal entity **is excluded** from the consolidated financial reportings of the group having the global impact only because of its size or lack of significant effect on transactions of group;

b) the permanent establishment of the legal entity specified in Subparagraph a) of this part if such legal entity makes separate financial statements of permanent mission for the financial, regulatory and tax purposes, or for internal control.

3. The agreement on competent authorities - the agreement between competent authority **of the Republic of Tajikistan** and competent authority of the foreign state or foreign countries which demands automatic exchange of reports with breakdown by the countries.

4. The substitute (authorized) parent legal entity is the legal entity who is the member of the group with global influence and is appointed by group for submission of the reporting in the country of residence on behalf of group in case the mother company is not obliged to report in the country of the residence.

5. The final mother company is the member of the group having global value if the following conditions are completely satisfied:

a) the participant who directly or indirectly has the sufficient share in one or several other members of the group and shall prepare consolidated financial statements of the group having global influence in the country of his residence or shall does it if shares of the legal entity are sold on the stock exchange in the country of his residence;

b) **there is no other member of the group who could have directly or indirectly the share in other member of the group specified in Subparagraph a) of this article.**

Article 233. The obligation for providing reports with breakdown by the countries

1. The legal resident person is obliged to provide in tax authority the report with breakdown by the countries for the reporting period:

1) the legal resident person is mother company of group with global influence on this period;

2) the legal resident person is **authorized (substitute)** mother company of group with global influence on this period;

3) the member of the group with global influence and mother company of group is not obliged to submit the report with breakdown by the countries in the country of residence for this period, and the group did not appoint the member as **authorized (substitute)** mother company to this period;

4) the member of the group with global influence to whom any of points 1)-3) this part is not applied, and to which one of the following conditions is applied:

- between the Republic of Tajikistan and the country of residence of final mother company of group there is no agreement on competent authorities;

- between the Republic of Tajikistan and the country of residence of final mother company of group there is the relevant agreement on competent authorities, but the country of residence does not observe the requirement of this agreement on the regular basis.

2. The resident person is obliged to notify in accordance with the established procedure tax authority if it is legal entity to which provisions of points 2) and 3) of the part of 1 this article are applied.

3. The legal resident person is obliged to submit the notice to tax authority according to Part 2 of this article until the end of financial year to which the notice belongs.

4. Until the end of the period the tax authority shall notify the legal resident person that provisions of point 4) of the part of 1 this article for the reporting period extend to it.

5. If provisions of points 3) or 4) of the part of 1 this article within reporting year are applied to more than one legal resident person of the group having global influence, the group can notify tax authority on the legal resident person appointed as responsible for providing reports with breakdown by the countries for this year according to requirements of the part of 1 this article. The notice for the reporting period shall be prepared in the approved form and is submitted to tax authority before the expiration of the reporting period for this year. If the legal resident person, appointed group with global influence, for the reporting, does not provide information for the reporting period, the tax authority can demand other legal resident person of the same group which conforms to requirements of Subparagraphs 3) or 4) of the part of 1 this article, to provide information to the term specified in written requirements of tax authority.

6. For the purposes of **the paragraph** of the second point 4) of the part of 1 this article it is considered that the foreign state regularly does not observe provision of the relevant agreement on competent authorities if the foreign state allows one of the following actions:

- the exchange of information provided by the agreement on competent authorities with the Republic of Tajikistan is suspended, except for suspension of exchange of information according to **the agreement**;

- despite all efforts of the Republic of Tajikistan, exchange of information with the countries of location of group with global influence and members in the Republic of Tajikistan was not performed.

Article 234. Reporting under the country

1. The report with breakdown by the countries for the reporting period which shall be given to tax authority by the legal resident person for the group having global influence according to provisions of Article 233 of this Code shall contain the following information:

1) cumulative information on income, profit and losses before taxation, the accrued tax on income, the stated capital, **the created** profit, the number of employees and tangible assets (except for money or their **equivalents**) for each country in which the group works;

2) identification of each member of the group with the following information:

- the country of tax residence for each of participants;

- the country in which the legal entity is founded, registered is regulated according to rules of this country, with differences from the country of tax residence according to the first **paragraph** of this part;

- nature of core business or business of its participants.

2. The report with breakdown by the countries shall be provided in the format identical to the used special format as it is specified in the legislation on transfer pricing, and shall include any other requirements of tax authority.

3. The report with breakdown by the countries for the reporting period shall be provided by the legal resident person in tax authority within 12 months after end of the reporting period. If the financial statements of the group having global influence are prepared for the period, other than the reporting period, the group can submit the report with indication of for financial year of group.

4. The legal resident person, not submitted report with breakdown by the countries according to this article, is made responsible according to the legislation of the Republic of Tajikistan **on administrative offenses**.

Article 235. Use of reports with breakdown by the countries

The tax authority can use the reports with breakdown by the countries submitted according to Article 233 of this Code, or received according to the agreement on competent authorities only for the following purposes:

1) risks assessments of transfer pricing, risks of high level and other risks of concealment and change of the source of taxation and redistribution arrived in the Republic of Tajikistan;

- 2) risks assessments of non-compliance by group with global influence of rules of transfer pricing according to this Code;
- 3) economic and statistical analysis.

CHAPTER 34. TAX WITHHOLDING AT THE SOURCE OF PAYMENT

Article 236. The order of tax withholding at the source of payment

1. The following persons (tax agents) are obliged to hold the tax at sources of payment, except payments which recipient is exempted from taxation:

1) legal resident persons, including their separate divisions, individual entrepreneurs and permanent establishments of nonresidents who perform payments (are obliged to pay) to the natural persons which are employed at them in the form of the salary, stipulated in Clause 186 these Codes;

2) legal resident persons and also their separate divisions, individual entrepreneurs and permanent establishments of nonresidents performing payments for the services (works) rendered in the Republic of Tajikistan income to the natural persons which are not registered as individual entrepreneurs on the basis of civil contracts or without the conclusion of such agreements except for civil agreements which subject is transition of the property right or other corporeal rights to property (property rights);

3) legal resident persons and also their separate divisions, individual entrepreneurs and permanent establishments of nonresidents paying pensions, grants and benefits to natural persons except for national pensions, grants and benefits;

4) the legal resident persons **paying** dividends;

5) residents and the permanent establishments of nonresidents **paying** interest;

6) legal resident persons whose part of stocks (share) belonging to nonresidents of the Republic of Tajikistan is sold it (is aloof) and also authorized agents of nonresidents who implemented (made alienation) or gave property (events, shares) such nonresidents in the Republic of Tajikistan if supporting documents about payment of the tax by nonresidents are not submitted after realization (alienation) or transfer within 5 working days after the termination of month in which platyozh (means) were made;

7) the credit and financial organizations performing Islamic banking activity at payment of remunerations for money on savings, deposit, placement on investment schyota at the rate established by Part 1 of Article 238 of this Code;

8) residents and the permanent establishments of nonresidents **performing** the platyozh provided in Article 239 of this Code;

9) residents and the permanent establishments of nonresidents paying the prizes on bonds, lotteries issuing prizes (prizes, gifts) by results of tenders, competitions and other actions;

2. The tax agent paying the income specified in the part of 1 this article bears responsibility for deduction and payment of the tax in the budget. If the amounts of tax are in due time not paid to the budget, the tax agent paying income is obliged to grant at own expense on the budget the sum of the tax which is not withheld and not

transferred into the budget and also the corresponding penalties and percent. The tax agent **paying** the tax at the source of payment at own expense after failure to pay the tax has the right to collect the tax on the recipient of income.

3. Under payment of income money transfer in the cash or non-cash form, securities, goods and other property, providing benefits, performance of works, rendering services **is understood**.

4. The tax agent shall hold the tax on payment of income before the following cases when income:

1) it is used on behalf of the payer or according to instructions of the payer, or according to any law;

2) it is reinvested, saved up or are capitalized for benefit of the recipient;

3) it is credited to the account for benefit of the recipient;

4) it is actually paid or is otherwise provided to the recipient.

5. The persons holding the tax at the source of payment and the persons receiving funds for salary payment in the credit and financial organizations are obliged:

1) list the withheld (accrued) taxes, including social tax, in the budget along with receiving funds for payment of the salary income, in other cases - within 10 working days after the termination of month in which payments (platyozha) were made;

2) at payment of the salary income to issue to the natural persons gaining income, references with indication of the surname, the name and the middle name, the taxpayer identification number, the amount and the income type and also the amount of the withheld tax (if the tax keeps);

3) direct (to represent) to the physical persons and legal entities gaining (gained) income according to the part of 1 this article, by their request within 10 working days of the reference with indication of the taxpayer identification number, the name (the surname, the name and the middle name) faces, the total of income and the total amount of the tax withheld in reporting year.

6. The credit and financial organizations are forbidden to issue money on payment of the salary income without preliminary budget contribution by taxpayers (tax agents) of the amounts of tax on income and the social tax corresponding to the above-stated cash amount of money.

7. Tax withholding on income and payment of social tax on the citizens of the Republic of Tajikistan financed from the income budget performing activity in the international organizations, the diplomatic, consular and other equated to them organizations as representatives of the Republic of Tajikistan abroad, is made in the centralized order determined by the Ministry of Finance of the Republic of Tajikistan together with authorized state body, to the 15th day of the month following reporting quarter.

8. The income paid by the credit and financial organizations, performing activities for Islamic banking, at the expense of means of investments according to agreements of "Ball" and Mushorak, is not assessed with the tax at the source of payment, but assessed with the tax from the share of income of each participant.

Article 237. Tax withholding on dividends at the source of payment

1. The dividends paid by the resident enterprises are subject to taxation at sources of payment for the rate of 12 percent, except for dividends or the share of the state enterprises paid from net profit to the state budget according to **other** regulatory legal acts as others obligatory platyozhy (non-tax platyozh) from net profit if this article **does not provide other**. The amount of dividends is determined by accounting data.

2. The dividends really taxable according to the part of 1 this article and also revenues of the enterprises which really are subject to taxation as other obligatory platyozh (non-tax platyozh) according to other regulations do not join in **the gross** income of their recipient and are not subject to further taxation.

Article 238. Tax withholding for percent at the source of payment

1. The interest paid by the resident or the permanent establishment of the nonresident or on behalf of such organization, is assessed with the tax at the source of payment for the rate of 12 percent from the due amount if income is gained from the source in the Republic of Tajikistan, except as specified, provided by Parts 2 and 5 of this article.

2. The interest paid the credit and financial resident organizations, financial bodies, National bank of Tajikistan, the financial leasing resident companies, including for agreements of finance lease (leasing) is not subject to taxation at the source of payment.

3. The percent really taxable according to the part of 1 this article do not join in **the gross** income of their recipient – natural person and are not subject to further taxation after their payment to this person.

4. The legal resident person whose income is subject to taxation in case of receiving the percent **taxable** according to the part of 1 this article, includes in the gross income the full amount of interest income without deduction of the withheld tax and in the presence of the documents confirming tax withholding at the source of payments has the right to subtract this tax withheld at the source of payment from the paid tax on income.

5. The interest paid by the resident enterprises except for credit financial institutions, to the controlled foreign companies, is subject to taxation at the source of payment for the rate of 18 percent.

Article 239. Tax withholding on the income of nonresidents at the source of payment

1. The income of the nonresident at the source in the Republic of Tajikistan which is not relating to the permanent establishment of this nonresident in the Republic of Tajikistan is subject to taxation at the source of payment as **the gross** income, without implementation of deductions (except for the deduction of the value added tax in case of taxation according to Article 260 of this Code), at the rates defined in Part 8 of this article.

2. In the order **defined** in the parts of 1 this article, the income of the nonresident from the sources which are in the Republic of Tajikistan **relating**

according to this Code to its permanent establishment in the Republic of Tajikistan which taxation was not in due time performed, and by which supporting documents about payment of the tax are not submitted are assessed with the tax at the source of payment. The permanent establishment gaining income to which this part is applied shall include the full amount of income in the **gross** income without the withheld tax and has the right to offset of this tax withheld at the source of payment on condition of availability of the documents confirming tax withholding at the source of payment.

3. Provisions of the part of 1 this article are applied taking into account requirements of the international agreements recognized by Tajikistan governing the tax relations.

4. Payment of income is understood as transfer of money in cash and (or) non-cash forms, securities, goods, other property, providing benefits, performance of works, rendering services. The payment also includes money transfer to the bank account for benefit of the nonresident.

5. The payments for benefit of nonresidents according to the part of 1 this article connected with delivery of goods on the foreign trade transactions (connected with commodity import) on the territory of the Republic of Tajikistan, are not subject to taxation at the source of payment.

6. Taxation of income of the nonresident, received in the Republic of Tajikistan, irrespective of the order this nonresident the income for benefit of the third parties in the Republic of Tajikistan and (or) the separate divisions (other persons) in other states, is performed at the source of payment.

7. The tax on the income of the nonresident from the source in the Republic of Tajikistan keeps irrespective of the form and the place of implementation of payment of income.

8. Taking into account provisions of this article, the income of the nonresident from the source in the Republic of Tajikistan which is not connected with the permanent establishment of this nonresident in the Republic of Tajikistan is subject to taxation at the source of payment as **the gross** income without implementation of deductions (except for the deduction of the value added tax in case of taxation according to Article 260 of this Code) at the following rates:

1) dividends – according to Article 237 of this Code;

2) percent – according to Article 238 of this Code;

3) remuneration on the amount on savings, deposit accounts, the investment and investment the account according to point 1) of Part 1 of Article 236 of this Code;

4) the insurance premiums paid by the resident or the permanent establishment of the nonresident according to insurance contracts and risks reinsurances - at the rate of 6 percent from the total amount of contributions;

5) the platyozh made by the resident or the permanent establishment of the nonresident for telecommunication or transport services at implementation of the international telecommunication or international transport between the Republic of Tajikistan and other states:

a) for services of the international telecommunication – 3 percent from the total amount paid for services;

b) for international transport – 3 percent from the total paid amount;

6) the salary income, stipulated in Clause 186 these Codes paid from sources in the Republic of Tajikistan irrespective of the form and the place of payment of income - at the rate provided in Part 2 of Article 183 of this Code;

7) other income which is not provided by points 1)-6) this part, - at the rate of 15 percent from the gross amount of income.

9. The organizations paying income to the nonresidents participating in implementation of credit (grant) agreements without formation of the permanent establishment in the Republic of Tajikistan irrespective of the place of payment of income are obliged to hold as tax agents the tax at the source of payment and to pay to the budget. In the event of default of this requirement the tax is collected **at the expense of** the specified organizations.

CHAPTER 35. ADMINISTRATIVE PROVISIONS

Article 240. Tax period

1. The tax period on the tax on the salary income gained by natural persons, the tax on which keeps at the source of payment, is calendar month if **this Code does not establish other**.

2. The tax period on the tax on revenues of the natural persons not taxable at the source of payment in the Republic of Tajikistan, is calendar year **if this chapter does not establish other**.

3. The tax period on the tax on income for legal entities is calendar year. At the same time representation of calculations current platyozhy on the tax on income and their payment is made in the terms established by Articles 242-243 of this Code.

Article 241. Submission of the declaration

1. The uniform declaration on the tax on income and social tax on the salary income of natural persons, taxes on which **are levied** at the source of payment, including separate divisions of legal entities, it is represented to the 15th day of the month following month under report.

2. The uniform declaration on the tax on income and social tax on revenues of natural persons - the citizens of the Republic of Tajikistan working in diplomatic, consular establishments of the foreign states and the representative offices of the international organizations equated to them in the Republic of Tajikistan, moves to the 15th day of the month following reporting quarter. Data on the above-stated natural persons are represented to authorized state body by the Ministry of Foreign Affairs of the Republic of Tajikistan quarterly to the 15th day of the month following for expired quarter.

3. Uniform calculation for the tax on income and social tax on the income of the citizens of the Republic of Tajikistan who are in the service in diplomatic and the organizations of the Republic of Tajikistan equated to them abroad, is represented quarterly to the 15th day of the month following reporting quarter, and taxes on

them are levied by the Ministry of Finance of the Republic of Tajikistan in the same time.

4. The following taxpayers are obliged to submit tax declarations on the tax on the income which is not assessed at the source of payment and (or) the declaration on the tax on revenues of legal entities till April 1st of the year following after reporting year:

- residents and permanent establishments of nonresidents who are payers of tax on income;

- the physical resident persons **having** the income not taxable at the source of payment in the Republic of Tajikistan except for the persons paying taxes according to Section XIV of this Code;

- the physical resident persons having money on the foreign bank accounts located outside the Republic of Tajikistan and also the gaining income outside the Republic of Tajikistan;

- natural persons on which the obligation for submission of the declaration for the tax on income according to laws of the Republic of Tajikistan is assigned. The order, submission due dates and also the form of the declarations submitted by these persons is defined by the Government of the Republic of Tajikistan;

- the natural persons having the right to the personal deduction from income according to Part 8 of Article 191 of this Code;

- other legal nonresident persons and physical nonresident persons having income from sources in the Republic of Tajikistan which are subject to taxation, but are not assessed with the tax at the source of payment.

5. At liquidation of the legal entity liquidation commission or the taxpayer without delay send the written notice of it to tax authority. Liquidation commission is obliged to provide the tax declaration to the relevant tax authority.

6. The natural person from which submission of the tax declaration is not required can provide with supporting documents the tax declaration with the requirement about recalculation of the tax and return of excessively paid means.

7. Calculation for payment flowing **platyozhy** on the tax on **revenues of legal entities**, including the information about persons, the tax on which is withheld at the source of payment, in the form **established** by authorized state body are represented monthly (quarterly) taking into account requirements of Parts 1 and 2 of Article 242 of this Code to the 15th day of the month following month under report (quarter).

8. The declaration on the tax on revenues **of legal entities and annual accounting reports, including the balance sheet** is submitted till April 1st of the year following after reporting year.

Article 242. Current tax platyozh

1. Legal entities are payers of tax on revenues **of legal entities** taking into account parts 2-4 these articles are obliged to make monthly current payments in the budget no later than the 15th day of the month following month under report. The amount of each current monthly payment for the 12-month period beginning everyone on April 15th cannot be less than each of the following amounts:

- the one twelfth part of the amount of tax on income for the previous calendar year;

- 1 percent of the gross income of month under report.

2. If the income of the taxpayer for the first quarter of the current year is less than 50 percent of income for the same quarter of previous year, the taxpayer can, submitting monthly reports to tax authorities, to calculate and pay the current monthly payments according to reports of the last quarter, having divided them into 3, but not less than 1 percent from total income for month under report.

3. The current platyozh on the tax on income according to this article are set off in the amount of tax, subject to payment for calendar year. Excess current tax platyozhy on the tax on income over the tax liability for this tax for calendar year is set off on account of other tax liabilities for other taxes or compensated to the taxpayer.

4. The current platyozh on the tax on revenues of legal entities are obligatory payments for which delay interest is accrued.

Article 243. Payment of taxes and administrative provisions

1. Natural persons, being payers of tax on income, pay the tax in the place of the accounting to the terms established for submission of tax declarations.

2. The citizens of the Republic of Tajikistan gaining income from work in the diplomatic, consular organizations of the foreign states and the representative offices of the international organizations equated to them in the Republic of Tajikistan are obliged, from the income, to independently pay the tax on income to the terms established for submission of the declaration.

3. Distribution of the amounts current tax platyozhy from **the income of legal entities and also the amounts of tax** which are subject to transfer in revenues of budgets following the results of calendar year is made by the enterprise between budgets for the location of head division of the enterprise and also for the location of each of its separate divisions **taking into account** the share of the salary expenditure falling on head division of the enterprise and on each of its separate divisions in the total costs **the salary** on the enterprise (to head division of the enterprise in common with all separate divisions of the enterprise) according to accounting data of the enterprise. The shares of the salary expenditure specified in this part are defined, **with** the actual indicators of the salary expenditure of head division of the enterprise and its separate divisions according to accounting data of the enterprise by the end of the reporting period.

4. Charge of the amounts flowing platyozhy on the tax on revenues of legal entities and also the amounts of tax which are subject to entering into revenues of budgets following the results of calendar year in the location of head division of the enterprise and each of it isolated of divisions are performed by the enterprise independently. Current **tax** platyozhy and also about the amounts added following the results of tax year, the enterprise reports data on the amounts to the separate divisions and also tax authorities in the place of the stay and in the location of separate divisions no later than the term established for implementation flowing platyozhy according to Article 242 of this Code and for submission of the

declaration on the tax on revenues of legal entities according to Article 241 of this Code.

5. The enterprise pays the amounts **flowing** platyozhy and the amounts of tax, added following the results of calendar year, to budgets for the location of head division of the enterprise and its separate divisions by means of head division of the enterprise or through each separate division no later than the terms established by this article and Article 242 of this Code.

6. The legal entities who are payers of tax on revenues of legal entities make final settlement and pay the tax in the place of the accounting no later than April 10th of the year following after reporting calendar year.

7. Control of payment of the tax on income is exercised by tax authorities.

8. Instructions for calculation and payment of the tax on income and also forms of the corresponding declarations and calculations **affirm on representation of authorized state body by the Ministry of Finance of the Republic of Tajikistan.**

SECTION VIII. VALUE ADDED TAX

CHAPTER 36. GENERAL PROVISIONS

Article 244. Concept of the value added tax

The value added tax is indirect tax and is paid at all stages of turnover of goods, performance of works, rendering services according to provisions of this Code.

Article 245. Taxpayers

1. The following **persons** are recognized as payers of value added tax:

- the person whose total revenues for the period which is not exceeding 12 complete consecutive calendar months exceeds 1.0 million somoni;
- the person whose activity corresponds to provisions of the paragraph of the second of Part 2 of Article 375 of this Code;
- the foreign person **performing** remote services according to Chapter 43 of this Code;
- the foreign legal entity **performing** the goods delivery, performance of works in the territory of the Republic of Tajikistan if the Republic of Tajikistan is recognized as delivery location of such goods, performance of works;
- person **which is** successor to the payer of value added tax;
- person **who is recognized** as the tax agent according to provisions of Article 260 of this Code;
- the person **performing** taxable commodity importation to the Republic of Tajikistan;
- the person who is voluntarily addressing to pay the value added tax.

2. For determination of income of the persons specified in **paragraphs** the first and eighth the part of 1 this article the total revenues **of the interconnected** persons are considered.

3. Voluntary registration of the person as the payer of value added tax is performed by tax authorities only at observance of the following requirements:

- if the place of permanent business activity of the person is defined;
- if the person is engaged in business activity and keeps financial accounting according to the legislation on financial accounting;
- if the face is not tied with the companies which do not have activity of economic value.

4. In case of requirements of paragraphs of the first, the second, the third, the fifth, sixth and eighth **the part** of 1 this article registration of the taxpayer as the payer of value added tax on the basis of the address of the taxpayer is made by tax authorities automatically, and about it to the taxpayer the certificate in electronic form is sent.

5. Tax authorities of the good causes having the right at identification to recognize several **types** of business activity belonging to one person as one economic entity and to register this person as the payer of value added tax from the first day of the reporting period following after the month in which such case is revealed.

6. The person is recognized as the payer of value added tax from the following dates:

- according to the paragraph the first parts of 1 this article - from the first of the reporting period following after the month in which **the gross** income of the taxpayer exceeds the registration threshold;
- according to the paragraph the second parts of 1 this article - from the date of state registration;
- according to paragraphs **to the third and fourth** part of 1 this article - from the date of the beginning of activity in the territory of the Republic of Tajikistan;
- according to the paragraph the fifth parts of 1 this article - from the moment of buying **succession**;
- according to the paragraph the sixth parts of 1 this article - from the payment date of income to the nonresident;
- according to the paragraph **the eighth** parts of 1 this article - from the date specified in article of incorporation.

7. The following persons, except as specified, of 1 this article specified in the paragraph the seventh the part are not considered as payers of value added tax:

- 1) local and central public authorities - within accomplishment of powers;
- 2) the faces functioning in particular treatments.

8. The taxpayers specified in the part of 1 this article having the right to cancel registration as the payer of value added tax at observance of the following conditions:

- the total revenues **of the taxpayer taking into account provisions of Part 2 of this article** for the period which are not exceeding 12 complete consecutive calendar months are reduced immediately in 1 million somoni;
- from the moment of transition to the general system of taxation there passed 36 calendar months.

9. In case of registration and cancellation of registration as the payer of value added tax, the taxpayer is obliged to conduct activity respectively in the general system of taxation or in the special system of taxation.

10. The order of registration and cancellations of registration as the payer of value added tax, maintaining the Register, issue of the certificate and its practical termination is developed and approved by authorized state body in coordination with the Ministry of Finance of the Republic of Tajikistan.

CHAPTER 37. TAXATION OBJECTS

Article 246. Taxation objects

1. The taxation objects on added value are:
 - deliveries of goods, performance of works and rendering services in the territory of the Republic of Tajikistan;
 - performance of works and rendering services by nonresidents in the territory of the Republic of Tajikistan;
 - commodity importation on the territory of the Republic of Tajikistan.
2. Taxable transactions, according to Article 258 of this Code, do not include rendering services or performance of works outside the Republic of Tajikistan.
3. If the taxpayer purchases goods (works, services) including tax on added value and receives the corresponding amount of offset, the subsequent use of such goods (works, services) for not business activity it is considered taxable transaction.
4. Delivery of goods, performance of works or rendering services by the taxpayer to the workers and any other persons who are not payers of value added tax including on a grant basis, is considered taxable transaction, except as specified, when calculation of the value added tax is not allowed during purchase of goods, performance of works or rendering services. In this case the cost of taxable transaction is the difference between the purchase price of goods, performance of works or services and their market value.
5. Despite other provisions of this article, delivery of goods by the payer of value added tax, except for the user of the reduced rate, is not considered taxable transaction if these goods were purchased as a result of taxable transaction with added value, but offset of the amount of tax on added value according to Article 266 of this Code is not allowed. If offset partially was not allowed at purchase of goods, then the amount of taxable transaction is reduced in proportion to the share **of not allowed offset**.
6. If **packing** (container) are subject to return in accordance with the terms **and term** established by the agreement, they are not considered as the taxation object, except as specified, when they are not returned in time, established by the agreement.
7. If the taxpayer by production of goods, performance of works and rendering services uses raw materials and materials of the customer and the end product remains in ownership of the customer, for the taxpayer accomplishment of such works and rendering services is considered taxable transaction.
8. Import to customs area of the Republic of Tajikistan of the goods and vehicles which are subject to declaring according to the customs legislation of the Republic of Tajikistan except for the goods exempted from the value added tax according to Article 251 of this Code, is considered taxable import.

Article 247. Sale or concession of the rights to business activity

1. Sale or the concession of the rights to business activity or its separate division by one **payer of value added tax** to other payer of value added tax within one transaction is not considered taxable transaction if business activity or its separate division function on the permanent basis.

2. At operation according to provisions of the part of 1 this article, the right and tax duties of the seller or person conceding the right to business activity pass to the buyer or the recipient of the right to business activity.

3. Provisions of this article are applied in case of **accomplishment of the following conditions**:

- the persons specified in the part of 1 this article no later than 30 calendar days after sale or the concession of the right to business activity will in writing notify tax authorities on the decision on **application** of provisions of this article;

- the seller or the person conceding the right to business activity will function about day of operation;

- the buyer or the recipient of the right to business activity from the moment of operation will not use tax benefits concerning the purchased business activity or cannot use it in the purposes.

4. The seller or the person conceding the right to business activity bear responsibility for any obligations for payment of the value added tax which arose before date of transmission.

CHAPTER 38. TAX BASE

Article 248. Cost of taxable transaction

1. Tax base is the cost of the taxable transaction defined on the basis of the amount (costs, including in the natural form) which receives or the taxpayer **has the right** to receive from the client or from any other person, including any duties, taxes and (or) other charges, but excluding tax on added value. The permitted discount amount, the taxable transaction considered by the taxpayer at the time of implementation, decreases **from** the cost of taxable **transaction**. The discount or the change in price made after taxable transaction is adjusted according to Article 249 of **this Code**.

2. If in exchange for taxable transaction to the taxpayer delivery of goods is performed, performance of works or rendering services or the taxpayer has the right to their receiving, the cost of taxable transaction includes the market price of these goods, works and services, including any duties, taxes or other charges excluding tax on added value.

3. If the taxpayer does not receive any assets (goods, performance of works or services) in exchange for taxable transaction, the cost of taxable transaction includes the market price of these goods, works and services, including any duties, taxes or other charges excluding tax on added value.

4. In the case, **commercial uses of goods (works or services)** and also by delivery of goods (works or services) to any persons (including the employees),

includes the market price of these goods, works and services, including any duties, taxes or other charges in the cost of taxable transaction excluding tax on added value.

5. In case of delivery of goods on the terms of payment by installments, the cost of taxable transaction includes total amount for payment, regardless of the payment schedule established by the agreement.

6. In case of sale (alienation) of pledged property, the cost of such taxable transaction of the pledger includes market value mortgaged (or alienated) property, including any duties, taxes and other charges, excluding tax on added value.

7. The cost of taxable transaction of imported goods at the subsequent delivery cannot be lower than the cost of taxable import. **In case of** the negative difference in the cost of taxable transaction of the imported goods, such difference is accepted equal to zero for calculation of the value added tax.

8. If the taxpayer specifies taxable transaction with the value added tax according to paragraphs to the first, second and fourth Part 13 of Article 269 of this Code separately without allocation of the amount of tax, the cost of taxable transaction and the share of the tax, except as specified, when drawing up the invoice is obligatory, is calculated by formulas:

1) cost of taxable transaction:

$$A - AhB / (100 + B),$$

where: And - the total amount of taxable transactions;

B - the interest rate of the tax for transaction.

2) the amount of tax on added value in **taxable** transaction:

$$AhB / (100 + B),$$

where: And – the total amount of taxable transactions;

B - the interest rate of the tax for transaction.

9. If the payer of value added tax makes taxable operation on added value to other payer of such tax without distribution of the amount of tax, the amount of tax on added value which is subject to calculation is defined according to provisions of **Part 8** of this article.

Article 249. Correction of taxable turnover

1. Provisions of this article are applied to taxable transaction of the taxpayer after completion of taxable transaction in the following cases:

- **cancellation** of transaction or change of its conditions;
- **change in value** of taxable transactions;
- **change** of the approved compensation for operation on the reason of the change in price and or for any other reason;
- **complete or partial return** of goods to the taxpayer;
- **rejection** of the works or services executed by the taxpayer.

2. In the cases provided by the part of 1 this article, the taxpayer is obliged to write out the additional (adjustment) invoice on the value added tax and to provide the adjustment declaration according to requirements of **Part 2** of Article 265 and **Part 8** of Article 266 of this Code.

3. Correction of taxable transaction is made on the basis of the invoice on the value added tax or other documents confirming approach of the circumstances **provided** in the part of 1 this article after completion of taxable transaction.

Article 250. Cost of taxable import

1. The customs value of goods determined according to the customs legislation of the Republic of Tajikistan including the taxes, the customs duties, special payments and charges established at commodity importation to the Republic of Tajikistan, excluding tax on added value **is considered the cost of taxable import**. Anyway the customs value of goods **cannot** be above the wholesale cost of goods **approved** according to official statistics.

2. If goods are exported from the territory of the Republic of Tajikistan for the purpose of repair, restoration or improvement, in case of reimport the cost of taxable import is the amount by which the cost of the exported goods increases if from the moment of export the form or the nature of goods and the property right to goods does not change.

CHAPTER 39. TAX RELEASES

Article 251. Exemption from the tax

1. If delivery of goods, performance of works or rendering services are exempted from the value added tax according to **the provisions of the legislation** of the Republic of Tajikistan and other **international** legal acts recognized by **Tajikistan**, such transaction is not considered taxable transaction and their cost does not join the taxpayer in taxable transaction. Also commodity import, exempted from the value added tax, except for their subsequent sale and delivery within the country, does not join in the cost of taxable import.

2. The following deliveries of goods (except export of goods), the performance of works and rendering services performed in the Republic of Tajikistan are exempted from the value added tax:

1) sale, transfer or real estate lease, **except for** the following cases:

a) **sale or transfer** of hotel rooms or housing for vacationers;

b) **sale or transfer of the new built premises**;

c) **sale or real estate lease**, used for the entrepreneurial purposes, except for sale or the concession of the right according to Article 247 of this Code;

2) rendering financial services for remuneration which list is determined by National bank of Tajikistan in coordination with authorized state body **in the sphere of finance** and authorized state body, including transfer of depreciable material property by transactions of finance lease (leasing), except for delivery of the subject of finance lease (leasing);

- 3) delivery of national and foreign currency (except the numismatical purposes);
- 4) services of religious institutions;
- 5) rendering medical services by public institutions, except for cosmetology, dental and sanatorium services;
- 6) rendering the following services by the public institutions financed for the budget account in education:
 - a) preschool education;
 - b) initial, general basic and general secondary education;
 - c) primary professional and secondary professional education;
 - d) higher education;
 - e) professional education after the highest educational institution;
 - e) additional and vocational education;
- 7) voluntary conveyance (refusal from) goods for benefit of the state, delivery of goods, performance of works and rendering services as humanitarian aid;
- 8) delivery of goods, performance of works, rendering the services **made** directly by the organizations of execution of criminal sanction of the Republic of Tajikistan or the state enterprises which are a part of the system executions of criminal sanction of the Republic of Tajikistan;
- 9) delivery of specialized products of individual use for disabled people according to the list determined by the Government of the Republic of Tajikistan;
- 10) delivery (sale) of the uniform school and preschool uniform of domestic production which list **approves by the Government of the Republic of Tajikistan** on representation of the Ministry of Education and Science in coordination with the Ministries of Finance, the industry and new technologies and authorized state body;
- 11) supply (sale) of medications of domestic production which list **approves by the Government of the Republic of Tajikistan** on representation of the Ministry of Health and Social Protection in coordination with the Ministry of Finance and authorized state body.

3. Delivery, precious metals and gemstones, jewelry from precious metals and gemstones, aluminum primary, concentrates of natural resources, saleable ore, scrap of the ferrous and non-ferrous metals and other metals manufactured in the Republic of Tajikistan, **ingots** of precious metals of National bank of Tajikistan, **the cocoon**, cotton-fiber, cotton yarn and cotton-raw including for export, is exempted from the value added tax.

4. The following types of import are exempted from the value added tax:
 - import of national and foreign currency (except the numismatical purposes) and also securities;
 - import of precious metals and gemstones by National bank of Tajikistan and the Ministry of Finance of the Republic of Tajikistan for the State storage of values;
 - commodity importation, donated to state bodies of the Republic of Tajikistan, commodity importation as humanitarian aid, commodity importation, donated to charitable organizations **for the purpose of** natural disaster response, accidents and accidents;

- import, including on the terms of finance lease (leasing), production processing equipment and components to it for forming or replenishment of the authorized capital (capital) **of the enterprises** or modernization of the operating production provided that this property **will be used** directly for production of goods, performance of works and rendering services according to constituent documents of the enterprise, and will not belong to the category of excise goods. In case of liquidation of such enterprise or not **use** of the above-stated production processing equipment imported to the Republic of Tajikistan and components to it within two years from the moment of receipt to the Republic of Tajikistan or deliveries by this enterprise to other person, the amount of tax, unpaid according to this paragraph, on added value, is subject to collecting in the budget without implementation of offset according to Article 266 of this Code, except for import of such equipment on the terms of finance lease (leasing);

- import of materials and accessories to production of medicines, the medical, pharmaceutical equipment and medical tools, the latest technology for the pharmaceutical enterprises and the modern **diagnostic and medical equipment**, medicines, except for the medicines produced in the republic which order and the list is defined by the Government of the Republic of Tajikistan;

- commodity import for implementation of the state investment projects of the Government of the Republic of Tajikistan within grant and credit agreements;

- commodity importation for construction of especially important objects, except for the goods made in the republic which list is defined by the Government of the Republic of Tajikistan;

- import **of the equipment**, equipment, construction materials and other materials for ensuring requirements of tourist objects (including hotels, medical sanatorium and resorts, the tourist centers and other tourist objects), except for the goods made in the republic. The list of tourist objects, the name and the number of the imported equipment, the equipment and construction materials and other materials approve by the Government of the Republic of Tajikistan;

- commodity importation (except excise goods) for production of primary aluminum directly producers according to the list and amount determined by the Government of the Republic of Tajikistan;

- import of aluminum primary;

- import of military equipment, the main units, weapon, ammunition, aircraft of defensive appointment and also spare parts to them, the cost of service and repair;

- import of specialized products of individual **use** for disabled people according to the list determined by the Government of the Republic of Tajikistan;

- import of technology, the equipment and materials for ensuring needs of the sphere of poultry farming, **fish breeding** and (or) commodity importation directly for own needs of economic entities in spheres of poultry farming, fish breeding and production of the combined forages for birds and animals;

- import of raw materials for processing and production of end products, except for the raw materials produced within the country, and excise goods **which** order and the list is defined by the Government of the Republic of Tajikistan.

5. Import and the subsequent delivery of the following machinery and equipment, spare parts and accessories are exempted from the value added tax, except for **import** of the spare parts and accessories made in the republic which list is defined by the Government of the Republic of Tajikistan:

- agricultural machinery;
- spare parts and the completing technicians and farm vehicles the assembly and assembly enterprises (producers) **for production and sale of final goods;**
- spare parts and **accessories** of automobile, cargo and loading cars the assembly and assembly enterprises (producers) for own needs.

6. Import and further delivery of new **cars** (which issue date does not exceed 1 (one) year, with the run up to 10 (ten) thousand kilometers) goods items 8702, 8703, 8704 both 8705 directly legal entities and individual entrepreneurs performing the activity on the basis of the certificate are exempted from payment of 50 percent of the tax rate for added value, stipulated in Item 1) Parts 1 of Article 264 and Part 4 of Article 397 of this Code.

Article 252. Taxation of the international and transit transport

1. Rendering the transport or other services, or performance of works connected with the international freight and passenger traffic and also supply of the fuels and lubricants and other products used at accomplishment of the international flights on domestic and (or) foreign aircrafts for the purpose of the international transportation are exempted from the value added tax. International transport is understood as freight and passenger traffic, one of the points of departure or appointment of whom is outside the Republic of Tajikistan.

2. For the purposes of this article accomplishment of the following works and services is considered the international transportation:

- works, services in transportation (transportation, transportation), loading, unloading (unloading), the overload, forwarding of the goods transported with (in) the territory of the Republic of Tajikistan and also the goods following across the territory of the Republic of Tajikistan en route;

- works, transport services, technical, air navigation, airport service of the international flights, commercial services and also the works and services connected with transportation of mail, passengers, baggage for (from) the territory of the Republic of Tajikistan except for income from services in sale in the territory of the Republic of Tajikistan of air tickets on the international flights according to commission agreements or other similar agreements.

3. In case of performance of works **and** rendering the services specified in the paragraph the first Part 2 of this article, exemption from the value added tax is performed at observance of the following conditions:

- availability of the agreement on performance of works, rendering services signed directly with the supplier of goods;
- registration of freight and passenger traffic according to uniform requirements to international transport;

- availability of the cargo customs declaration of the goods imported on the territory of the Republic of Tajikistan issued in the customs regime "The international customs transit".

4. At performance of works, rendering the services specified in the paragraph the second Part 2 of this article, exemption from the value added tax is performed at observance of the following conditions:

- availability of the agreement on performance of works, rendering services signed directly with the recipient (customer) of the called works, services;

- if registration of transportation of goods and passengers is performed according to uniform documents for international transport of freights and passengers.

5. Transportation and service of the transit cargo transportation specified in the paragraph the third Part 1 of Article 253 of this Code are exempted from the value added tax.

6. Provisions of this article are applied only to the states **applying** the mode of release of the value added tax when rendering transport or other services, or the performance of works connected with the international freight and passenger traffic to the Republic of Tajikistan.

Article 253. Features of taxation when moving goods through the customs border of the Republic of Tajikistan

1. Commodity importation on customs area of the Republic of Tajikistan, depending on **the choice of the customs regime** and at observance **of its** conditions is subject to taxation in the following order:

- when placing goods under the customs regime "The release for free circulation", the value added tax is paid in full;

- when placing goods under the customs regime "Reimport", the amount of tax on added value exempted from payment according to this Code or returned to them in connection with export of goods is paid by the taxpayer according to the customs legislation of the Republic of Tajikistan;

- when placing goods under customs regimes "The international customs transit", "Customs warehouse", "Re-export", "Duty-free trade", "Processing under customs control", "The free customs zone", "The free warehouse", "Destruction", "Refusal for benefit of the state", "Movement of supplies" and special customs regimes, the value added tax is not paid;

- when placing of the imported goods under the customs regime "Processing on customs area", the taxpayer is conditionally exempted from complete payment of the value added tax **according to the customs legislation of the Republic of Tajikistan;**

- when placing goods under the customs regime "Temporary import", complete or partial remission of the tax in the order provided by the customs legislation of the Republic of Tajikistan is applied;

- when importing products of processing of the goods placed under the customs regime "Outward processing" out of customs area of the Republic of Tajikistan

complete or partial remission of the value added tax in the order provided by the customs legislation of the Republic of Tajikistan is applied;

- when placing goods under the customs regime "Processing for free circulation", the value added tax is paid from the customs value of the product of processing.

2. At commodity exportation from customs area of the Republic of Tajikistan, taxation is made in the following order:

- when placing goods under the customs regime "Export" out of borders of the territory of the Republic of Tajikistan, the value added tax is not paid, or paid amounts of the value added tax return, or become engrossed in reading in the order provided by the customs legislation of the Republic of Tajikistan and this Code. This order is applied also to commodity exportation out of limits of customs area of the Republic of Tajikistan according to the customs regime "Export" to goods which at the time of export were placed under customs regimes "Customs warehouse", "The free warehouse" or "The free customs zone";

- when exporting foreign goods in the customs regime "Re-export", the amount of tax on added value paid when importing to the Republic of Tajikistan returns to the taxpayer in the order and on the conditions established by the customs legislation of the Republic of Tajikistan and this Code;

- at commodity exportation from customs area of the Republic of Tajikistan according to other customs regimes which are not provided **by paragraphs** the first and second this part, regulations on exemption from the value added tax and (or) return of such tax are not applied **if the customs legislation of the Republic of Tajikistan does not provide other.**

3. When moving goods by natural persons through the customs border of the Republic of Tajikistan for private use within the regulations established by the Government of the Republic of Tajikistan, the value added tax is not levied. In case of excess of the established regulations for the goods moved for private use, excess of cost of such goods is assessed with the tax in **the general** established procedure and its registration is performed according to provisions of the Customs code of the Republic of Tajikistan. The order and **regulations** of commodity importation for private use through the customs border of the Republic of Tajikistan are established by the Government of the Republic of Tajikistan.

4. In case of non-compliance with conditions of the chosen customs regime the taxpayer is obliged to pay the added amount of tax and percent in the order established by the customs legislation of the Republic of Tajikistan.

Article 254. Taxation of export of goods

1. Export of goods, except precious metals and gemstones, jewelry from precious metals and **gemstones**, aluminum primary, concentrates of natural resources, **saleable ore**, scrap of ferrous and non-ferrous metals, another, manufactured in the Republic of Tajikistan metals, **ingots** of precious metals of National Bank of Tajikistan, **the cocoon**, cotton-fiber, cotton yarn and cotton-raw, the goods made in free economic zones is assessed with the value added tax on the zero rate.

2. In case of **non-confirmation** of commodity exportation within 90 calendar days from registration date of goods under the customs regime "Export" or at commodity exportation on power lines, or with use of incomplete periodic declaring according to Article 255 of this Code, delivery of such goods is assessed with the value added tax on the positive rate specified in points 1) and 2) of Part 1 and Parts 3-4 of Article 264 of this Code.

Article 255. Confirmation of export of goods

1. The documents confirming export of goods are:

- the cargo customs declaration issued according to the customs legislation of the Republic of Tajikistan;

- the delivery agreement of the exported goods;

- the copy **of the invoice**, the delivery note, bill of lading with registration in the customs authorities which are in the check point of the Republic of Tajikistan. In case of commodity exportation in the customs regime "Export" on power lines, is represented also the delivery and acceptance certificate of goods;

- the payment documents and the statement of financial institution (the copy of the statement) confirming the actual receipt of the currency earnings from commodity export on the account of the taxpayer in the Republic of Tajikistan.

2. In case of implementation of the external economic operations on exchange of goods (works, services), the taxpayer submits the documents confirming commodity importation (performance of works, rendering the services) received on the specified transactions on the territory of the Republic of Tajikistan and their receipt.

3. The documents confirming export of goods to the states - participants of the Commonwealth of Independent States, are the documents specified in Parts 1 and 2 of this article and also the copy of the cargo customs declaration issued in the country of commodity import. According to the international tax agreements other order of confirmation of export of goods can be established.

4. In case of implementation of further export of goods, earlier exported out of limits of customs area of the Republic of Tajikistan in the customs regime "Outward processing", or products of their processing, confirmation of export is performed according to Parts 1, 2 and 3 of this article and also on the basis of the following documents:

- the cargo customs declaration issued in the customs regime "Outward processing";

- the cargo customs declaration according to which **replacement** of the customs regime "Outward processing" on the customs regime "Export" is made;

- copies of the cargo customs declaration issued at commodity importation on the territory of the foreign state in the customs regime "Processing on customs area";

- the copy of the cargo customs declaration issued in the customs regime "Export" at commodity exportation or products of their processing from the territory of the state of processing of goods and certified by the customs authority which performed such registration.

5. At submission to tax authority in the place of registration of the documents confirming export of goods within 120 calendar days from the date of the mark of the customs authority specified in the paragraph the first the part of 1 this article, the taxpayer has the right to tax refund, this Code paid according to Part 2 of Article 254. Otherwise, the taxpayer has no right to tax refund paid according to Part 2 of Article 254 of this Code.

CHAPTER 40. DATE AND PLACE OF COMMISSION OF TAXABLE TRANSACTION AND SPECIAL RULES

Article 256. Date of commission of taxable transaction

1. Date of commission of taxable transaction the moment **of drawing of the invoice** on the value added tax and excises concerning this transaction is considered **if this article does not provide other**.

2. If the invoice on the value added tax and excises is not exposed to or at the moment (day) of commission of taxable transaction, **provisions of the part** of 1 this article are not applied and the next days are considered as the moment of taxable transaction:

- day of acceptance, sale or transfer of goods, performance of works or rendering services;
- day of shipment of goods if according to the agreement delivery of goods includes transportation of goods.

3. If the amount for delivery of goods, performance of works or rendering services is paid in the advance payment before the expiration provided by Part 2 of this article and within five days after introduction of advance payment by the supplier the invoice on the value added tax and excises is not exposed to the buyer, provisions of Parts 1 and 2 of this article are not applied to this transaction. In this case date of introduction of advance payment is considered taxable transaction.

4. For the purposes of Part 3 of this article if on taxable transaction two or more advance payments are made, every advance payment is considered as separate taxable transaction, except as specified, provided by Part 5 of this article.

5. If services are provided on the regular basis, then date of taxable transaction for each reporting period one of the following dates when operation was earlier performed is considered:

- date of drawing **of the invoice** of the value added tax and excises;
- date of drawing **of the invoice** on the value added tax and excises to payment of cost of goods on the basis of financial leasing;
- payment date of services.

6. Anyway, for the purposes of Part 5 of this article, irrespective of provisions of this article, the supplier is obliged to expose the invoice on the value added tax and excises for every month no later than the 10th day of the month following reporting. If the invoice is not exposed in time, specified in this part, and payment is not made, then the last day of month under report is considered date of rendering service. Provisions of this part are applied also to delivery of goods under agreements of finance lease (leasing).

7. In case of application of **provisions** of Part 3 of Article 246 of this Code, the moment of use of goods, works or services is considered date of commission of taxable transaction.

8. In the cases specified in Part 4 of Article 246 of this Code, date of commission of taxable transaction is the moment of delivery of goods, performance of works or rendering services to workers and other persons.

9. Date of commission of taxable operation on delivery of electric communication, electric energy, **thermal energy**, gas, waters and other services rendered regularly are considered the dates specified in Parts 5 and 6 of this article.

10. For the purposes of this chapter, irrespective of provisions of Part 3 of this article, date of determination of taxable transaction at accomplishment of installation and construction works one of the following dates in which transaction was made earlier is considered:

- the date of receipt (buying receiving) of the current payment from the customer;

- the date of partial (complete) accomplishment of installation and construction works fixed in financial accounting and the reporting of the taxpayer.

11. The date of receipt of goods (works of services) is considered the delivery date of goods (works and services) as any automated payment device or other equipment which payment is performed by cash, plastic cards and the counter.

Article 257. Place of delivery of goods

1. The location of goods at the time of their holiday (transfer) or at the time of their receipt in the order of the buyer is recognized as the place of delivery of goods. If goods are delivered by transport of the seller or the transport organization, then the place of delivery of goods the location of goods at the time of the beginning of transportation is considered.

2. By electrical supply, it is warm and gas the place of receiving such goods is the place of delivery of goods. In case of export of such goods from the Republic of Tajikistan, the Republic of Tajikistan is considered the place of delivery.

Article 258. Performance of works or rendering services in the Republic of Tajikistan

1. Works or services are considered executed in the territory of the Republic of Tajikistan if the place of activity from which these works or services are performed, is the Republic of Tajikistan except as specified, **established** in Part 2 of this article.

2. If performance of works or services is performed by the person which is outside the territory of the Republic of Tajikistan, and not taking permanent place of activity in the Republic of Tajikistan, and performance of works or rendering services were performed to natural person, not being the tax agent according to Article 260 of this Code, performance of works or rendering services are considered performed in the territory of the Republic of Tajikistan if **in relation to** this person one of following provisions is applied:

1) the works or services which are carried out or rendered in the Republic of Tajikistan, the person which is in the Republic of Tajikistan during accomplishment of these works or services;

2) performance of works or rendering services are performed **by the remote** services rendered to the resident of the Republic of Tajikistan according to **provisions** of Part 3 of this article;

3) services include services **of electric** communication, and the foreign person who is actually in the Republic of Tajikistan initiates service on the name or addressed to other person, except for the services of electric communication rendered:

a) supplier of telecommunication services;

b) the person using global roaming during temporary stay in the Republic of Tajikistan;

4) services belong to real estate in the Republic of Tajikistan;

5) the buyer of works (services) performs activity in the territory of the Republic of Tajikistan.

3. For the purposes of point 2) of Part 2 of this article the resident of the Republic of Tajikistan is considered the recipient of remote services if not less than two following indicators indicate **the territory of the Republic of Tajikistan**:

- billing (payment) address of the recipient **of remote services**;

- **the network address or the Internet protocol (IP) of the equipment used for receiving remote services or other method of determination of geographic location (geolocation) of the recipient of remote services**;

- these (details) of payee bank, including the bank or billing account for payment;

- the mobile code of the international identification number of the mobile subscriber which is stored on the card of the block of identification of the subscriber used by the recipient **of remote** services;

- location of the stationary line of the recipient **of remote** services on which the service is rendered to the recipient;

- any other commercial information indicating that the recipient is the resident of the Republic of Tajikistan.

4. If on two indicators specified in Part 3 of this article, the recipient **of remote** services is the resident of the Republic of Tajikistan, and two other indicators indicate location in other country, then the supplier shall define residence of the recipient on the basis of more reliable indicators.

5. The foreign legal entity concerning the recipient of remote services who is the resident of the Republic of Tajikistan shall not make transactions according to provisions of Article 260 of this Code if such resident does not provide the reference confirming its recognition as the tax agent. If the tax agent is considered the recipient **of remote** service, provisions of Article 259 of this Code are applied to rendering **remote** service.

6. For the purposes of point 2) of Part 2 of this article the person **performing** services of electric communication is the person **identified** as the person **providing** services of electric communication and **controlling** the beginning of providing such

services. If the service provider of electric communication is not able to identify the person controlling rendering such services, then the person **controlling** rendering services one of the following persons:

- the person paying services;
- the person signing the service contract;
- the person to whom the invoice is directed to fee.

7. If the supplier as the initiator of delivery of service is identified in more **than** one of paragraphs of Part 6 of this article, then the person **delivering** services is the person who as the sequence of these paragraphs is considered the first.

8. In this article and Article 259 of this Code the following concepts have the following values:

1) **remote** services are the works or services **which are carried out or rendered in** the following places:

a) the place where services are actually rendered or works **are performed**; and also

b) location of the recipient of services or works;

2) services of electric communication include transfer or acceptance of signals, records, images, sounds or any other information on wires, radio, fiber-optic cables, other electromagnetic systems or similar technical systems and shall include:

a) corresponding transfer of the right to such transfer, distribution or obtaining information; or

b) providing access to global or local networks which does not include delivery, record, images, sounds or information through network.

Article 259. Providing remote services through electronic trading platform

1. In this article "platform of electronic trading" means the website, the Internet portal, the lock, online store, the trade platform or other similar platform which control is exercised of the electronic method, through which the initial supplier provides remote services through other person (the operator of the trade platform) to the third party (recipient), but does not include activities for payment processing.

2. Provisions of this article are applied if all following conditions are satisfied:

1) the initial supplier provides remote services via the electronic trading platform;

2) the electronic trading platform is operated by the person which does not have the permanent establishment in the Republic of Tajikistan and which performs the following actions:

a) permits payment to the recipient;

b) permits the goods delivery to the recipient; or

c) establishes delivery conditions; and

3) the recipient of goods is **the physical resident person** of the Republic of Tajikistan according to provisions of Parts 3 and 4 of Article 258 of this Code.

3. In accordance with the terms Parts 2 of this article, provision of Article 258 of this Code are applied in case the operator of electronic trading platform during implementation of taxable activity is recognized as the supplier of remote services.

4. If the initial supplier and the operator of electronic trading platform agreed

that payment of the value added tax on such transactions will be made by the initial supplier, provisions of point 3 of this article are not applied.

Article 260. Return taxation

1. The return taxation is the special method of calculation of the value added tax according to which calculation and payment of the tax is made by the buyer.

2. **Provisions of this article are applied** in the following cases if:

1) the person which is outside the Republic of Tajikistan who does not take permanent place of activity in the Republic of Tajikistan (the foreign supplier) rendered services or performed work to the legal entity performing activity in the Republic of Tajikistan;

2) rendering services or performance of works is performed by the foreign supplier from the place of its activity outside the Republic of Tajikistan;

3) rendering services or performance of works by the foreign supplier is performed from the place of its activity in the Republic of Tajikistan, and these transactions are **taxable transactions**.

3. In case of application of Parts 1 and 2 of this article, the tax agent holds the value added tax at the source of payment from the amount which is subject to payment to the foreign supplier. The amount of tax is defined by application of the rates established **by points 1) and (or) 2)** of Part 1 of Article 264 of this Code to the amount which is subject to payment to the foreign supplier after tax.

4. If the tax agent is registered for the purposes of the value added tax, the withheld tax is subject to payment in the budget and joins in the declaration on the value added tax as the amount due in the month in which transaction is made (without the right of accounting of the amount of tax on added value).

5. If the tax agent is not registered for the purposes of the value added tax, he is obliged within five days from the payment date **of the amount** to the foreign supplier **to pay** the withheld tax in the budget and also to provide to tax authority the declaration on the value added tax to the 15th day of the month following month under report.

6. At observance of conditions of Part 7 of this article, **provision of Parts 3 and 4** of this article are applied to the person on the basis of the fact that the service or work is separate transaction which payment is performed at the cost equal to the market value of services or the performed work.

7. **Provisions of Part 6** of this article **are applied** in the following situations if:

- the person is registered for the purposes of the value added tax;
- the person performs the part of business activity outside the Republic of Tajikistan (the foreign part of activity);

- the part of foreign activity of the person is performed for rendering services or performance of work within activity of the person in the territory of the Republic of Tajikistan;

- the rendering services and performance of works which are earlier performed between the individuals taking place of activity in the Republic of Tajikistan are considered as taxable transactions.

Article 261. Date of commodity importation and vehicles

Date of commodity importation and vehicles is defined according to the customs legislation of the Republic of Tajikistan.

Article 262. The mixed transactions

1. Delivery of goods (performance of works, rendering services) which have auxiliary character concerning the main delivery of goods (**performance of works, rendering services**) are considered as the part of the main delivery of goods, performance of works or rendering services.

2. **If transaction has independent elements and includes two or more following transactions, it is considered separate transaction:**

- delivery of goods, performance of works or rendering the services liable to the value added tax at the standard rate;

- delivery of goods, performance of works or rendering the services liable to the value added tax at the rate (including the zero or lowered rate), other than the standard rate;

- delivery of goods, performance of works or rendering the services exempted from the value added tax.

3. The rendering services **added** to the cost of import goods is considered as the part of import, but only in case the cost of import includes the cost of such services.

Article 263. The transactions performed by means of the authorized representative (agent)

1. The delivery of goods, performance of works or rendering services performed on order or on behalf of the confidential face through **his** authorized representative (agent) of such person are considered as the transaction performed by the principal **if parts 2-3 these articles do not establish other.**

2. Provisions of the part of 1 this article are not applied to remunerations for the services **rendered** by the authorized representative (agent) to the principal.

3. Provisions of the part of 1 this article are not applied to delivery of goods to the Republic of Tajikistan and from the Republic of Tajikistan by the authorized representative (agent) of the nonresident. In this case for the purposes of the value added tax delivery of goods is considered **the transaction performed by the authorized representative (agent).**

CHAPTER 41. ORDER OF CALCULATION AND PAYMENT OF THE TAX

Article 264. Tax rates for added value and order of its calculation

1. For taxable transactions and taxable import the following tax rates for added value are established:

1) the standard rate - 15 percent;

2) the reduced rate, except for taxable import and the subsequent delivery of the imported goods concerning construction works, hotel services and services of public

catering – 7 percent and sales of agricultural products of domestic production, processing of products of agriculture, services in training and activities for rendering medical services in sanatoria and resorts without the right to offset of the value added tax - 5 percent;

3) zero rate.

2. The zero rate is applied to taxable transactions, the stipulated in Clause 254 presents of the Code.

3. In case of implementation by the payer of the reduced tax rate for added value, taxable import, the subsequent delivery of such imported goods is subject to taxation at the rate specified in point 1) of the part of 1 this article. Such taxpayer has the right to read the amount of tax on added value, paid when importing, according to Article 266 of this Code.

4. In case of replacement with the payer of the reduced tax rate for added value, imported goods on other goods, taxation of the subsequent delivery of the share of the replaced goods it is assessed with the tax in proportion to the specific weight of the imported goods in the total amount of purchase at the standard rate and the remained **share** of such goods (replaced) at the reduced rate.

5. The payer of the reduced tax rate for added value is obliged to keep separate account of the taxation objects on taxable turnover and taxable import according to requirements of Article 91 of this Code.

6. Taxable turnover consists of the total cost of taxable transactions for the reporting period.

7. The amount of tax on added value is defined by multiplication of cost of taxable turnover by the corresponding tax rate.

Article 265. The value added tax paid to the budget

1. The amount of tax on added value which is subject to payment in the budget for the reporting period represents the positive difference between the amount of tax estimated according to point 1) of Part 1 of Article 264 of this Code taking into account Part 4 of Article 260 of this Code and the amount of tax permitted to offset according to Article 266 of this Code.

2. If the amount of tax on added value to payment, taking into account the cases specified in Article 249 of this Code which is subject to adjustment exceeds the amount which is actually specified in the declaration of the taxpayer, the amount of excess is considered the corrected value added tax for the reporting period and for the same reporting period is added to the amount of tax which is subject to payment according to the part of 1 this article.

Article 266. The value added tax read at determination platyozhy in the budget when using the standard rate

1. If this article **does not provide other**, when using the standard rate the amount of the contributory value added tax is the amount of tax, the subject payment or paid in the following cases **if**:

- the invoice on the value added tax and excises is exposed to the taxpayer;

- **for the reporting period** transaction date on import of taxable goods came according to provisions of Article 261 of this Code and the amount of tax on added value is actually paid to the budget;

- taxable operations on delivery of goods, performance of works or rendering services were made during the reporting period according to provisions of Article 256 of this Code;

- the goods (works or services) specified in this part are used for the purposes of business activity of the taxpayer.

2. Charge of the amount of tax on added value concerning the remaining balance of the goods purchased by the taxpayer who switched over from the simplified system to the general regime of taxation is allowed if the amount of tax on added value is not subtracted from the taxable income.

3. For the purposes of the part of 1 this article the amount of tax on added value is considered contributory in the following cases **if**:

- the amount of tax on added value to payment is specified separately in invoices of the supplier;

- the amount of tax on added value is specified in the cargo customs declaration, is paid to the budget and is the irrevocable amount in accordance with the terms of the customs regime;

- the amount of tax on added value is specified in payment documents about acquisition of tickets for vehicles, including railway, air and automobile;

- the amount of tax on added value is specified in payment documents of suppliers of utilities and its calculations are made through the credit and financial organizations.

4. Offset of the amount of tax on added value compliance with provisions of Part 3 of this article is performed in month under report in which goods are received (works, services).

5. Offset of the value added tax at the commodity importation and taxable transactions used by the taxpayer partially for business activity and partially for other purposes, is made on the basis of the specific weight of their use in business activity.

6. Offset paid (subject to payment) the value added tax is not allowed in the following cases:

- at acquisition of cars, except for offered for sale or in the hire the person for whom such transactions are considered as the main type of business activity;

- if expenses are performed on charitable or social and also on entertaining or representation purposes;

- if in **invoices** the amount of tax on added value is not specified separately from taxable transactions;

- if at the customs clearance of goods in payment documents of the amount of tax on added value details of the importer of goods and products are not specified (including the name, INN, EIN);

- if expenses are performed for exploration works and preparation for production of natural resources;

- if expenses are performed on acquisition, production, construction, installation and installation and also on restoration (repair) of depreciable fixed assets and depreciable intangible assets, irrespective of the expense amount;

- if the expenses connected with purchase of goods (works, services) are issued with persons who actually did not make such transactions, except as specified representations by the taxpayer of the documents confirming payment of the value added tax in the budget;

- if expenses are performed at the lowered tax rate for added value, except for the expenses connected with taxable import for the persons specified in Part 3 of Article 264 of this Code;

- if the foreign person in the territory of the Republic of Tajikistan provides remote services without formation of the permanent establishment.

7. Offset of the amount of tax on the added value of the taxpayer which in the activity has the taxable transactions and transactions exempted from the value added tax is performed according to Article 268 of this Code. Offset of the amount of tax on added value by the taxpayer having only the released transaction is not allowed.

8. If the amount of tax on added value to payment of the buyer, taking into account the cases specified in Article 249 of this Code exceeds the amount which is actually specified in the declaration of the taxpayer offset of the exceeded amount of tax on added value for the reporting period is allowed.

9. Offset of the amount of tax on added value on **invoices** on the value added tax and excises made on fraudulent or almost unrealized transactions is forbidden and earlier reckoned amounts of tax on added value, are nullified.

10. In cases and as it should be, **the stipulated in Clause 341** this Code, offset of the amount of tax on sales of primary aluminum is allowed at submission of supporting documents.

11. Irrespective of provisions of this article, offset of the value added tax for the commodity importation paid by the payers of value added tax performing activities for wholesale and retail trade, procurement, supply and sale is allowed only at approach of taxable transactions for the reporting period.

Article 267. Adjustment of the contributory amounts of tax on added value

1. Earlier reckoned amount of tax on added value is subject to the exception of the subsequent amount of the contributory value added tax in the following cases:

- when using goods (works, services) not for the purpose of taxable turnovers;

- at recognition invalid **invoices** on the value added tax and excises according to Part 9 of Article 266 of this Code;

- at the change in value of the received goods (works, services) in the cases specified in Part 1 of Article 249 of this Code;

- in case of cancellation of registration of the taxpayer as the payer of value added tax concerning the amount of tax on the added value which is earlier added on the remaining balance of goods (works, services) of the taxpayer;

- in case of damage or loss of goods, including fixed assets, except as specified damages or losses of goods as a result of emergencies and representation of the conclusion of authorized state body to tax authorities on emergency situations or

imprisonments (act) of independent examination and the act of customs examination according to provisions of Article 363 of the Customs code of the Republic of Tajikistan;

- at non-compliance with provisions, stipulated in Clause 269 these Codes.

2. For the purposes of this Code;

a) damage of goods (property) is the reduction in the unsuitable condition of all or separate qualities (properties) of goods (property) as a result of which these goods (property) cannot be used for the purposes of taxable turnover.

b) loss of goods (property) is the event as a result of which there were the loss and (or) destruction of goods (property). The loss and (or) destruction of goods (property) suffered by the taxpayer within the regulations of natural losses established by regulatory legal acts of the Republic of Tajikistan are not loss of goods (property).

3. Adjustment of the amounts of tax on added value, carried in offset, is made in that tax period in which there came the cases specified in Parts 1 and 2 of this article.

Article 268. The order of offset of the value added tax at the released transactions

1. If goods (works, **services**), are used in the transactions exempted from payment of the value added tax, the amount of tax on added value which is subject to payment to suppliers **when** importing is not considered.

2. At implementation of the taxable and exempted from taxation transactions **for one reporting period**, offset of the amount of tax on added value is defined by the proportional method for the tax period.

3. The amount of tax on added value carried in offset by the proportional method is determined by the specific weight of taxable transaction in the total amount of transaction.

Article 269. Invoices on the value added tax and excises

1. If Parts 9, 11, 12, 13 and 14 of this article do not provide other, the person registered as the payer of value added tax and not entered **in the list of irresponsible taxpayers**, performing taxable transaction is obliged to provide for date of commission **of taxable** transaction to the recipient (**buyer**) of goods, works or services the invoice on the value added tax and excises.

2. **The invoice** on the value added tax and excises represents the document developed in the form established by authorized state body, and containing the following information:

- legal or trade name and address of the taxpayer and buyer (customer);
- taxpayer identification number and buyer (customer);
- uniform taxpayer identification number and buyer (customer);
- the certificate number about registration on the value added tax of the taxpayer (supplier) and date of its registration;
- the list of the delivered, shipped, transported goods (the performed works or the rendered services);

- **advance transactions;**

- amount of taxable transaction;

- the amount of the excise tax from excise goods and services;

- amount of tax on added value;

- date of issue **of the invoice** on the value added tax and excises;

- serial number **of the invoice** on the value added tax and excises.

3. **The invoice** on the value added tax is formed in electronic form and is issued to the payer of value added tax only in the electronic form and to other persons who are not payers of value added tax, its printed copy or the electronic form is sent to the private office of such taxpayer.

4. The printed copies **of invoices** are attached by the persons registered as payers of value added tax according to provisions of this Code for offset of the amount of tax on added value to the declaration on the value added tax.

5. **Invoices** on the value added tax and excises are formed in electronic form, are provided to the buyer in **the direct mode (online)** and are stored in **the electronic** database of tax authorities before the termination of term **of limitation** period. **Invoices** on the value added tax and excises are registered in the register in electronic form through the information program.

6. The form and the order of maintaining **the Register** of accounting of invoices are determined **by the value added tax** of the excises specified in Part 5 of this article by authorized state body.

7. **Invoices** on the value added tax and excises have the corresponding series and numbers and are made out in the electronic form by the taxpayer in the order established by authorized **state** body. The form **of the invoice** on the value added tax and excises, including **the additional invoice**, is defined by authorized state body.

8. The taxpayer is obliged to expose the invoice on the value added tax and excises to the buyer of goods (the customer of works, services) no later than date of commission of taxable transaction (delivery of goods, performance of works, rendering services). **The invoice** on the value added tax and excises is certified by the digital signature, the authorized person of the supplier.

9. The taxpayers performing **the electrical supply**, waters and gas providing communication services, utilities, rail transportation, forwarding services and banking activities liable to the value added tax have the right following the results of the tax period to make the invoice on the value added tax and excises in time, established by Part 5 of Article 256 of this Code.

10. **The amount** of taxable transaction is specified in **the invoice** separately by each name of goods (works, services).

11. **Invoices** on the value added tax and excises are represented only at implementation of taxable transactions. If delivery of goods, performance of works and (or) rendering services are exempted from the value added tax according to provisions of this section, **invoices** on the value added tax and excises are not written out. In that case the taxpayer makes the accounting form of the invoice provided for payment.

12. **The invoice** on the value added tax and excises to export transactions,

taking into account provisions of Part 2 of this article, includes the following data:

- the record confirming purpose of export transaction;
- country and destination of export;
- the applied tax rate for added value on export transaction.

13. **Execution of the invoice** is not required in the following cases:

- implementation of calculations for the provided utilities (including **for** electrical supply, **thermal energy**, water and natural gas), communication services, **educational and medical services** to the population through the credit and financial organizations, control cash registers and (or) **automatic payment devices forming** the basis at financial accounting;

- **registration** of transportation of passengers by tickets;
- by delivery of goods (execution of works, **rendering** the services) exempted from the value added tax;
- at registration of foreign persons as payers of value added tax according to provisions of Article 277 of this Code.

14. The payer of value added tax at retail sale of goods, performance of works or rendering services to the end buyers who are not payers of value added tax instead of the invoice on the value added tax and excises issues the receipt of the credit and financial organization or the check of control cash registers **and** automatic payment devices. For the purposes of this part retail sale is understood as delivery to final consumers of goods, performance of works and rendering the services intended for personal, housing or consumer use at market prices.

15. The instruction about use **of invoices** on the value added tax and excises is developed and approves by authorized state body in coordination with the Ministry of Finance of the Republic of Tajikistan.

Article 270. Drawing up additional invoices at correction of taxable transaction

1. At adjustment **of amount** taxable transactions the additional invoice in which the following **data** is specified is formed:

- serial number and date of drawing up additional **invoice**;
- serial number and date of drawing up **the invoice** into which adjustment is entered;
- name, address, uniform taxpayer number and taxpayer identification number of the supplier and recipient of goods (works, services);
- **the name of goods (works, services), units of measure, quantity (volume) and cost of goods (works, services) before adjustment**;
- difference amounts of correction **of taxable transaction** excluding tax on added value;
- amount of tax on added value;
- **excise tax on excise goods**.

2. Additional the invoice is formed the supplier of goods (works, services) and is confirmed by the recipient of the specified goods (works, services).

Article 271. Special rules

Tax base and other elements of taxation of the value added tax of rendering services of Islamic banking, insurance services, sales on commission, sales of the second-hand (partially used) goods and other types of activity which direct (direct) determination according to this section is complicated, are defined in other order established by the Government of the Republic of Tajikistan.

CHAPTER 42. ADMINISTRATIVE AND FINAL PROVISIONS

Article 272. Submission of declarations and payment of the value added tax

1. The taxpayer, except for Part 2 of this article, is obliged **for each reporting period** no later than the 15th day of the month following the reporting period to provide the declaration on the value added tax to tax authority and to make payment of the tax in the budget.

2. The foreign persons rendering to natural persons remote services are obliged to submit the tax declaration, other documents (information) and data no later than the 20th following the reporting period.

3. Irrespective of **provisions** of the part of 1 this article, at commodity importation the value added tax is accrued and levied according to this Code and the customs legislation of the Republic of Tajikistan.

4. The instruction for calculation and payment of the value added tax and also the form of the declaration and appendices to it affirm **on representation of authorized state body** by the Ministry of Finance of the Republic of Tajikistan.

Article 273. Tax period

1. The tax period on the value added tax, except for Part 2 of this article is calendar month.

2. For the foreign persons rendering to natural persons remote services, the tax period is calendar quarter.

Article 274. The order of return of the amount of excessively reckoned value added tax

1. **Excess of the amount** of excessively reckoned value added tax **carried in offset over the amount of the accrued tax for the reporting period returns financial body together with tax authorities within 30 calendar days from the moment of obtaining the statement of the taxpayer by tax authority taxable on the zero rate, from the corresponding budget.**

2. Return of the amount of excessively reckoned value added tax is made on the basis of the following documents:

- **the declaration** on the value added tax for the tax period;
- **documents, the stipulated in Clause 263** presents of the Code, confirming export of goods;
- **conclusion** of authorized state body about reliability of the amounts of tax on added value which are subject to return.

3. Return of excessively reckoned value added tax is transferred into the bank account of the taxpayer after consecutive accomplishment of the following actions:

- **repayment of tax debt, including debt on value added tax for previous tax periods;**

- **repayment of the amount of tax** on added value, subject to payment at commodity importation.

4. The amount of excessively reckoned value added tax of the taxpayers who do not have the transactions taxable on the zero rate is postponed to the next six tax periods. Any remaining balance of excess is subject to return from the budget within 30 days after these six tax periods.

5. At identification of cases by tax authorities excessively **of the amount repaid** of the value added tax to the taxpayer by mistake, tax authorities have the right to collect such amounts in accordance with the established procedure.

6. The order of return of excess of the amount of excessively reckoned value added tax over the amount of the accrued tax for the tax period approves by the Government of the Republic of Tajikistan.

Article 275. Order of taxation of the state investment projects

1. The goods (works, services) purchased at the expense of borrowing facilities (grant) agreements on financing (realization) of investment projects of the Government of the Republic of Tajikistan (further in this article - agreements) are exempted from the value added tax on the basis of the statement of the relevant authorized industry body of the borrower (grantee) or the person authorized by it at accomplishment of the following conditions **if**:

- goods (works, services) are purchased at the expense of the means of the agreements approved by the Government of the Republic of Tajikistan and (or) ratified by Madzhlisi namoyandagon Majlisi Oly of the Republic of Tajikistan;

- goods (works, services) are purchased only for the purposes established in the specified agreements;

- delivery of goods (works, services) is performed according to the contract signed directly with relevant organ of the borrower (grantee) or the person, it the authorized or general contractor (supplier) on implementation of the project.

2. The order of exemption from the value added tax of goods (works, services) purchased at the expense of means of agreements for implementation of the state investment projects approves by the Government of the Republic of Tajikistan.

Article 276. Return of the amounts of tax on added value to the diplomatic, consular and equated to them representations and also the members of their personnel accredited in the Republic of Tajikistan

1. Return of the amounts of tax on added value to the diplomatic, consular and equated to them representations which list is defined by the Government of the Republic of Tajikistan and also to the members of their personnel accredited in the Republic of Tajikistan (further in this article - representations) is made under the condition if such return on the basis of reciprocity is provided by international treaties which participant is the Republic of Tajikistan.

2. The amounts of tax on added value paid by representations to suppliers of goods (works, services) intended for official use by these representations and also for private use of their diplomatic, administrative and technical and service staff, including members of their families are subject to return in case such return is provided **by the international tax agreements**.

3. Return **of the amount of tax** on added value to representations is performed according to the conclusion of internal revenue services across the Gorno-Badakhshan Autonomous Region, areas and the city of Dushanbe on the basis of the summary registers made by these representations and verified copies of the documents (**invoices**, checks and others) confirming the fact of payment of the value added tax.

4. Summary registers are formed in the form established by authorized state body and are represented by representations to the Ministry of Foreign Affairs of the Republic of Tajikistan for confirmation of exchange of notes on respect for the principle of reciprocity when granting privileges on indirect taxes (the value added tax and the excise) according to provisions of the international tax treaties. After confirmation summary registers are subject to transfer to the tax authority determined by authorized state body for implementation of return.

5. If **in the documents attached to final registers** the amount of tax on added value it is not specified separately, return **of the amount** is possible only at confirmation by the supplier of goods (works, services) of receipt of the value added tax in the budget.

6. Value added tax refund to representations is performed by the Ministry of Finance of the Republic of Tajikistan in the order established by Part 4 of this **article** within 30 calendar days after obtaining summary registers by authorized state body from the Ministry of Foreign Affairs of the Republic of Tajikistan. **The amount of tax** on added value **which is subject** to return are listed from the state budget on corresponding the account of representations.

7. The order of value added tax refund to representations, taking into account provisions of this article, is defined by the Government of the Republic of Tajikistan.

CHAPTER 43. FEATURES OF TAXATION OF REMOTE SERVICES OF FOREIGN PERSONS

Article 277. Taxpayers

1. Foreign persons, without place of activity in the Republic of Tajikistan which provide **remote** services to directly natural persons are recognized as taxpayers and also to individual entrepreneurs and the place of providing such services according to Article 258 of this Code the territory of the Republic of Tajikistan is considered.

2. If such services are provided to legal entities of the Republic of Tajikistan and permanent establishments of foreign legal entities, the persons purchasing such services according to Article 260 of this Code are recognized as tax agents.

Article 278. The order of registration (removal from accounting) of the foreign persons performing remote services

The foreign persons rendering **remote** services to directly natural persons to which **provisions of Article 277** of this Code **are applied** are registered (are struck off the register) in electronic form on the basis of submission of the statement and other documents in the form approved by authorized state body. The application for registration (removal from accounting) of foreign persons is submitted to authorized state body no later than 30 calendar days from the date of the beginning (termination) of providing **remote** services.

Article 279. Representative of the foreign supplier of remote services in the value added tax

1. The tax authority can demand from the face, rendering **remote** services which is subject to registration as the payer of value added tax, but does not take permanent place of activity in the Republic of Tajikistan, accomplishment of one or both following actions:

- appoint the representative of the foreign supplier **of remote** services in the value added tax in the Republic of Tajikistan;

- provide payment of the value added tax for **remote** services in the budget of the Republic of Tajikistan.

2. The representative of the foreign supplier **of remote** services in the value added tax bears responsibility for accomplishment of all works provided in this chapter including the application for registration, submission of declarations on the value added tax and **payment** of the value added tax.

3. Registration of the representative of the foreign supplier **of remote** services in the value added tax is performed addressed to the person who represents it.

4. The person can be the representative of the foreign supplier **of remote** services **in the value added tax for** more than one person **whom** it represents, but shall be registered separately for each person.

5. The representative of the foreign supplier **of remote** services bears responsibility on the value added tax of the person whom he represents.

6. For the purposes of this chapter to electronic services the services performed through information and communication network, including the information and communication Internet (further - information and communication network) the automatic method treat with use of information technologies.

7. Treat electronic services:

- granting the rights to use the software for electronic computers (including computer games), and **the electronic** database through information and communication network, including by providing **remote** access to them and also their updates and additional functionality;

- implementation of promotion services in information and communication network, including due to use of the software for the electronic computers or **the electronic** database used in information and communication network and also granting advertizing spaces in information and communication network;

- rendering services in placement of offers on acquisition (realization) of goods (works, services) and property rights in information and communication **network**;
 - rendering through information and communication network of services in providing the technical, organizational, information and other capabilities performed with use of information technologies and systems for establishment of contacts and signing of the contracts (transactions) between sellers and buyers (through the trading floors **functioning** in network **of the Internet**, in real time, on which potential buyers offer the goods price (works, services) by means of the automated procedure and the party are informed on sale by automatically created message);
 - providing and (or) maintenance of economic activity and also support of electronic resources of users, including the websites and (or) pages of the websites in the Internet, ensuring access to them of other users of information and communication network;
 - interactive rates on gamblings in bookmaker offices;
 - ensuring access to information and communication networks and also granting to users the opportunity to change them;
 - storage and information processing provided that the person which provided this information has to it access through information and communication network;
 - granting in real time computing power for placement of information in the information system;
 - granting domain names, rendering **hosting** services;
 - rendering services in administration of information systems, websites on the Internet;
 - rendering the services performed by the automatic method through network of the Internet at data entry by the buyer of service, the automated services in search of the data, their selection and sorting according to requests, providing the specified data to users through information and telecommunication networks (in particular, reports of stock exchange of securities in real time, implementation in real time machine translation);
 - granting the rights to use e-books (editions) and other electronic publications, information, educational materials, graphics, pieces of music with the text or without it, audiovisual works, including by providing remote access to them for viewing or listening through the Internet;
 - rendering services in search and (or) providing to the customer information on potential buyers;
 - providing access to search engines on the Internet;
 - maintaining statistics on the websites on the Internet.
8. Do not enter electronic services:
- sales of goods (performance of works, rendering services) if at the order through **network** of the Internet delivery of goods (performance of works, rendering services) is performed without use of the Internet;
 - realization (assignment of rights on use) programs for electronic computers (including computer games), databases on material carriers;
 - rendering consulting services in e-mail;
 - rendering services in providing Internet access.

9. The tax authority establishes methods, procedures and requirements for appointment of the representative of the foreign supplier **of remote** services in the value added tax and obligations of the representative.

SECTION IX. EXCISE TAX

CHAPTER 44. EXCISE TAX

Article 280. Taxpayers

1. Payers **of the excise tax**, according to this chapter, are physical persons and legal entities, including the separate divisions of legal entities **performing** taxable transactions in the territory Republic of Tajikistan.

2. The following persons are recognized as payers of the excise tax:

1) the legal resident persons of the Republic of Tajikistan manufacturing excise goods in the Republic of Tajikistan;

2) the legal resident persons of the Republic of Tajikistan providing services of electric communication (excisable services);

3) the legal nonresident persons of the Republic of Tajikistan **making** excise goods in the territory of the Republic of Tajikistan through permanent establishments, or **rendering** excise services;

4) the subjects of foreign economic activity performing import of excise goods through the customs border of the Republic of Tajikistan.

3. In case of production of excise goods in the territory of the Republic of Tajikistan from raw materials of the customer (raw materials supplied by the customer), the payer **of the excise tax** is the producer.

Article 281. Taxation object

1. Excise goods and taxable transactions with them and also excisable types of activity are subject to taxation.

2. The following taxable transactions with excise goods are subject to taxation:

1) export of the excise goods made in the territory of the Republic of Tajikistan out of limits of the enterprise (production site), including:

a) delivery of excise goods, except as specified, when the excise tax is paid for these goods previously;

b) transfer to other person of excise goods (raw materials) for processing on the basis to be provided;

c) delivery (transfer) of the excise goods which are product of processing **of raw materials supplied by the customer** and (or) materials, including **excisable raw materials to be provided** and (or) materials;

d) introduction of excise goods for forming of the authorized capital (capital) of the subject of the entrepreneurship as the deposit (share);

e) use of excise goods at mutual settlement by goods and at wages in kind;

e) the holiday of excise goods performed by the producer, to the separate divisions;

g) realization of competitive mass of excise goods when passing insolvency proceeding of the taxpayer if on the specified goods the excise in the territory of the Republic of Tajikistan was not paid according to the legislation of the Republic of Tajikistan earlier;

2) import of excise goods to the territory of the Republic of Tajikistan and transportation of these goods through border of the Republic of Tajikistan according to the customs legislation;

3) selling of the confiscated, ownerless, passed on the inheritance right to the state, and non-paid transferred to the possession of the state in the territory of the Republic of Tajikistan excise goods if on the specified goods the excise in the territory of the Republic of Tajikistan was not paid earlier;

4) use of excise goods for own production needs and (or) for production of other excise goods or consumption of excise goods on the production site workers or other persons;

5) assembly (picking) of the excise goods determined by the paragraph **the seventh** Parts 1 of Article 282 of this Code and their alienation;

6) damage, loss of excise goods.

3. Excisable types of activity are rendering separate types of service in the field of electric communication, irrespective of the type and the form of their reflection in the license for rendering the services of electric communication determined by Part 2 of Article 282 of this Code.

Article 282. List of excise goods and excisable types of activity

1. Excise goods are:

- **all types of alcohol, alcoholic, soft and energy drinks, except for net drinking water;**

- the processed **tobacco**, industrial substitutes of tobacco, the product from tobacco;

- nicotine-containing products, nicotine-containing liquid, products with the heated tobacco, electronic cigarettes and dymovypuskayushchy means;

- mineral **fuel**, all types of crude oil and products of its distillation, bituminous substances, **wax mineral**, liquefied gas;

- tires and tires pneumatic rubber, tires and tires continuous or semi-pneumatic, tire protectors and obodny tapes rubber;

- **the cars** and other vehicles intended for transportation of people;

- the finished carpet products imported into the Republic of Tajikistan;

- any imported water, including gassy, products for transportation or packing of goods from plastic: traffic jams, covers, caps and other corking means imported into the Republic of Tajikistan;

- jewelry from precious metals and gemstones and also their parts from precious metals and (or) covered with precious metals.

2. Types of activity **on rendering excisable services** represent the range of services in the field of electric communication, including:

- services of public mobile cellular communication of all standards (service of mobile cellular communication);

- services in data transmission (including cable communication and IP-telephony), including through **network** of operators;
- services of telematic services, **including through network of the Internet**;
- services of the international (long-distance) telephone communication through **network** of operators.

Article 283. Tax base

1. Tax base for excise goods are:

- physical amount of excise goods;
- the amount of taxable transaction **defined** on the basis of the price of retail sale of excise goods less the value added tax and **the excise tax**;
- the amount of taxable operation **on** customs value or on the indicator of physical amount of excise goods, the Republic of Tajikistan defined according to the Customs code less the value added tax and **the excise tax**;
- the amount of taxable transaction of excise goods when using as wages in kind, at donation of excise goods, by transfer of the mortgaged goods to the property of the pawnbroker or exchange transaction and also at the voluntary **conveyance** of excise goods defined on the basis of the retail price of goods less the value added tax and excises.

2. The prices determined according to paragraphs to the second and fourth part **of 1** this article for calculation of the tax liability for excises, cannot be below the operating retail prices.

3. In case of establishment according to Part 1 of Article 285 of this Code of various rates of the excise on different types of alcohol, soft and alcoholic beverages, tax base is determined separately by the transactions assessed at the different rates.

4. At determination of the amount of taxable transaction the price of packing, except for **returnable** packing is considered.

5. Irrespective of whether the excise goods from own are made or raw materials supplied by the customer, provisions of parts 1-3 these articles are applied to determination of tax base.

6. Tax base for separate types of service in the field of electric communication, is defined by the deduction from the gross income of the value added tax and **the excise tax**.

7. At damage or loss of the excise goods made and (or) imported into the Republic of Tajikistan, the excise tax is paid in full from quantity of the spoiled and (or) lost excise goods, except as specified, when damage or loss of goods resulted from emergency situation which is confirmed in **the order established by the paragraph the fifth** Parts 1 of Article 267 of this Code. This provision is applied to the excise goods **imported** into the Republic of Tajikistan in case the taxpayer applied to the imported excise goods the order and (or) the set customs procedures and (or) the modes providing failure to pay customs payments according to requirements of Article 363 of the Customs code of the Republic of Tajikistan.

8. For the purposes of this article damage **and** loss of excisable products are understood as the events provided in Part 2 of Article 267 of this Code.

Article 284. Time of commission of taxable transaction

1. Concerning the excise goods made in the territory of the Republic of Tajikistan, time of commission of taxable transaction is the delivery date (transfers) of excise goods, including **date**:

- holidays (production site) of excise goods out of limits of the enterprise (**deliveries, realization**);

- transfers to other person **of excise goods for processing**;

- **return to the customer and (or) transfer to the person specified by the customer of the excise goods manufactured of raw materials supplied by the customer and (or) raw materials**;

- transfers of excise goods for their use in own production needs;

- drawing up the act of write-off of the spoiled excise goods or date of making decision on use in production process of the spoiled excise goods;

- losses of excise goods;

- entering of excise goods into the authorized capital (capital) of the subject of the entrepreneurship as the deposit (share);

- implementation of mutual settlements and calculations with excise goods;

- selling of the confiscated, ownerless, passed on the inheritance right to the state and non-paid transferred to the possession of the state excise goods if on the specified goods the excise tax on territories of the Republic of Tajikistan was not paid earlier;

- realization of competitive mass of excise goods if on the specified goods the excise tax on territories of the Republic of Tajikistan was not paid earlier;

- assemblies (picking) of the excise goods determined by the paragraph the sixth Parts 1 of Article 282 of this Code.

2. Concerning the excise goods imported into the Republic of Tajikistan, time of commission of taxable transaction is date of import of such goods according to the customs legislation.

3. At implementation **of activities for rendering excisable services** date of commission of taxable transaction is time determined by Part 5 of Article 256 of this Code.

Article 285. Tax rates

1. Rates of the excise tax on excise goods are established by the Government of the Republic of Tajikistan according to the Commodity nomenclature of foreign economic activity of the Republic of Tajikistan.

2. Rates **of the excise tax** are established as a percentage (ad valorem) from the cost of excise goods and (or) in fixed (absolute) **amount** per unit of measurement of excise goods in kind.

3. Rates **of the excise tax** on alcoholic products **are defined** depending on the volume which is contained in it (absolute) alcohol.

4. The rate of the excise tax for **activities for rendering excisable services** in the sphere of electric communication is established of 7 percent of tax base.

Article 286. Release

1. Are exempted from payment of the excise tax:

- **production of alcoholic beverages** by natural person for own consumption **according to the list and regulations**, established by the Government of the Republic of Tajikistan;

- import of two liters of alcoholic beverages and two blocks (400 pieces) of cigarettes, jewelry in number of 4 units (at cost no more than 150 indicators for calculations) natural person for own **consumption (use) and also** automobile fuel on the standard capacity of the fuel tank of the vehicle for the persons driving to the Republic of Tajikistan on the car;

- the goods moved with transit through the territory of the Republic of Tajikistan;

- temporary import of goods on the territory of the Republic of Tajikistan, except for the goods intended for re-export;

- excise goods, except alcoholic and tobacco products, imported into the Republic of Tajikistan within humanitarian aid and also imported for voluntary conveyance to charitable organizations on the purpose of natural disaster response, accidents, accidents and for voluntary conveyance to state bodies of the Republic of Tajikistan;

- export of excise goods if such export meets the requirements, stipulated in Clause 287 these Codes;

- import of new cars by directly legal entities and individual entrepreneurs performing activity on the basis of the certificate (whose issue date does not exceed 1 (one) year, with the run up to 10 (ten) thousand kilometers) goods items 8702, 8703, 8704 and 8705 of 50 percent of the rates established by the Government of the Republic of Tajikistan.

2. **Exemption from the excise taxes**, the parts of 1 this article **provided** in paragraphs the third or seventh, **is applied** only in cases when conditions of exemption from the customs duty at the corresponding modes according to the customs legislation of the Republic of Tajikistan are satisfied. In this case, if for the purposes of collection of the customs duty import falls under action **of the customs** regime "Customs duty drawback", or payment of the customs duty is required, **at non-performance** of conditions of release, the same mode is applied to excise collection.

Article 287. Confirmation of export of excise goods

1. When exporting excise goods for confirmation of justification of release according to Article 288 of this Code **the taxpayer** is obliged within 120 calendar days from the date of the mark of the customs authority which performed release of excise goods in the Export mode to provide to tax authorities in the place of registration the following documents:

- the cargo customs declaration or its copy certified by customs authority with marks of the customs authorities which performed release of excise goods in the Export mode, and in case of export of excise goods in the Export mode on the system of the main pipelines or with application of the procedure of incomplete

periodic **declaring**, the complete cargo customs declaration with marks of the customs authority making the customs clearance;

- the delivery agreement of the exported excise goods;
- copies of shipping documents with the mark of the customs authority located at the check point on customs area of the Republic of Tajikistan, and in case of export of excise goods in the Export mode on the system of the main pipelines the delivery and acceptance certificate of goods;

- the payment documents of credit financial institution **and the copy of the statement from them** confirming the actual receipt of the currency earnings from delivery of excise goods on the account of the taxpayer in the Republic of Tajikistan.

2. In case of implementation of the external economic operations on exchange of goods (works, services), the taxpayer is obliged to submit the documents confirming commodity importation (performance of works, rendering the services) received on the specified transactions on the territory of the Republic of Tajikistan.

3. In case of not confirmation of export of excise goods according to **provisions** Parts 1 and 2 of this article such export is subject to taxation in the order **established** by this section for taxation of delivery of excise goods in the territory of the Republic of Tajikistan.

4. At submission to tax authorities in the place of registration of the documents confirming export of excise goods within 180 calendar days from the date of the mark of 1 this article **provided** in the part, the taxpayer has the right to pass the test or return of the excise tax estimated according to Part 3 of this article except for the accrued interest. In case of non-compliance with the term established by this part, the taxpayer has no right to offset or tax refund paid according to Part 3 of this article if such case is not connected with force majeure circumstances.

Article 288. Offset of the excise tax

1. The payer of the excise tax at payment in the budget of the excise tax has the right to offset of the amount of the excise paid to them at acquisition (receiving) or when importing excise goods to customs area of the Republic of Tajikistan if **excise** goods are used as the main raw materials for production of excise goods.

2. The payer **of the excise tax** providing excisable services in the sphere of electric communication regarding rendering **Internet services** has the right by the proportional method to make offset of the amount **of the excise tax** concerning the complex of excisable services of the used electric communication if the specified services are used by the taxpayer for rendering excisable services of electric communication.

3. According to the part of 1 this article offset of the amount of the excise tax is allowed by the amount of excisable raw materials which is actually used for the tax period on production of excise goods if production of excise goods is performed on the established regulations.

4. Provisions of Parts 1 and 3 of this article are applied by transfer of the excise goods manufactured of the excisable raw materials to be provided used as raw materials on condition of payment confirmation of the excise tax by the owner of excisable raw materials to be provided.

5. Offset or return according to Articles 117 and 118 of this Code) the excise tax paid for the excise goods used in the medical purposes by medical institutions and drugstores and also the pharmaceutical enterprises by production of medicines according to the order and regulations established by the Ministry of Health and Social Protection of the Republic of Tajikistan in coordination with **authorized state body in the sphere of finance** and authorized state body is allowed.

6. Offset or return of the excise tax according to this **article** is allowed only in the following cases, including at:

- submission **of the invoice confirming** payment of the excise tax upon purchase of excise goods (raw materials);

- payment confirmation of the excise tax by the owner of excise goods (raw materials) to be provided;

- submission of the documents confirming import of raw materials. The list of the documents confirming payment of the excise tax is established by authorized state body.

7. According to this article offset or return of the excise tax is allowed concerning amount (quantity, cost) the goods (raw materials) which are actually used in the tax period on production of other excise goods in the medical purposes by medical institutions and drugstores and also the pharmaceutical enterprises by production of medicines.

Article 289. Tax period

The tax period of the excise is calendar month.

Article 290. Payment of the excise tax

1. In case of production of excise goods, the excise tax is subject to payment concerning taxable transactions not later than the 15th day of the month following after the month of implementation of taxable transaction.

2. The taxpayer has no right to export excise goods out of borders of the production room without payment of the excise tax.

3. In case of commodity importation, the excise tax is levied by customs authorities in the order determined by this Code and the customs legislation.

4. Payment of the excise tax on services of the sphere of electric communication in the budget is made not later than the 15th day of the month following after the month of implementation of taxable transaction.

Article 291. Tax control of excisable alcoholic, nonalcoholic and tobacco products

1. Tax control **of accounting** of production volume (pouring), storage, transportation and the holiday out of borders of the production room and also the export of excisable, spirits, nonalcoholic and (or) tobacco **products** made in the territory of the Republic of Tajikistan taking into account **requirements** of this article, is performed in the order established by the Government of the Republic of Tajikistan.

2. Customs authorities of the Republic of Tajikistan exercise control of amount, quantity and marking of the excise goods imported into the Republic of Tajikistan in the customs regime "Release for free circulation" and also realized in the Republic of Tajikistan in other customs regime.

3. For the purpose of complete accounting of turnover of excise goods, at approach of circumstances, the stipulated in Clause 44 presents of the Code, in the territory (location) of producers of excise goods, the tax post is placed.

4. Import to the territory of the Republic of Tajikistan of excisable alcoholic and (or) tobacco products in the Release for Free Circulation mode is allowed by customs authorities after preliminary marking of these products excise stamps in the order established by authorized state body.

5. Marking of excisable alcoholic and (or) tobacco products excise stamps is performed by the person importing **these products**. For marking by excise stamps the excisable alcoholic and (or) tobacco products **imported** into the Republic of Tajikistan are subject to the room in temporary storage warehouses and (or) to registration in the mode "Customs warehouse" according to the customs legislation of the Republic of Tajikistan.

6. The customs clearance of excisable alcoholic and (or) tobacco products under the customs regime "Release of goods for free circulation" can be made in proportion to the paid amount of the customs duties and taxes established by the tax and customs legislation of the Republic of Tajikistan.

Article 292. Place of payment of the excise tax

1. The excise tax on excise goods is subject to payment in the corresponding budget for the place of registration of the payer of the excise tax, except as specified, specified in Parts 2 and 3 of this article.

2. The payers of the excise tax on excise goods having separate divisions pay the excise tax to the corresponding budget for the location of the separate divisions **performing** production of excise goods.

3. The excise tax on separate types of service in the field of electric communication is subject to payment in the corresponding budget for the place of the main accounting of the taxpayer (irrespective of availability of separate divisions).

Article 293. Submission of the declaration on the excise tax

1. Payers of the excise tax represent tax declarations in the order and in the form, **established** by authorized state body, no later than the 15th day of the month following the reporting tax period.

2. The payers of the excise tax having separate divisions are obliged to represent calculations for the excise for separate divisions along with the declaration.

3. The declaration on payment of the excise tax on rendering services in the field of electric communication is submitted no later than the 15th day of the month following the reporting tax period in tax authority in the place of accounting (reporting) of the taxpayer (irrespective of availability of separate division).

4. The instruction for calculation and payment of the excise tax and also the form of declarations, affirm **on representation of authorized state body** by the Ministry of Finance of the Republic of Tajikistan.

Article 294. Return of the excise tax at re-export of goods

1. In case of re-export of goods, the excise tax paid at **their** import returns **in the actual volume of re-export** in the order established by the customs legislation within 30 days after submission of the written application by the taxpayer if when importing such goods the excise tax was paid.

2. **Provisions** of the part of 1 this article are not applied to excise goods which import is exempted from payment of the excise tax according to the paragraph the fifth Parts 1 of Article 286 of this Code.

Article 295. Excise stamps

1. The excise stamp is the document of the strict accounting having the certain degree of protection and **is put** into circulation by the body performing financial policy for accounting and production control of separate excise imported goods.

2. The order of production and turnover of excise stamps, drawing up the list of excise goods of domestic production and the imported goods which are subject to obligatory marking **approve** by the Government of the Republic of Tajikistan.

3. Selling of the excise goods which are subject to marking without excise stamps is forbidden. When selling the excise goods which are subject **to marking** without excise stamps - such goods are withdrawn in the order established by the legislation of the Republic of Tajikistan.

4. The manufacturers and persons importing excise goods are responsible for marking of excise goods.

5. **If this article does not provide other**, at damage or **loss** of excise stamps the excise tax is paid in volume of the stated range of excise goods.

6. Calculation of the excise tax on the spoiled or lost excise stamps is made proceeding from the established rates **of the excise tax** applied to the amount of unit of the capacity (the container, packing) **specified** on the brand.

7. In case of absence on **the excise** stamp of designation of amount of unit of capacity (the container, packing), calculation of the excise tax on **the spoiled or lost** excise stamps is made **taking into account** from the largest amount of unit of capacity (the container, packing), excise goods during the tax period preceding the period of damage, **loss** of excise stamps.

8. At damage, **loss** of excise stamps, the excise is not paid in the following cases:

- damage or **loss** of excise stamps resulted from the emergency situations confirmed with relevant organs in the order established by the paragraph the fifth Parts 1 of Article 267 of this Code;

- the spoiled excise stamps transferred to tax authorities on the basis of the act for write-off or destruction.

9. Marking of excise goods is not obligatory in the following cases:

- 1) export of excise goods in the customs regime "Export" from the territory of the Republic of Tajikistan;
- 2) import by subjects of duty-free trade to the territory of the Republic of Tajikistan of excise goods in the customs regime "Duty-free trade";
- 3) movement of excise goods through customs area of the Republic of Tajikistan in the customs regime "The international transit";
- 4) import of alcoholic and tobacco products to the territory of the Republic of Tajikistan by natural person is more senior **than 21 years** within the regulations established by the legislation of the Republic of Tajikistan.

Article 296. Invoices on the value added tax and excises

The taxpayer performing delivery and (or) export of excise goods is obliged to write out and expose in the order established by **Articles 269 and 270** of this Code to the recipient of excise goods the invoice on the value added tax and **the excise tax**.

SECTION X. TAXES FOR NATURAL RESOURCES

CHAPTER 45. TAXES C OF USERS OF NATURAL RESOURCES

§1. General provisions

Article 297. Basic provisions

1. When using natural resources, including **their use** within the agreement **on use of natural resources** and (or) use of water for development of electric energy, taxes are accrued and paid.
2. Taxes for **use** by natural resources consist from:
 - **subscription bonus**;
 - **bonus** of commercial detection;
 - the royalty for production;
 - the royalty for water;
 - **export rent**.
3. In this chapter for the purpose of taxation the following concepts are used:
 - **users natural resources** - the persons who are engaged in search and detection of fields, mineral extraction, mineral extraction from mineral raw materials and (or) processing of technogenic mineral educations;
 - the field - the subsoil plot (or **their** part) containing the natural congestion of minerals;
 - minerals are mineral and organic minerals which chemical composition and physical properties **allow** their use in the sphere of production (for example, as raw materials or fuel). Minerals consist of solid, liquid and gaseous minerals;
 - mineral - the natural mineral or organic matter formed in **crust** in strong, liquid and (or) gaseous state which chemical composition and physical properties allow to use effectively them by production and (or) consumption;

- production - the complex of the works connected with extraction of minerals from the subsoil on the surface and also from technogenic mineral educations;
 - processing of mineral raw materials and (or) technogenic mineral educations - the works connected with extraction of useful elements from mineral raw materials and technogenic mineral educations and also extraction of minerals from them;
 - commercial detection - the reserves of minerals opened within permitted the contractual territory of the user by the natural resources **approved** by the State commission of the Republic of Tajikistan on reserves of minerals also are cost-effective for production;
 - the subscription bonus - **the single fixed tax** to users natural resources for buying use of natural resources in the limits set by the license (permission);
 - the bonus of commercial detection - **the single fixed tax** paid by users **natural resources** for buying use of natural resources each commercial detection in the limits set by the license (permission). The basis for its calculation is the size of amount of renewable mineral resources approved by authorized state body in the field of geology. Regulations on the subscription bonus and the bonus of commercial detection to the state enterprises occupied with performance of works on geological studying of the subsoil financed by the state budget it is not applied;
 - loose minerals are natural mineral educations, including precious metals and gemstones, tin, tungsten, rare metals, ornamental stones and **another**, formed as a result of physical and chemical aeration of rocks, manifestations and fields radical and minerals;
 - the prospecting and volnoprinositelsky method - the method of the organization of extraction of loose minerals performed according to permission of authorized state body in the field of finance **individual entrepreneurs and legal entities** in subsoil plots with not counted stocks and not entered in the state stock balance of minerals of the Republic of Tajikistan;
 - technogenic mineral educations - accumulation of educated minerals at the level of the Earth's surface as a result of production and processing of the minerals which are stored in the type of waste of the mining, overworking and metallurgical industry;
 - royalty for production - the tax paid **by the user natural resources** separately by each type of the minerals extracted in the territory of the Republic of Tajikistan irrespective of whether they were delivered (are shipped) to buyers (recipients) or are used for own needs.
4. The nonresident can perform use **of natural resources** in the Republic of Tajikistan through the legal entity formed according to the legislation of the Republic of Tajikistan.
5. The following persons are not taxpayers for use of natural resources:
- natural persons on the popular minerals and underground waters extracted on the land plots assigned to them in use if these extracted minerals are not used for business activity;
 - the producers of agricultural products, products of fish breeding and public institutions performing extraction of underground waters for own economic needs and for improvement of the meliorative condition of farmlands;

- **users natural resources** for passing extraction of underground waters at their return downloading for maintenance of reservoir pressure;
- the persons extracting the drainage underground waters which are not considered in the state balance of minerals during the developing of mineral deposits, construction and operation of underground constructions;
- **persons** who are engaged in extraction of water from boggy lands;
- the natural persons which are engaged in extraction of loose minerals by prospecting and volnoprinositelsky methods and complying the conditions provided by the legislation on extraction of loose minerals.

6. Taxes on natural resources are subtracted for the purposes of the tax on revenues **of the legal entity** from the gross income.

7. The instruction for calculation and payment of taxes on natural resources and also forms of tax declarations (calculations) affirm **on representation of authorized state body** by the Ministry of Finance of the Republic of Tajikistan.

8. Payment of taxes by users of natural resources does not exempt **users natural resources** from payment of other taxes established by this Code and also from accomplishment of tax liabilities for other types of activity (which are not connected with use of natural resources) according to the tax law for date of emergence of such obligations (which are not connected with application of natural resources).

Article 298. Establishment of tax regime in agreements on use of natural resources

1. The conditions of payment of taxes on **users natural resources** (further in this section – the tax regime) established for each **user of natural resources** according to this Code are defined in the agreement **on the use of natural resources** (further in this section - the agreement) concluded between **the user natural resources** and authorized body of the Government of the Republic of Tajikistan (further in this section competent authority) in coordination with the Ministry of Finance of the Republic of Tajikistan and authorized state body in the order established by the Government of the Republic of Tajikistan.

2. The contract is signed between **the user natural resources** and competent authority no later than 3 calendar months after obtaining the license (permission) in time **if the Government of the Republic of Tajikistan does not provide other terms**.

3. **Use of natural resources** without license (permission) and the agreement **on use of natural resources** is forbidden.

4. **When using of natural resources** without license and signing of the contract **on use of natural resources**, taxes for use by natural resources (bonuses and the royalty for production) for the entire period of such activity it is collected at the double rates established according to this Code, and such person is made responsible in the order established by the legislation of the Republic of Tajikistan.

5. The tax regime set by the agreement shall conform to requirements of the tax law of the Republic of Tajikistan of date of signing of the agreement.

6. Inclusion of provisions (requirements) relating to payment of taxes on **use of natural resources** in the licenses and other acts connected with **use of natural resources** except for agreements **on use of natural resources** is forbidden.

7. In cases when **use of natural resources** is performed under one agreement by several taxpayers according to the legislation of the Republic of Tajikistan, the tax regime set in such agreement is uniform for all **users natural resources** (taxpayers) specified in the agreement. For the purpose of taxation the taxpayers performing activity within such agreement are considered as the uniform taxpayer obliged to keep the uniform consolidated account and to pay the taxes on **users natural resources** established in the agreement according to the tax law of the Republic of Tajikistan.

8. **The user natural resources** is obliged to keep separate account for calculation of tax liabilities according to the tax regime provided by the agreement and calculations of tax liabilities for the activity which is beyond such agreement (including not connected with **use of natural resources**).

9. Provisions of Part 7 of this article regarding separate accounting do not extend to cases when **the user natural resources** along with activities for contracts for extraction of popular minerals and (or) underground waters performs the activity which is beyond these contracts (is not connected with **use of natural resources**).

10. In case of processing of passing and other minerals, the user of natural resources without introduction of amendments to the agreement, taxes according to provisions of this chapter are estimated and paid by natural resources (bonuses and the royalty for production) for use at the double rate.

§2. Subscription bonus

Article 299. Taxpayers

The subscription bonus is paid by the person who won tender on right to use by natural resources or acquired the right to use natural resources on the basis of direct negotiations and (or) licenses (permission) to production **of natural resources** or geological studying according to the legislation of the Republic of Tajikistan.

Article 300. Size of the subscription bonus

The size of the subscription bonus is established according to the rules determined by the Government of the Republic of Tajikistan and is reflected in the agreement **on use of natural resources**.

Article 301. Payment due dates of the subscription bonus

1. The determined sum of the subscription bonus is paid **by users natural resources** after obtaining the license (permission) to the right of production of natural resources to the following terms:

a) for popular minerals and minerals (except for the subjects working in the field of coal production, oil, gas condensate and natural gas):

- thirty percent from the determined sum of the subscription bonus within 30 calendar days from date of issue of the license (permission) the right to production **of natural resources**;

- the remained seventy percent from the determined sum of the subscription bonus from start date of mineral extraction during 1 (one) in equal shares for every month of the reporting period. In some cases for the certain Government of the Republic of Tajikistan mineral deposits can establish equal shares for every month of the reporting **period** within 2 (two) years;

b) for coal production, oil, gas condensate and natural gas depending on the size of the added **subscription** bonus:

- up to 200,000 indicators for **calculations** within 2 (two) years in equal shares for each month under report;

- from 200,000 to 500,000 indicators for **calculations** within 4 (four) years in equal shares for each month under report;

- from 500,000 to 1 million indicators for **calculations** within 6 (six) years in equal shares for each month under report;

- from 1 to 5 million indicators for **calculations** within 10 (ten) years since the beginning of activity in equal shares for each month under report;

- more than 5 million indicators for **calculations** within 20 (twenty) years since the beginning of activity in equal shares for each month under report.

2. The user natural resources, irrespective of provisions of the part of 1 this article, can pay the full estimated amount of the subscription bonus at once.

3. The subscription bonus is paid by the users natural resources who obtained the license (permission) to geological studying in the following terms if the Government of the Republic of Tajikistan **does not establish other**:

- fifty percent from the determined sum within 30 calendar days from date of issue of the document confirming the right to geological studying;

- fifty percent from the determined sum no later than 30 calendar days from the effective date agreements on geological studying.

4. The subscription bonus is paid for popular minerals and underground waters in the budget of the location of the field.

5. On certain mineral deposits other payment due date of the subscription bonus can **be established** by the Government of the Republic of Tajikistan.

Article 302. Tax declaration

The declaration on the subscription bonus is submitted **the user natural resources** in tax authorities in the location of the field during the first payment period and is entered in the personal account of the taxpayer in the terms established for payment of such bonus.

§3. Bonus of commercial detection

Article 303. Taxpayers

1. Taxpayers of the bonus of commercial detection are **the users natural resources** who addressed authorized state body in the field of geology about

commercial detection of minerals in the contractual territory when carrying out transactions on use **by natural resources** within the obtained licenses (permissions) to **use of natural resources**.

2. The bonus of commercial detection is paid **by users natural resources** on the basis of the following licenses (permissions):

1) on mineral extraction in the following cases:

a) for each commercial detection of minerals in the contractual territory which is earlier announced by this **user natural resources** in the respective territory within the license (permission) to investigation;

b) for the detection during the additional exploration leading to increase in the amounts of mineral extraction which are originally established by authorized state body in the field of geology;

c) for each commercial detection of other minerals during the additional exploration of the recoverable reserves approved by authorized state body in the field of geology;

2) on the combined exploration and production for each commercial detection of minerals in the contractual territory, including for the detection during additional investigation of fields leading to increase in the recoverable reserves of minerals which are originally established by authorized state body in the field of geology.

3. According to licenses (permissions) to carrying out investigation of mineral deposits which are not providing the subsequent their production, the bonus of commercial detection is not paid.

Article 304. Size of the bonus of commercial detection

The size of the bonus of commercial detection is established in the order determined by the Government of the Republic of Tajikistan and is reflected in the contract for **use of natural resources**.

Article 305. Payment due dates of the bonus of commercial detection

1. The size of the bonus of commercial detection is paid by users **natural resources in the budget** no later than the 15th of each of the next three months following after the month in which to the taxpayer the license (permission) to mineral extraction, with the cumulative amount not less than 30 percent, 60 percent and 100 percent was granted.

2. The bonus of commercial detection on popular minerals and underground waters is paid in the place of accounting of the taxpayer on finding of the field no later than the 15th following after the month of licensing (permission).

Article 306. Tax declaration

The declaration on the bonus of commercial detection is submitted **users natural resources** in tax authorities in the location of the field of the first payment **established** according to Article 305 of this Code for payment of this bonus in time and is entered in the personal account of the taxpayer in the terms established for payment of such bonus.

§4. The royalty for production

Article 307. Taxpayers

Payers of the royalty for production are **the users natural resources performing** the following operations within each granted license (permission) to **use of natural resources**:

- **mineral extraction**, including from technogenic mineral educations;
- **processing** of minerals with extraction from them useful components.

Article 308. Taxation object

1. The taxation object of the royalty for production (further - the royalty) are the following amounts of the extracted minerals, including amounts of the accompanying minerals extracted in the technology way (further – the accompanying minerals):

- got from fields or subsoil plots allocated **separately** to the taxpayer in the territory of the Republic of Tajikistan;
- got from waste (losses), with accounting of technology separation if such production is subject to separate licensing (permission).

2. The object of the royalty is determined separately by each type of the extracted mineral.

3. Are subjects to taxation for the royalty:

- the amount **of the extracted minerals** (including **the accompanying** minerals extracted in the technology way);
- the useful components formed of minerals, mineral raw materials, technogenic mineral educations;
- the extracted hydrocarbons which underwent primary processing including passing minerals and their useful components;
- the useful components taken in the course of processing of hydrocarbons not taxable as the ready-made product at the previous production and processing as a part of the processed minerals;
- the extracted precious metals and gemstones, including from technogenic mineral educations;
- the underground waters used **for** business activity, including which underwent preprocessing;
- other minerals, including the mineral raw materials **which underwent** preprocessing.

Article 309. Tax base

1. **Tax base** of the tax on the royalty is the cost of amount of the extracted minerals including which are in common extracted, calculated at the average delivery price for the reporting period **if this article does not provide other**.

2. Average delivery price by each **type of the extracted mineral** for the reporting period is defined separately by division of the sales amount in national currency (including tax on added value and **excises**) on sales amount in kind. In case of **not selling** of minerals for **the reporting period**, tax base is defined proceeding

from the average delivery price of minerals **for the last reporting period** in which sale was performed.

3. In case of **lack** of supply of the extracted minerals and their complete use for own needs of the taxpayer, the cost of the minerals extracted during the tax period is defined proceeding from actual cost of production and (or) primary processing (enrichment, the cleaning) falling on these minerals according to requirements of this Code and the legislation of the Republic of Tajikistan on financial accounting increased by 20 percent.

4. In cases when one part of the extracted mineral is on sale, and other part of mineral is used for own needs, tax base on mineral is calculated on the basis of the average sales price of this mineral for all amount of the extracted mineral.

5. Tax base on the royalty is defined by the user **natural resources** independently with technology separation concerning each extracted mineral, with **the accompanying** minerals extracted at extraction of the main mineral.

6. Tax base, except for precious metals and also gemstones, is determined by separate types of minerals as amount of the extracted minerals in kind.

7. Tax base in the net chemical form is determined by precious metals in initial expression in number of the extracted minerals.

8. Tax base at extraction of gemstones from ore, loose and technogenic fields is defined proceeding from amount of the minerals received after initial production and initial assessment of the raw stones. In this case rare gemstones for which the source of the tax on the royalty separately is defined separately pay off. Value assessment of the extracted gemstones is performed on the basis of their initial assessment according to the legislation of the Republic of Tajikistan on precious metals and gemstones.

9. The cost of precious metals (gold, silver and platinum) and other metals extracted by the user **natural resources for the tax period** is calculated on the basis of the average price of such metals created on the London Metal Exchange, the London exchange of precious metals or in other international (regional) exchanges.

10. The cost of separate types of the popular minerals extracted **by the user natural resources for the tax period** is defined on the basis of the average estimated value of the fixed construction assets determined by authorized state body in the field of architecture and construction.

11. **If other parts of this article do not provide other**, the cost of the minerals extracted by the user **natural resources** during the tax period including accompanying minerals, is defined on the basis of the average delivery price of such minerals created for the tax period at the international (regional) exchange or in other order determined by the Ministry of Finance of the Republic of Tajikistan and authorized state body.

Article 310. Rates of the royalty for production

1. Rates of the royalty for extraction of popular minerals are established in the following sizes:

| P/N | Name of popular minerals | Rates (as a percentage and somoni from the taxable basis) |
|-----|--|---|
| 1. | Sand (except forming, quartz (glass) for the farforo-faience and cement industry) | 5% |
| 2. | Sand forming, quartz (glass) for the farforo-faience and cement industry | 9%, but not less than 10% of the indicator for calculations for cubic meter |
| 3. | Sand-gravel mixes | 5%, but not less than 10% of the indicator for calculations for cubic meter |
| 4. | Clay (except fire-resistant, refractory, forming for the farforo-faience and cement industry, floridonovy, colourful, bentonite, acidproof and the kaolin) | 5% |
| 5. | Clay fire-resistant, refractory, forming for the farforo-faience and cement industry, floridonovy, colourful, bentonite, acidproof and the kaolin | 5 percent, but not less than 10 percent of the indicator for calculations for cubic meter |
| 6. | Loam (except loam for the cement industry) | 7% |
| 7. | Loam for the cement industry | 6%, but not less than 10% of the indicator for calculations for cubic meter |
| 8. | Rubble stone | 5% |
| 9. | Sandstone (except bituminous, facing, dinasovy and for the glass industry) | 5%, but not less than 10% of the indicator for calculations for cubic meter |
| 10. | Sandstone bituminous, facing, dinasovy and for the glass industry | 4% |
| 11. | Chalk | 6% |
| 12. | Quartzite (except carbide of silicon, crystal silicon of ferroalloys, dinasovy, flux, facing, ferruterous for production) | 6% |

| | | |
|-----|--|--|
| 13. | Quartzite dinasovy, flux, facing, ferruteros for production of carbide of silicon, crystal silicon of ferroalloys | 6% |
| 14. | Dolomite (except bituminous and for the cement industry) | 6% |
| 15. | Dolomite bituminous and for the cement industry | 5%, but not less than 10% of the indicator for calculations for cubic meter |
| 16. | Marl (except bituminous and for the cement industry) | 7% |
| 17. | Marl bituminous and for the cement industry | 10% |
| 18. | Limestone (except bituminous, facing, dusty for cement, metallurgical, chemical, glass, pulp-and-paper and sugar industry and also for alumina production) | 6% |
| 19. | Limestone bituminous, facing, dusty for cement, metallurgical, chemical, glass, pulp-and-paper and sugar industry and also for alumina production | 6% |
| 20. | Shell rock for the cement industry | 10%, but not less than 10% of the indicator for calculations for cubic meter |
| 21. | Shell rock (except facing and decorative) | 6% |
| 22. | Marble and shell rock facing and decorative | 6% |
| 23. | Slate (except combustible and roofing) | 6% |
| 24. | Slate combustible and roofing | 5% |
| 25. | Soapstones and aleurolites | 5% |
| 26. | Magmatic, volcanic and metamorphic rocks (except facing, decorative, for production of fire-resistant and acidproof materials, stone casting and mineral wool and also except suitable for use in the cement industry) | 6% |

| | | |
|-----|--|---|
| 27. | Magmatic, volcanic and metamorphic rocks facing, decorative, for production of fire-resistant and acidproof materials, stone casting and mineral wool and also suitable for use in the cement industry | 5% |
| 28. | Blocks from the natural stone | 5%, but not less than 10% of the indicator for calculations for cubic meter |
| 29. | Marble crumbs | 5%, but not less than 10% of the indicator for calculations for cubic meter |
| 30. | Construction gravel | 5%, but not less than 10% of the indicator for calculations for cubic meter |
| 31. | Construction sand | 5%, but not less than 10% of the indicator for calculations for cubic meter |
| 32. | Plaster | 6% |

2. Rates of the royalty for extraction of underground waters are established on categories of underground waters according to the table below in the following sizes:

| P/N | Name of underground waters | Rates percentage of tax base |
|-----|--|------------------------------|
| 1. | For medicinal underground waters (medical silt) and net mineral water for pouring in bottles (by industrial processing) | 10% |
| 2. | For the underground waters used for other purposes (except for the purposes specified in points 3 and 4 of this table) | 8% |
| 3. | For the underground waters extracted by utility companies for satisfaction of needs of the population | 2% |
| 4. | For the underground waters extracted by municipal services irrespective of pattern of ownership, for | 0.2 |

| | | |
|--|---|--|
| | satisfaction of needs of country people | |
|--|---|--|

Note: According to requirements of Part 1 of Article 309 of this Code calculation of tax base of the royalty for extraction of underground waters for pouring in capacity (by industrial processing) is estimated proceeding from prime cost of the first commodity product.

3. Rates of the royalty for mineral extraction, except for specified in Parts 1 and 2 of this article, are established in the following sizes:

| P/N | Name of minerals | Rates (percentage of tax base) |
|-----|--|--|
| 1. | Oil, gas condensate and natural gas | 8% |
| 2. | Coal and peat | 4% |
| 3. | Ferrous metals (iron, manganese, chrome, vanadium) | 4% |
| 4. | Non-ferrous and rare metals (copper, lead, zinc, tin, nickel, cobalt, molybdenum, mercury, antimony, bismuth, cadmium, aluminum, strontium, titanium, zirconium, lithium, tungsten, tantalum, niobium and another) | 6% |
| 5. | Loose minerals | 10% |
| 6. | Precious metals (gold, silver, platinoids) | 6% |
| 7. | Gemstones | 8% |
| 8. | Color stones (semi-precious stones) and (or) piezooptical raw materials | 9% |
| 9. | Radioactive raw materials | 6% |
| 10. | Mining and chemical raw materials and thermal waters | 5% |
| 11. | Mining raw materials (concentrate) and (or) nonmetallic raw materials for metallurgy | 5% |
| 12. | Other minerals which are not specified in this table and also in Parts 1 and 2 of this article | 3% |
| 13. | Mineral extraction from technogenic mineral educations | 10% of the tax rate for mineral extraction |

| | | |
|-----|--|---|
| 14. | The loose minerals extracted prospecting and volnoprinositelsky by methods | 0 |
|-----|--|---|

4. The royalty rate for production of all types of minerals which is subject to payment in the budget is defined as the amount **of the derivative** cost (volume) of each of **the natural resources got by the user** for the tax period of minerals on the corresponding rates of the royalty for production.

5. Or the submitted documents **which** are not reasonable the tax on the royalty on such natural resources is accrued and paid **by the subject who was using** natural resources in production, construction and sale, but not having documents for their purchase to the budget for the double **rate** specified in this article.

Article 311. The order of establishment and royalty payment for production in the natural form

1. In case of the conclusion of the additional agreement between **the user natural resources** and authorized state body in the sphere of the industry and new technologies about payment of the royalty for **production** in the natural form, such payment can be performed in coordination with the Ministry of Finance of the Republic of Tajikistan and authorized state body.

2. The cost of the royalty, paid in the natural form, shall be equivalent to the sum of money of this tax.

3. **The user natural resources** and the recipient in the order established by authorized state body represent to tax authority in the location of the field the report on payment of the royalty for production in the natural form at the scheduled time.

4. The recipient bears responsibility according to the legislation of the Republic of Tajikistan for timely and complete payment in the budget of the sum of money of the royalty for production (according to calculations **of the user natural resources**) and also for the received products.

Article 312. Tax period, order of submission of the declaration and payment of the royalty for production

1. The tax (reporting) period by determination and payment of the royalty for production is calendar month.

2. The declaration (calculation) for the royalty for production is submitted **the user natural resources** in the form and as it should be, **established** by authorized state body in tax authority in the location of the field to the 15th day of the month following the reporting tax period.

3. The royalty by all types of minerals is paid for production no later than the 15th day of the month following the reporting period.

§5. The royalty for water

Article 313. Taxpayers

For water (further in this chapter - taxpayers) the persons using water in the Republic of Tajikistan for power production are recognized as payers of the royalty.

Article 314. Taxation object

For water use of water objects for the purposes of power production on hydroelectric power stations is recognized as the taxation object of the royalty.

Article 315. Tax base

1. Tax base is defined as quantity of the electric power made for the tax period without losses by its further transfer (delivery).
2. Tax base is defined by the taxpayer separately concerning each water object.

Article 316. Release

The production up to 1000 kilowatts objects of the electric power are exempted from calculation and payment of the royalty for water.

Article 317. Tax period

For the royalty for water calendar month is recognized as the tax period.

Article 318. Tax rate

The rate of the royalty for water is established at a rate of 0.06 indicators for calculations on each 1000 kilowatts/hours of the made electric power.

Article 319. The order of calculation and payment due dates of the royalty for water

1. The amount of the royalty for water following the results of each tax period is estimated as **made** tax base on the tax rate.
2. The amount of the royalty for water is subject to payment in the budget no later than the 15th day of the month following the tax period.

Article 320. Tax declaration

The tax declaration is submitted the taxpayer in tax authority in the place of its accounting no later than the 15th day of the month following the tax period **in the order established by authorized state body.**

§6. Export rent

Article 321. Taxpayers

The persons performing export of concentrates of precious, ferrous, non-ferrous, rare, radioactive metals, mining and chemical raw materials, gemstones, raw materials from poddelochny stones of primary processing, cotton-raw, cotton-fiber, cotton yarn and thread, the cocoon, silk thread, wool and leather (further in this

paragraph – goods) from the Republic of Tajikistan are recognized as payers of the export rent.

Article 322. Taxation object

The amount of the exported goods from the territory of the Republic of Tajikistan is recognized as the taxation object of the export rent. For the purposes of this chapter the concept export is understood as the following transactions:

- commodity exportation out of borders of the Republic of Tajikistan in the customs regime "Export";
- **exposure** to sale of the goods which are earlier exported from the territory of the Republic of Tajikistan in the customs regime "Processing".

Article 323. Tax base

1. **Tax base** of the export rent for the reporting period is the cost determined proceeding from the average delivery price (export) of goods at the time of export specified in export agreements.

2. Tax base is determined by the taxpayer by each type of the taxation object separately.

Article 324. Tax period

For the export rent calendar month is recognized as the tax period.

Article 325. Tax rate

The rate of the export rent is established in the following size and the order from tax base:

- since January 1, 2023 - 2 percent;
- since January 1, 2025 - 4 percent;
- since January 1, 2027 - 6 percent.

Article 326. Order of calculation and payment of the export rent

1. The amount of the export rent following the results of each tax period is estimated as **the derivative** of tax base on the tax rate.

2. The amount of the expert rent is subject to payment in the budget no later than the 15th day of the month following the tax period.

Article 327. Tax declaration

The tax declaration is submitted the taxpayer in tax authority in the place of its accounting no later than the 15th day of the month following the tax period **in the order established by authorized state body**.

SECTION XI. SOCIAL TAX

CHAPTER 46. SOCIAL TAX

Article 328. Taxpayers

1. Payers of social tax are:

- legal entities, their separate divisions, permanent establishments of nonresidents and individual entrepreneurs employers who pay the salary, remuneration and other benefits to the physical resident persons who are employed at them on the basis of employment contracts or without them;

- legal entities, their separate divisions, permanent establishments of nonresidents and individual entrepreneurs who compensate for the services (the performed works) rendered in the Republic of Tajikistan to the physical resident persons who are not registered as individual entrepreneurs on the basis of civil contracts or without them;

- the natural persons specified in paragraphs the first and second this part, which received the salary, remuneration, other benefits and compensation for the rendered services (the performed works);

- the natural persons occupied with individual business activity in the territory of the Republic of Tajikistan, including performing activity as members of Dehkan (farmer) farms without formation of legal entity.

2. If the taxpayer at the same time belongs to several categories of taxpayers specified in the part of 1 this article, he estimates and pays the tax on each basis.

3. For the purposes of this chapter:

- the taxpayers specified in paragraphs the first and second the part of 1 this article are recognized as insurers;

- the taxpayers specified in the paragraph the third the part of 1 this article are recognized as the insured persons;

- the payers specified in the paragraph the fourth the part of 1 this article are recognized at the same time as insurers and the insured persons.

4. The citizens of the Republic of Tajikistan who are labor migrants have the right to file the written application to tax authorities in the place of the permanent residence in the Republic of Tajikistan, to become voluntarily payers of social tax and to pay it in sizes and the order determined by the Government of the Republic of Tajikistan.

Article 329. Taxation object

1. The taxation object for the taxpayers specified in **paragraphs** the first and third Part 1 of Article 328 of this Code are:

- the salary, remunerations and other income defined according to Article 186 of this Code, paid by taxpayers for benefit of **hired** employees;

- payments, the remunerations and other income paid for benefit of the natural persons which are not specified in **paragraphs** the first and second Part 1 of Article 328 of this Code.

2. The taxation object for the taxpayers specified **in paragraphs** the second and third Part 1 of Article 328 of this Code are the salary, remunerations and other benefits under employment and civil contracts about performance of works, rendering services paid by taxpayers for benefit of natural persons, not being individual entrepreneurs including payments and remunerations under author's agreements.

3. The taxation object for the taxpayers specified in the paragraph the fourth Part 1 of Article 328 of this Code is **the gross** income from business activity.

4. **According to Parts 1 and 2** of this article the following income does not belong to the taxation object:

- the amounts paid within civil agreements which subject is transition of the property right or other corporeal rights to property (property rights);

- the amounts paid within the agreements connected with granting the right to use property (property rights);

- the amounts paid to foreign citizens and persons without citizenship under the employment contracts concluded with the branches and representations of legal resident persons located outside the territory of the Republic of Tajikistan;

- the amounts paid to foreign citizens and persons without citizenship within the signed civil contracts which subject is performance of works, rendering services.

Article 330. Tax base

1. Tax base for the taxpayers insurers specified in **the paragraph** the first Part 1 of Article 328 of this Code is the wages amount, remunerations and other benefits, **paid by insurers** for the tax period to natural persons.

2. **Tax base** of the taxpayers specified in **the paragraph** the second Part 1 of Article 328 of this Code is the benefits amount, remunerations and other benefits without deductions compensated for the tax period to natural persons.

3. **Tax base** of taxpayers - the natural persons specified in **the paragraph** the third Part 1 of Article 328 of this Code is the wages amount received for the tax period, payments, remunerations and other benefits without deductions.

4. At determination of tax base of natural persons any payments and remunerations, including the awards determined by the taxation object except for privileges, the stipulated in Clause 331 this Code are considered.

5. For the physical resident persons performing works and rendering services diplomatic, to consulates of the foreign states, representative offices of the international organizations in the Republic of Tajikistan under employment and (or) civil contracts (contracts), **tax base** is the wages amount, payments and other remunerations **paid** to them for the tax period.

6. Data on the income of the physical resident persons specified in Part 5 of this article, the Ministry of Foreign Affairs of the Republic of Tajikistan quarterly to the 15th day of the month following for expired quarter, are represented to authorized state body.

7. Tax base of individual entrepreneurs, including members of the Dehkan (farmer) farms without formation of legal entity specified in **the paragraph** the fourth Part 1 of Article 328 of this Code is **the gross** income without deductions

gained by such taxpayers for the tax period in monetary and (or) in the natural form from business activity.

8. At salary payment, payments and other remunerations in the form of goods (works, services), tax base is determined by the cost of these goods (works, services) on the date of their payment, proceeding from their market prices (tariffs), and at state regulation of the prices (tariffs) for these goods (works, services) - proceeding from the state regulated retail prices.

Article 331. Release

The following income is exempted from payment of social tax:

- the income of the physical persons foreign citizens performing works and (or) rendering services in diplomatic and consulates of the Republic of Tajikistan abroad;
- the income of citizens of the foreign states from the work for hire within implementation of the state investment projects of the Government of the Republic of Tajikistan;
- the income exempted from the income tax according to Part 1 Article 189 of this Code.

Article 332. Tax rates

1. The rate of social tax for insurers is established in the size:
 - for budget institutions – 25 percent;
 - for other organizations – 20 percent.
2. The rate of social tax for insurers is established in the size:
 - for budget institutions – **1 percent**;
 - for other organizations - **2 percent**.
3. For the individual entrepreneurs performing activity on the basis of the patent and members of Dehkan (farmer) farms without formation of legal entity, the minimum amount of social tax is established by the Government of the Republic of Tajikistan.
4. For the individual entrepreneurs performing activity on the basis of the certificate who are recognized as the insured persons the rate of social tax is equal to 1.0 percent of tax base, but not less the highest (taking into account regional coefficient) the amount of the social tax established for the individual entrepreneur performing activity on the basis of the patent. In case of absence at such entrepreneur of income for the reporting period, it is paid at a rate of two indicators for calculations, taking into account the regional coefficient established for the individual entrepreneur performing activities for the patent.
5. For the physical resident persons performing works and rendering services in diplomatic, consulates of the foreign states, representative offices of the international organizations in the Republic of Tajikistan, the rate of social tax is established of 20 percent for insurers and **2 percent** for the insured persons.

Article 333. Tax period

If Article 334 of this Code does not establish other, the tax period of social tax is calendar month.

Article 334. Order of calculation and payment of social tax

1. **If this chapter does not establish other**, the amount of social tax is defined by multiplication of the taxation basis by the corresponding tax rate.

2. Social tax **is transferred into the budget** in the cases **provided in paragraphs** the first or third Part 1 of Article 328 of this Code in the order established in Article 236 of this Code to the 15th day of the month following the tax period.

3. Social tax of the citizens of the Republic of Tajikistan who are in public service in the international organizations, diplomatic, consulates and the organizations of the Republic of Tajikistan equated to them abroad, is paid quarterly to the 15th day of the month following reporting quarter in the order established by the Ministry of Finance of the Republic of Tajikistan.

4. The individual entrepreneurs performing the activity on the basis of the patent pay social tax along with entering into the budget of the payment for the patent. The individual entrepreneurs performing the activity on the basis of the certificate and also the citizens of the Republic of Tajikistan specified in Part 4 of Article 332 of this Code represent the tax declaration and pay the amount of tax to the 15th day of the month following the tax period.

5. The taxpayers specified in **paragraphs** the first and second Part 1 of Article 328 of this Code represent the uniform declaration on social tax and income tax to tax authorities in the place of their registration and pay the amount of taxes monthly to the 15th day of the month following month under report in the order established by authorized state body.

6. Dehkan (farmer) farms without formation of legal entity represent the declaration on social tax concerning members **of Dehkan (farmer) farms** to tax authorities in the place of the accounting each calendar half-year to the 15th day of the month following reporting half-year in the form established by authorized state body and pay the amount of tax.

7. The citizens of the Republic of Tajikistan specified in Part 5 of Article 332 of this Code quarterly represent the uniform declaration on social tax and the tax on income to tax authorities in the place of the accounting to the 15th day of the month following reporting quarter in the form established by authorized state body and pay the amount of tax.

8. Control **of payment** of social tax is exercised by tax authorities.

9. The instruction for calculation and payment of social tax, the form of tax declarations (calculations) for the insurer and the insured person (with indication of the surname, the name, the middle name and the insurance identification number (IIN) approve by authorized state body in coordination with the Ministry of Finance of the Republic of Tajikistan, the Ministry of Labour, migration and employment of the population of the Republic of Tajikistan and the Agency of social insurance and pensions at the Government of the Republic of Tajikistan.

SECTION XII. SALES TAX

CHAPTER 47. SALES TAX (ALUMINIUM PRIMARY)

Article 335. Basic concepts and provisions

1. In this chapter the following concepts are used:
 - 1) taxable goods - aluminum primary;
 - 2) the following taxable transactions (further for the purposes of this chapter - sale):
 - a) delivery of taxable goods;
 - b) import of taxable goods to the Republic of Tajikistan and (or) export of taxable goods out of limits of customs area of the Republic of Tajikistan;
 - c) processing of taxable goods by their producer, their transfer for processing, as a deposit and (or) as raw materials supplied by the customer;
 - d) delivery (realization) of taxable goods under future (forward) agreements or other transfer (alienation) of taxable goods;
 - e) transfer to other person of the taxable goods which are result of rendering services in production of taxable goods according to the customs regime of processing on customs area of the Republic of Tajikistan.

2. The sales tax of aluminum primary (further - the sales tax) is paid at implementation of taxable transactions, at the same time, the value added tax at implementation of the specified transactions is not levied, except for the taxable transactions determined by Subparagraph e) of point 2) of the part of 1 this article.

Article 336. Taxpayers

Payers of tax on sales are the persons having the taxation object.

Article 337. Taxation object

1. Implementation of taxable transactions with taxable goods is subject to taxation.
2. Other types of taxable goods made with application of the customs regime "Processing" on customs area and liable to the sales tax are defined by the Government of the Republic of Tajikistan.

Article 338. Tax base

1. **If parts 2-4 these articles do not establish other**, tax base is the cost of taxable goods. At calculation of tax base the price of unit of taxable goods is defined with quality, the type and the grade proceeding from the prices which developed for date of commission of taxable transaction at the London exchange of non-ferrous metals.

2. The taxpayers performing resale of taxable goods pay the sales tax in the form of the difference between the amounts of tax calculated proceeding from the prices of the sale date of taxable goods used for taxation to buyers and their purchase date at the suppliers.

3. Tax base for the imported taxable goods "Release for free circulation" decides on application of the customs regime according to the customs legislation on the basis of the prices **established** by the part of 1 this article.

4. Tax base for the taxable goods made with application of the customs regime "Processing on customs area" is the cost (amount) of products of processing determined taking into account the prices according to the part of 1 this article.

Article 339. Tax rate

1. The sales tax rate for aluminum primary concerning the tax base determined by Parts 1-3 of Article 351 of this Code is established of 3 **percent**.

2. The sales tax rate concerning the tax base determined by Part 4 of Article 351 of this Code is established of 1 percent.

Article 340. Order of calculation and payment due dates of the tax

1. The amount of tax which is subject to payment is estimated in taxpayers independently on the basis of the cost (volume) of taxable goods and the tax rate. The type of taxable transaction is specified in documents for payment of the tax.

2. At resale of taxable goods, the sales tax is defined with the price of taxable goods of purchase date (receiving), sales (transfer) and amount of the assessed transaction.

3. At absence on the date of sale (transfer) of data on exchange price, the tax is estimated proceeding from the available last data on the exchange price of taxable goods for the next date by day of sale. The amount of tax is corrected by the taxpayer at receipt of data on exchange price of the realized taxable goods of the sale date.

4. Payment of the tax is made before delivery (transfer) of taxable goods or no later than 3 days after receipt of funds on the account **of the taxpayer** in the credit and financial organization or at payment with cash in its cash desk, and at other taxable transactions - until shipment, delivery or transfer of taxable goods. Persons who as a result of **taxable** transactions purchased taxable goods are obliged to submit within 10-day term in the tax inspection of large taxpayers of the copy of the documents confirming payment of the tax. In the absence of the specified documents, these persons are obliged from own means to pay all amount of tax.

5. When exporting taxable goods out of borders of the Republic of Tajikistan, payment of the tax is made before crossing of the customs border of the Republic of Tajikistan at the current prices at the time of export. The customs clearance of export of taxable goods out of borders of the Republic of Tajikistan is made on the basis of confirmation of the tax inspection of large taxpayers on payment of the sales tax.

6. Calculation of the tax on the assessed transactions when importing to the Republic of Tajikistan of aluminum of the customs regime, primary with application, "Release for free circulation" is performed taking into account requirements of this chapter and the customs legislation of the Republic of Tajikistan.

7. The declaration on the sales tax in the form established by authorized state body, and supporting documents (calculations) about payment of the tax concerning the tax base determined by Parts 1-3 of Article 338 of this Code are submitted by the taxpayer in the relevant tax authority within the terms established for payment of the tax.

8. The declaration on the sales tax in the form established by authorized state body, and supporting documents (calculations) about payment of the tax concerning the tax base determined by Part 4 of Article 338 of this Code are represented to the relevant tax authorities by the supplier no later than the 15th day of the month following month under report.

Article 341. Offset of the amount of tax on sales on account of the value added tax by deliveries of products of their processing to domestic market of the Republic of Tajikistan

1. In case of delivery to domestic market of the Republic of Tajikistan of the goods which are products of processing of **taxable goods** in the Republic of Tajikistan offset of the paid amount of the sales tax concerning the tax base determined by Parts 1-3 of Article 338 of this Code on account of the value added tax is allowed.

2. In case of deliveries of products of processing of taxable goods to domestic market of the Republic of Tajikistan offset according to the part of 1 this article is made as it should be, stipulated in Clause 268 these Codes.

3. When exporting products of processing offset of the amounts of tax on sales on account of the payable tax on added value is not made.

4. If the difference between the amount of tax on added value which is subject to payment on deliveries of products of processing to domestic market, and **the corresponding amount of tax** on sales is negative, compensation (return) from the budget of the amount of tax on sales is not made. The positive difference between the above-stated amounts is subject to payment in the budget.

5. The instruction about the order of calculation and payment of the sales tax and also the form of declarations (calculations) affirm **on representation of authorized state body** by the Ministry of Finance of the Republic of Tajikistan.

6. Control of payment of the sales tax is exercised by tax authorities.

SECTION XIII. LOCAL TAXES

CHAPTER 48. PROPERTY TAXES

Article 342. General provisions

1. Madzhliisa of People's Deputies of the cities **and** areas establish the local taxes, the stipulated in Clause 24 presents of the Code in the territory.

2. Provisions of the general part of this Code are applied to the local taxes.

3. Solutions of madzhlis of People's Deputies of the cities **and** areas on the local taxes shall correspond to provisions of this Code and are officially published in public periodic printing editions in the respective territory.

Article 343. Basic provisions and tax period

1. For the purposes of **this chapter** the following concepts are applied:

- property – real estate, the land plots and vehicles;

- real estate (further - immovable objects) - residential and non-residential buildings, incomplete construction objects, constructions, including dachas, garages, canopies, rooms for keeping of animals, other auxiliary buildings **and** property which cannot be moved without causing material damage;

- the land plots are the lands transferred **according to the legislation** use or which are actually used on the basis of supporting documents or without them;

- **vehicles – motor, railway, water and air transport.**

2. This chapter establishes the following property taxes:

- tax on real estate objects;

- land tax;

- tax on vehicles.

3. The tax period for the property taxes is calendar year.

§1. Tax on real estate objects

Article 344. Taxpayers

Physical persons and legal entities - the owners of immovable objects or persons using the immovable object are considered as payers of tax on the immovable object.

Article 345. Taxation object

1. Residential and non-residential buildings, incomplete construction objects (are subjects to taxation from the moment of accommodation or use), constructions, including penthouses (living space (the apartment, the construction) on the roof or the separate zone of the upper floor of the building) dachas, garages, canopies, rooms for keeping of animals, auxiliary buildings and other property which cannot be moved without causing material damage.

2. In this chapter for the purpose of taxation the containers, tanks, booths, canopies, cars used for business activity and placed not movably within not less than 3 months in each calendar year in the place of implementation of business activity also belong to real estate objects.

Article 346. Tax base

1. Tax base is the total area occupied by the taxation object, and for multi-storey buildings the area of each floor of such building pays off separately.

2. For utility rooms of natural persons, including garages, sheds, rooms for the maintenance of the animal and other utility rooms which are not used for business activity, 50 percent of the space occupied by such buildings are considered tax base.

3. The area of cellars and attics of the residential buildings which are not used for business activity does not join in tax base. When using in business activity of such objects, tax base of cellars and attics is considered the vein of buildings 50 percent of the occupied space.

4. The area of objects of the real estate is defined on the basis of the relevant technical or other official documents.

5. In case of non-presentation of the relevant documents and also impossibility of external measurement of the immovable object, the area of such object decides by tax authorities on participation of the taxpayer on the total useful area of internal rooms of the real estate object increased by coefficient 1.25.

Article 347. Privileges

1. The following real estate objects are not assessed with the tax:

- real estate objects of the public institutions **which are directly used** by these organizations for accomplishment of the authorized tasks and financed by budgetary funds;

- real estate objects in which are registered the Hero of the Soviet Union, Hero of Socialist Work, **To_ikiston's _a_ramona**, the owners of the award "Sitorai Prezidenti To_ikiston", the award "Zarrinto _", the award "Ismoili Somon §", participants of the Great Patriotic War of 1941-1945 equated to them persons, participants of other military operations on protection of the Union of Soviet Socialist Republics **including** soldiers internationalists, participants of mitigation of consequences of accident of the Chernobyl nuclear power plant, disabled people of the I and II groups;

- real estate objects of lonely pensioners who live some or together with minor children, or the handicapped child in the certain house;

- real estate objects of large families in which one or both parents died and live five and more children aged up to **16** years;

- real estate objects of parents and widows (widowers), children of the military personnel and staff of bodies of the internal affairs which died on duty **before achievement of 16-year age by them**;

- the real estate objects of religious associations which are not used in business activity;

- transferred in accordance with the established procedure to lease of space of the state real estate objects for which rent is in full paid in the state budget;

- homestead seasonal greenhouses.

2. The privileges established by paragraphs the third or fifth parts of 1 this article are applied on the basis of the pension certificate, the certificate on the state award, the certificate **of bodies of civil registration** of the number of children and the death certificate of the military personnel and staff of bodies of internal affairs.

Article 348. Tax rate

1. The tax rate for real estate objects is defined depending on the space occupied by the real estate object and its uses, percentage of the indicator for calculations, taking into account regional coefficients by the cities and areas are more whole, it is established in the following sizes:

1) for the real estate objects used as residential buildings (rooms) and also their auxiliary buildings:

- up to 90 square meters - 3 percent;

- from 90 to 200 square meters - 4 percent;

- more than 200 square meters - 6 percent;

2) for the real estate units used for **the trading** activity, creation of catering establishments, other types of service and performance of works;

- up to 250 square meters - 12 percent;
- from 250 to 500 square meters - 15 percent;
- more than 500 square meters - 18 percent;

3) for the real estate objects used for other types of activity:

- up to 200 square meters - 9 percent;
- from 200 to 500 square meters - 12 percent;
- more than 500 square meters - 15 percent;

4) for the real estate objects located in the cities of Dushanbe, Khujand, Bokhtar and Kulob, rates specified in points 2) and 3) are applied in the double size.

2. The following regional coefficients regulate the size tax platyozhy on real estate objects:

| Group s | Name of the cities, areas and regions | Regional coefficients |
|------------|---|--------------------------|
| 1. | Territory of the city of Dushanbe | 1.0 |
| 2. | Territory of the cities of Khujand, Bokhtar and Kulob | 0.8 |
| 3. | Administrative territory of the cities of Guliston, Buston, Istiklol, Istaravshan, Isfara, Kanibadam, Panjekent, Vahdat, Gissar, Tursunzoda, Rogun, Nurek, Levakant, Kushoniyon and Khorog | 0.6 |
| 4. | The territory of other settlements and the administrative centers of the areas which are not specified in groups 1, 2 and 3 | 0.4 |
| 5. | The territory of the villages relating to rai on (cities) of Istaravshan, Guliston, Buston, Bobodzhon Gafurov , Isfara, Kanibadam, Spitamen, Dzhabbor Rasulov , Panjekent, Vahdat, Rudaki, Tursunzoda, Shakhrinav , Gissar, Yavan, to Vosa, Dangara , Kulob, Farkhorsky, the World Sayid Ali Hamadoni, Muminabad , Nurek, Vakhsh , Kubodiyon, Dzhaykhun, Nosiri Hisrav, Pyandzh , Sarband, Huroson, Dzhaloliddina Balkhi, Dusti and Shakhirtus | 0.3 |
| 6. | The territory of the villages relating to other areas and not specified in groups 5 and 7 | 0.2 |
| 7. | The territory of the villages relating to the city of Rogun, rai ona (city) of Devashtich, Ai ni, Kukhistoni Mastchokh, Shakhristan, Nurobod, Rasht, Vanch, | 0.1 |

3. For the real estate objects located in zones of development of tourism and rest, **and used for the purpose of business activity** of the tax rate are established in the double size of the tax rates provided by the part of 1 this article.

§2. Land tax

Article 349. Taxpayers

1. Payers of land tax are:

- **land users** to whom the land plots are transferred to the unlimited and urgent lifelong inherited use;
- the land users who are actually using the land plots except for using the uniform agricultural system;
- the producers of agricultural products conducting activities for the general system of taxation.

2. In case of transfer of the land plot to lease, the lessor is considered the payer of land tax.

3. The taxpayer at observance of provisions of Chapters 52 and 53 of this Code and after 36 calendar months can pass from the general system of taxation to the simplified tax system of agricultural producers.

Article 350. Taxation object

1. Land tax the land **plots** settlements, lands out of settlements, taking into account quality, the cadastral zone of lands, purpose of use and ecological features **of the land** plots which accessory is defined by the land legislation of the Republic of Tajikistan are subject to taxation.

2. The taxation object is defined by land tax according to the land legislation of the Republic of Tajikistan with quality, cadastral assessment of lands, purpose of use and ecological features **of the land plot**.

3. Taking into account provisions of Part 2 of this article, the basis for determination of land tax are the document **of land use** and the cadastral zone of the earth.

4. The amount of land tax, irrespective of results of business activities of the land user, is established per unit area lands in the form of fixed payments for a period of one year.

Article 351. Tax base

1. Tax base for calculation of land tax is the area of the land plot specified in documents, confirming the right of land use, or the area of the land plot which it actually has the land user, except for the earth freed from the tax (disposes).

2. The taxable area joins the fixed lands, including lands occupied **with buildings, constructions**, sanitary protection zones of objects, the technical zones and other land plots necessary for their contents.

3. For separate division of the legal entity tax base is the area of the land plot assigned to this division (branch or representation) in the territory of the corresponding administrative borders.

Article 352. Rates of land tax

1. Tax rates from each hectare of the earth by areas and the cities (areas) taking into account cadastral zones and types of grounds, including on lands of settlements, the earth under **the wood and the bush** of settlements and the agricultural land are established each 5 years by the Government of the Republic of Tajikistan on representation of **authorized state body on the regulation of the land relations** approved with authorized state body.

2. On the irrigated sowing lands actually used for cultivation of cotton - raw, the flat tax rates are established in the half size of the rates defined according to the part of 1 this article. Information on the size of the lands which are actually used for cultivation of cotton-raw is reported by the taxpayer in tax authority in the place of the accounting till June 1st of calendar (reporting) year.

3. Rates of land tax are annually indexed by authorized state body according to the rate of inflation of previous year. Indexed rates of land tax for calendar year are posted on the website of authorized state body.

4. The lands **used** by natural persons in settlements (**the cities, settlements and villages**) are subject to taxation in the following order:

1) the area of each land plot assigned to the land user according to the supporting document is assessed with the tax according to Subparagraphs a) and b) of point 2 of this part;

2) calculation of the amount of land tax depending on the area of the land plot and the purposes of its use is made in the following order:

a) for **the land plots, including lands** used under residential buildings (rooms) and their auxiliary buildings:

- up to 0.12 hectares of the irrigated lands and up to 0.15 hectares of not irrigated (**bogarny**) lands - according to the established rates;

- from 0.12 hectares to 0.20 hectares of the irrigated lands and from 0.15 to 0.25 hectares of not irrigated (**bogarny**) lands – with the double rate for the areas specified in **the paragraph** the first;

- more than 0.20 hectares of the irrigated lands and more than 0.25 hectares of not irrigated (**bogarny**) **lands** - with the triple rate for the areas specified in **the paragraph** the first;

b) for the lands used **for the purpose of** implementation of business activity except for the individual entrepreneurs performing activities for the simplified system for producers of agricultural products with the fivefold rate for the areas specified in **the paragraph** the first Subparagraph a) **of point 2)** of this part.

5. **In relation to** the lands used by legal entities the fivefold rate of land tax is applied, the fivefold rate established by the paragraph the first Subparagraph a) **of point 2)** of Part 4 of this article is applied.

Article 353. Release on land tax

1. The following territories and lands are freed from payment of land tax:

- the territory of reserves, national and dendrology parks, botanical gardens, historical, cultural and architectural monuments, the list and which area of territories are established by the Government of the Republic of Tajikistan;

- the earth of public institutions, used for implementation of activities for the charter (provisions) of such organizations, except for lands of such organizations transferred (used) for business activity;

- the lands recognized damaged according to the order of the Government of the Republic of Tajikistan and also the lands recognized by the official conclusion **of authorized state body on regulation of the land relations and authorized state body in the sphere of agriculture**, which are **at** the stage of agricultural development for the term of 5 years after receiving (the beginning of development) such lands;

- the lands occupied with the strip of tracking along frontier, which are not used for other purposes;

- the public earth of settlements and municipal services, including religious associations, cemeteries if on such lands business activity is not performed;

- the earth of the loose state stock and also the lands occupied under glaciers, landslides, the rivers and lakes if on them business activity is not performed;

- lands under installation of renewables (with a rated power of 0.1 MW and more) **of 5 years** from the date of commissioning;

- the lands occupied with public highways, the railroads and also the lands occupied with the state objects of the electricity transmission, water supply and hydroconstructions if on them other business activity is not performed;

- the lands provided for ensuring defense and security of the Republic of Tajikistan according to their dislocation and the sizes established by the Government of the Republic of Tajikistan if on them business activity is not performed;

- one personal land plot and the land plot allocated to the persons specified in the paragraph the second Part 1 of Article 347;

- the personal land plots allocated to voluntary **and ecological** immigrants from one region of the Republic of Tajikistan to other **areas determined by the Government of the Republic of Tajikistan for full-time residence** - for the term of 3 years after allocation of such lands;

- the personal land plots and lands for housing construction allocated to the teachers and **doctors** working in rural areas in educational and medical institutions - during their work in such organizations;

- acreage, allocated for the scientific and educational purposes and also for test of crops, decorative and fruit-trees to the scientific organizations, pilot and research farms, research establishments and educational institutions in the field of rural and forestry, the list and which users **are defined** by the Government of the Republic of

Tajikistan if such **areas** are not used in the entrepreneurial purposes;

- the personal land plots and lands allocated under construction of housing for all groups of disabled people within the regulations established by the Land code of the Republic of Tajikistan if in such families **there are** the incapacitated person and the person recognized by the disabled person who does not have work;

- the earth of pastures, **the meadow**, the woods and **other lands used** for **laying** of gardens and vineyards for the term of 5 years from the date of **laying** of gardens and vineyards if such lands were not used for production of agricultural products earlier.

2. For **use** of the tax benefits provided by this article, the taxpayer is obliged to provide to tax authority on the location of the land plot the relevant documents defining the right to land use and other **supporting documents**.

Article 354. General order of calculation and payment of land tax and (or) tax on real estate objects

1. Calculation of land tax and (or) tax on real estate objects is made by multiplication of tax base by the corresponding rates of taxes separately on each taxation object.

2. Land tax and (or) the tax on real estate objects are estimated since the month following after the month in which the taxpayer purchased (acquired) right to use (or ownerships) the taxation object.

3. In case of the termination of right to use (or ownerships) land tax and (or) the tax on real estate objects are estimated in the taxation object for the actual number of months of use (ownership) of the taxation object, including the month of the termination of the above-stated rights.

4. Upon transition of lands (settlement) **within calendar year** from one category of lands (settlements) in another, taxes on **real estate units** for the current year it is paid by taxpayers at the rates which are earlier established for these settlements (categories of lands), and next year - at the rates established for new category of lands (new settlements).

5. Upon transition of the settlement from one administrative-territorial territory to another, the new rate of taxes on real estate objects is applied since January 1 the year following after the year in which there was the territorial change.

Article 355. Order of providing tax calculation

1. Charge of the amount of land tax and (or) tax on real estate objects of the legal entities and individual entrepreneurs who are subject to payment for reporting year on the basis of information of authorized industry bodies are formed by tax authorities in the place of registration of the taxpayer by means of the systems of information programs of tax authorities till February 1 of reporting year **about what** in the electronic form the notice is sent to the private office of the taxpayer.

2. In case of **obtaining** the additional information from authorized industry bodies or providing explanations (or the explaining documents) from the taxpayer, tax authorities within one month from the moment of obtaining such data are obliged to consider them and to enter the corrected report for the reporting period in the

system of information programs of tax authority and to send the relevant notification to the taxpayer. The form of the report is defined by authorized state body.

3. Charge of the amounts of land tax and (or) tax on real estate objects of the natural persons which are not using them in the business activity is made by tax authorities in the location of the land plots and (or) real estate objects on the basis of data of industry authorized bodies **by means of** the system of information programs of tax authorities till February 1 of reporting year and **about what** in the electronic form the notice is sent to the private office of the taxpayer.

4. If for any reasons the notice of the amounts of land tax and (or) the tax on real estate objects is not brought to the taxpayer, such person is obliged to address to tax authority in the location of this property and to receive, calculations of the tax and to independently pay the due amount of taxes of the terms determined by this Code.

5. Taxpayers are obliged to provide necessary information on the new **taxation objects** on again taken away (purchased, received, **constructed, to changes in property**) to the land plots and (or) real estate objects in tax authority within 30 calendar days from the moment of their branch (acquisition, receiving, construction, **change in property**).

Article 356. Payment due dates

1. The amount of land tax and (or) the real estate duty for **reporting** year is paid by taxpayers no later than the 15th day of the second month of every quarter at a rate of the one fourth part of the annual amount of tax.

2. The taxpayer can pay **ahead of schedule** the full amount of land tax and (or) tax on real estate objects.

3. The taxpayer is obliged to execute platyozh on land tax and the tax on real estate objects in the terms established by the part of 1 this article. **At non-performance** by the taxpayer platyozhy on land tax and the tax on real estate objects at the scheduled time, for delay of payment by tax authority interest is accrued.

4. The instruction for calculation and payment of land tax and (or) the real estate duty and also the form of declarations (reports) affirm **on representation of authorized state body** by the Ministry of Finance of the Republic of Tajikistan.

5. Control of payment of land tax and (or) tax on real estate objects is performed by tax authorities in cooperation with self-government institutions of settlements and villages.

§ 3. Tax on vehicles

Article 357. Taxpayers

Payers of tax on vehicles are persons who own and (or) use the vehicle recognized the taxation object.

Article 358. Taxation object

1. Cars, motorcycles, motor scooters, buses and other **self-propelled**

mechanisms on pneumatic and caterpillar to the course, planes, helicopters, **railway locomotives**, motor ships, yachts, sailing vessels, boats, snowmobiles, **motor sledge**, motor boats and other water and air vehicles (further in this chapter - vehicles) which list is defined by the Government of the Republic of Tajikistan are subjects to taxation.

2. Registration of the taxation objects is performed **by law-enforcement bodies, authorized bodies in the sphere** of transport, defense, agriculture and (or) other state bodies (further - authorized bodies on registration of vehicles).

3. Irrespective of unfitness of the vehicle or its non-use **for various reasons**, availability or lack of state registration or accounting of the vehicle, the taxpayer to oblige to pay the tax **on vehicles**.

4. The vehicle is not recognized as the taxation object if it is removed from state registration and from accounting **in the order established by regulatory legal acts**.

5. The authorized bodies specified by Part 2 of this article are obliged to carry out inventory of vehicles at least once in 3 calendar years and to send information **in the electronic form** to authorized state body.

Article 359. Tax base

Tax base of the tax on vehicles is the engine capacity expressed in terms of horsepowers or units of electricity consumption **or kilogram - pressure of the jet engine**.

Article 360. Tax rates

1. **Tax rates for vehicles are established depending on engine capacity, pressure of the jet engine, the name, seats, loading capacity, the field of activity at the rate of one horsepower of engine capacity, 1 kWh of the electric power of engine capacity and one kilogram - pressure of the jet engine in the following sizes:**

| Name of the taxation objects | Tax rate percentage of indicators for calculations |
|--|--|
| Motorcycles and motor scooters (on each horsepower) | 2.5 |
| Cars (on each horsepower) : - up to 250 horsepowers - from 250 to 300 horsepowers - from 300 to 350 horsepowers - from above from 350 horsepowers | 7.5 10 12 15 |
| Buses (up to 12 places) (on each horsepower) | 7.5 |
| Buses (for 13-30 places) (on each horsepower) | 8.5 |
| Buses (from above from 30 places) (on each horsepower) | 9.5 |

| | |
|--|------|
| Trucks and other vehicles with a loading capacity up to 10 tons (on each horsepower) | 11 |
| Trucks (loading capacity from 10 to 20 tons) (on each horsepower) | 12.5 |
| Trucks (loading capacity from 20 to 40 tons) (on each horsepower) | 13.5 |
| Trucks (loading capacity over from 40 tons) (on each horsepower) | 14.5 |
| Tractors, motor vehicles for construction, pneumatic and caterpillar self-propelled mechanisms, except for used in the agricultural industry (on each horsepower) | 2 |
| The snowmobile and motor sledge (on each horsepower) | 1.8 |
| Boats, motor boats, yachts, sailboats, hydrocycles and other water transport (on each horsepower) | 15 |
| The locomotives used on the railroad (on each horsepower) | 1 |
| Planes, helicopters and other air vehicles (for each kilogram - pressure of the jet engine) | 10 |

Note: For the taxation objects which power is **completely expressed** in the electric power 50 percent of the rates established in the table for each 1 kWh **are used. For cars with the internal combustion engine and with the electric motor the tax is estimated on the engine with the largest power, and in case of equal engine capacities – on the internal combustion engine.**

2. Tax rates for vehicles are posted on the official site of authorized state body annually till February 1 of calendar year.

Article 361. Releases

The following vehicles are exempted from taxation:

- the tractors, combine, cotton-picking and special harvesters with engines used in agriculture;
- the buses and trolleybuses used by the enterprises of public motor transport for transportation of passengers;
- specialized medical vehicles;
- the registered special military vehicles and special military equipment;
- one car belonging to the disabled person group I or II;
- industrial railway transport (except for locomotives);
- one car, irrespective of engine capacity, being the property of the Hero of the Soviet Union, Hero of Socialist Work, **the _a_ramona of To_ikiston, the owner of the award "Sitorai Prezidenti To_ikiston", the award "Zarrinto _", the award "Ismoili Somon §"**, the participant of the Great Patriotic War of 1941-

1945 equated to **them persons**, the participant of other military operations on protection of the Union of Soviet Socialist Republics, the soldier internationalist, participant of mitigation of consequences of accident of the Chernobyl nuclear power plant.

Article 362. Payment procedure of the tax

1. The tax on vehicles is subject **to payment** in the corresponding budget for the place of registration of the vehicle no later than the term of passing of registration or annual technical inspection of the vehicle.

2. **In case of** the re-registration of the vehicle, including at **its** purchase and sale, the tax on vehicles is not paid if the former owner paid the tax on vehicles for this calendar year.

3. Registration, the re-registration and annual technical inspection of the vehicle are made only after payment of the tax for tax year.

4. Calculation of the amount of tax on vehicles of legal entities is formed by tax authority in the place of registration of vehicles on the basis of information of authorized body on registration of vehicles till April 1st of the current year and about it **the notice** in electronic form through the information system of tax authorities goes to the private office of the taxpayer. The form of calculation of the estimated amount of tax is established by authorized state body.

5. In case of obtaining the additional information by authorized body on registration of vehicles and or representations by the taxpayer of explanation (or **reasonable documents**) the tax authority within one month from the date of receipt of such information is obliged **to consider** it, **to enter** the corrected report into the information system of programs of tax authorities and to send the notification to the taxpayer.

6. Authorized bodies on registration of vehicles are obliged annually in the electronic form till April 1st of year to provide to authorized state body in **the approved** form the following data:

- about owners of vehicles;
- about quantity delivered on state registration (staying on the registry) vehicles as of December 31st of reporting year, taking into account the engine capacity of the vehicle;
- about the number of the vehicles which had annual technical inspection;
- about the amount of tax, **paid** for reporting year.

7. Control of payment of the tax is exercised by authorized bodies **on registration of vehicles**.

8. For the purpose of ensuring complete payment of the tax **on vehicles**, tax authorities send to legal entities and their separate divisions **of the notice** of the added tax amounts of the following terms:

1) within 10 days after drawing up the report by tax authorities on the estimated amount of tax which is subject to payment by legal entities and their separate divisions;

2) not later than two months from the date of receipt by tax authority of documents and (or) other information necessary for calculation (recalculation) of the

amounts of the corresponding taxes which are subject to payment by the taxpayer for the previous tax period;

3) not later, **one month** from the moment of obtaining information which is contained in the Unified State Register of Legal Entities that the relevant organization is in process of liquidation.

9. The instruction for charge and payment of the tax on vehicles and also forms of calculation of the tax on vehicles, affirm **on representation of authorized state body** by the Ministry of Finance of the Republic of Tajikistan.

SECTION XIV. SPECIAL MODES OF TAXATION

CHAPTER 49. THE TAX REGIME OF ACTIVITY IN FREE ECONOMIC ZONES

Article 363. Basic provisions

1. The tax regime of activity **in** the free economic zone is set by the order and conditions of taxation of activity of the subjects of the free economic zone performing the activity on the isolated sites of the territory of the Republic of Tajikistan meeting the requirements of the legislation of the Republic of Tajikistan.

2. The foreign and domestic goods imported into free economic zones completely **are exempted** from payment of the customs duties and taxes under control of customs authorities on the conditions determined by the customs regime "The free customs zone.

3. At commodity exportation customs payments are not levied from the territory of the free economic zone, except for the payment for the customs clearance.

4. When moving goods customs payments are levied from the territory of free economic zones on other part of customs area of the Republic of Tajikistan.

Article 364. The taxation system in free economic zones

1. The taxation system in free economic zones is applied **to** the legal entities, individual entrepreneurs performing activity on the basis of the certificate, branches of the foreign legal entities registered in the territory of free economic zones as the subject **of the free economic zone** which meet the following **requirements**:

- are in accordance with the established procedure registered and registered in tax authorities;
- have no separate divisions outside the territory of the free economic zone;
- perform the types of activity provided by regulations on the free economic zone.

2. Subjects of the free economic zone and administration of the free economic zone within the activity performed in the free economic zone and the property used by them, are exempted from payment of any taxes provided by this Code except for the taxes established by Part 3 of this article.

3. Subjects of the free economic zone are payers of social tax and tax agents concerning persons to whom are paid (shall be paid) income, remunerations, payments, benefits and other platyozh **in the order established** by this Code.

4. Provisions of Part 2 of this article extend only to that part of activity of subjects of free economic zones which is performed in the territory of the free economic zone.

Article 365. Order of calculation and payment of taxes

1. Calculation and payment of taxes and also representation by subjects of free economic zones of tax declarations, is made according to provisions of this Code.

2. The administration of the free economic zone quarterly no later than the 15th day of the month following reporting quarter represents to tax authority in the place of the accounting of data on quantity and activities of subjects of the free economic zone for the form established by authorized state body.

3. Subjects of the free economic zone are obliged to keep account of business activities **in the order established** by the legislation of the Republic of Tajikistan.

4. The taxation objects which are in the territory of the free economic zone and not being the property of the subject of the free economic zone are assessed with taxes according to the tax law of the Republic of Tajikistan.

5. Relationship of tax authorities with administrations of free economic zones is defined by the agreement concluded between them.

6. Control of payment of taxes **by subjects** of free economic zones is exercised by tax and customs authorities.

CHAPTER 50. TAX REGIME OF SUBJECTS SECURITY MARKET

Article 366. Tax regime of subjects of security market

1. Provisions of this article are applied to subjects of security market - professional participants of security market (further - professional participants), to the issuers and investors participating in organized market of securities.

2. Treat activity of professional participants:

- broker and dealer activity;
- activities for determination of cross liabilities (clearing) on transactions with securities;
- depository activity;
- activities for the organization of trade in security market.

3. The professional participants performing the activity established in Part 2 of this article during implementation of this activity are exempted from payment of 50 percent of the following taxes:

- tax on the income of legal entities;
- value added tax.

4. Issuers are the legal entities who are residents and nonresidents whose securities are in circulation on the stock exchanges functioning in the territory of the Republic of Tajikistan are exempted from payment of the tax on the income of legal

entities (the tax on the simplified mode) from the gained income connected with increase in value of securities for date of the securities placement on the stock exchange of the Republic of Tajikistan.

5. Investors - physical persons and legal entities, being residents and nonresidents who gain income from value addition of securities (coupon, discount, etc.) in day of their address on the security exchange, depending on such income are exempted from payment of the tax on income from the gain of securities.

6. **Provisions of Part 5** of this article do not extend to investors who purchased (paid) the events belonging to them.

7. For the purpose of implementation of supervision **of** granting privileges, inclusion of the persons specified in Parts 3, 4 and 5 of this article in special accounting of authorized state body and the bases for acquisition of tax benefits by them, the stock exchange in due time provides the reasonable information for registration in authorized state body. The privileges listed in this article are used only after the specified accounting and providing the corresponding certificate.

8. In case of implementation by issuers and investors of transactions with securities in unorganized market of securities, such transactions are subject to taxation in the general order established by this Code.

9. For the subjects of security market taxable according to this chapter, the period of storage of accounting documentation and tax statements and also term of limitation period lasts for the term (period) of granting tax benefits according to Parts 3, 4 and 5 of this article.

10. The instruction for taxation of the subjects of security market taxable according to this chapter and also the form of declarations (reports, data) affirm **on representation of authorized state body** by the Ministry of Finance of the Republic of Tajikistan.

CHAPTER 51. THE TAX REGIME OF THE NATURAL PERSONS PERFORMING BUSINESS ACTIVITY ON THE BASIS OF THE PATENT OR THE CERTIFICATE

§1. General provisions

Article 367. General provisions

1. Taxation of individual entrepreneurs is performed on the basis of the patent or the certificate.

2. The natural persons performing business activity on the basis of the patent irrespective of income, pay the tax established for such activity in the fixed size.

3. The natural persons performing business activity on the basis of the certificate are subject to taxation according to provisions of this chapter and Chapter 52 of this Code.

4. **It is forbidden to perform business activity by natural person** without state registration. At implementation of business activity without state registration, the income of such person for the period of implementation of activity without

registration is assessed with the tax in the double size of the rates established for such activity.

5. Use of the tax regime set by this chapter for the purpose of concealment or understating of tax liabilities of the individual entrepreneurs and (or) persons using their services is forbidden including:

- if the individual entrepreneur functioning on the basis of the patent or the certificate generally renders services to one person and (or) gains income from one source and (or) execution of signs of the employment contract by it is provided;

- if the choice of the supplier of goods, the contractor or services, is generally caused by use of the tax regime set by this chapter by it.

6. The individual entrepreneur acting **certificates** on the basis has the right to keep financial accounting according to **provisions of Article 89** of this Code or according to the simplified **system** of financial accounting installed by the Ministry of Finance of the Republic of Tajikistan.

7. Taxation of income of individual business activity of physical nonresident persons is performed in the order determined by the Government of the Republic of Tajikistan taking into account the tax rate for income established by Part 2 of Article 183, and other provisions of this Code.

§2. Taxation of the individual entrepreneurs performing activity on the basis of the patent

Article 368. General provisions of taxation of the individual entrepreneurs performing activity on the basis of the patent

1. The patent is the document confirming state registration **of natural** persons - residents and nonresidents as the individual entrepreneurs **acting on the basis of the patent**.

2. Taxation of the persons specified **parts** of 1 this article is performed according to the Rules of taxation of the individual entrepreneurs acting **under the patent** (further – the patent mode), approved by the Government of the Republic of Tajikistan at observance of the following conditions:

- activity of the individual entrepreneur is performed without employment and without implementation of foreign economic activity;

- total income of the entrepreneur performing activity on the basis of the patent **in calendar year** does not exceed 200 thousand somoni (further - threshold income for the patent mode).

3. The individual **entrepreneur** performing **activity** on the basis of the patent having no right to use other tax regimes set by this Code.

4. Application of the tax regime on the basis of the patent in case of non-performance of one of the conditions provided by Part 2 of this article and also in the cases provided by Part 4 of Article 367 of this Code is not allowed.

5. If the individual entrepreneur performing activity on the basis of the patent employs the hired employee and its **gross** income exceeds 200 thousand somoni during the period which is not exceeding twelve calendar months, such entrepreneur is obliged within 10 calendar days from the moment of emergence of such cases to

submit the application for the termination of activity on the basis of the patent and transition to other mode.

6. The individual entrepreneur **performing** activity on the basis of the patent is released:

- from payment of the taxes on income from its individual business activity established in Part 2 of Article 24 of this Code, except for the tax on income and the social tax included directly in the cost (price) of the patent;

- from submission of tax statements, except for submission of the declaration on the gross income for the previous calendar year (or from the beginning of calendar year in case of the termination of business activities) with copies of bank documents about payment of taxes.

7. In case of non-performance by the individual entrepreneur - the patent holder of one of the conditions provided by Part 2 of this article, such individual entrepreneur is assessed with the tax on **the fivefold monthly rate of the tax applicable** to its activity.

8. For determination of the maximum yield of the individual entrepreneurs acting on the basis of the patent, the tax authority with use of the available information holds control events.

9. The individual **entrepreneurs performing** activity on the basis of the patent pay other taxes established by this Code for natural persons.

10. The tax liability of the individual **entrepreneur performing activity** on the basis of the patent remains before official cancellation of state registration.

Article 369. Taxpayers and their accounting

1. The physical resident persons and nonresidents corresponding to provisions of Parts 1-3 of Article 381 of this Code are considered as the payers acting on the patent mode.

2. The individual **entrepreneurs** performing the activity on the basis of the patent are registered in tax authority in the place of implementation of business activity. At change of the place of activity of such taxpayer, its personal account automatically goes to the relevant tax authority.

3. Transition from the patent mode to other tax regime and also from other tax regime to the patent mode, is performed after execution in accordance with the established procedure of procedures of state registration.

4. The tax liability of the individual entrepreneur acting on the basis of the patent stops from the first day of the month following after the month of the termination of state registration of such individual entrepreneur.

Article 370. Tax rate

Tax rates **on separate types of activity** for the individual entrepreneurs acting **on the basis of the patent** are defined by the Government of the Republic of Tajikistan according to this chapter with regional standard coefficients.

Article 371. Tax period

For the individual entrepreneurs acting on the basis of the patent calendar month is recognized as the tax period.

Article 372. Payment procedure of taxes

1. Payment of taxes on the patent mode is made by the taxpayer independently advance **payment to the 5th** day of the month in one or several **next months in the budget** for the place of activity of the taxpayer.

2. The individual entrepreneurs performing activity on the basis of the patent are obliged to send no later than March 1 of the year following after calendar reporting year to tax authorities in the place of activity in electronic form the copy of the document confirming payment of taxes for the previous calendar year.

§ 3. The general principles of taxation of the individual entrepreneurs acting certificates on the basis

Article 373. The general principles of taxation of the individual entrepreneurs acting certificates on the basis

1. The gross income of the physical resident persons and nonresidents registered as the individual entrepreneurs performing activity **on the basis of the certificate (further - the entrepreneurs acting certificates on the basis), from all types of the activity performed by them for the previous twelve consecutive calendar months complete (one after another) cannot exceed 1 million somoni.**

2. If **the gross** income of the entrepreneur performing activity **on the basis of the certificate** during the period which is not exceeding twelve calendar months exceeds 1 million somoni, such entrepreneur shall be registered as the legal entity and perform activity in the general regime of taxation.

3. Transition of the entrepreneur acting **certificates on the basis** to the general regime of taxation and also its state registration as the legal entity is performed without conducting tax audit. In this case for the purposes of taxation, obligations of such individual entrepreneurs pass **to newly established legal entity.**

4. The entrepreneurs acting **certificates on the basis** depending on the type of activity and the gained income, apply in accordance with the established procedure the following special tax modes:

- the simplified tax regime for small business entities;
- the simplified tax regime for producers of agricultural products.

5. The entrepreneurs acting **the certificates** applying at the same time 2 special tax modes **provided by Part 4** of this article **on the basis** are obliged to keep in accordance with the established procedure separate account of income, expenses and the performed economic operations on each used special tax regime.

6. The special tax modes are applied by the entrepreneurs acting **on the basis certificates** in case their income and activity corresponds to conditions of these special tax modes.

7. If this chapter does not provide other, the entrepreneurs acting **certificates on the basis** pay other taxes according to this Code.

8. The entrepreneurs acting **certificates on the basis** are not exempted from fulfillment of duties of the tax agents provided by this Code.

9. Rules of taxation of the individual entrepreneurs acting **certificates on the basis** approve by the Government of the Republic of Tajikistan.

10. Irrespective of provisions of this chapter, the Government of the Republic of Tajikistan has the right to establish rules of taxation, types of activity and fixed rates of the corresponding taxes for the entrepreneurs acting **certificates on the basis** with special conditions.

CHAPTER 52. THE SIMPLIFIED TAX REGIME FOR SMALL BUSINESS ENTITIES

Article 374. General provisions

1. The simplified tax regime (further – the tax on the simplified mode) is applied to subjects of the entrepreneurship **which** gross income for twelve consecutive **last calendar** months **did not exceed** 1 million somoni.

2. Upon transition from the simplified tax regime to the general and from the general to the simplified mode, **the gross** income of the taxpayer is determined by the accrual method.

3. The subjects who are taxpayers on the simplified mode pay **income** tax in the simplified order.

4. The taxpayers acting on the simplified mode have the right to voluntarily count and pay the tax on the simplified mode on the gross income or the permitted difference between income and expenses.

5. **The taxpayer** on the simplified mode, is not the payer of the following taxes:

- the tax on the income of legal entities, except for income, the tax on which keeps at the source of payment;

- the tax on the income of the individual entrepreneur acting **certificates on the basis** except for income, the tax on which keeps at the source of payment;

- the value added tax, except for the value added tax at commodity importation to customs area of the Republic of Tajikistan and the value added tax of the nonresident withheld at the source of payment.

6. Taxpayers on the simplified mode pay other taxes established by this Code **if this chapter does not provide, other.**

7. Taxpayers on the simplified mode are obliged to execute duties of the tax agents provided by this Code.

8. Irrespective of provisions of points 1-7 of this article taxpayers on the simplified mode have the right to submit voluntarily to tax authorities the application for registration as the payer of value added tax according to requirements of the general system of taxation.

Article 375. Taxpayers

1. The following persons are recognized as taxpayers of the simplified mode:

- persons whose business activity is begun within calendar year, irrespective of state registration of these persons;
 - the persons meeting the requirements of Parts 1 and 3 of Article 374 of this Code and the paragraph of the first of Part 3 of this article.
2. The tax on the simplified system is not applied to the following taxpayers:
- **the natural persons registered** as the individual entrepreneurs acting on the basis of the patent;
 - **investment funds, professional participants** of security market - insurance and credit institutions, microfinance institutions, pawnshops, **users of natural resources**, suppliers of aluminum primary, producers and importers of excisable products, also the persons performing **intermediary** activity on the basis of commission agreements, order and other intermediary agreements;
 - **applying** the simplified tax regime to producers of agricultural products, except for income which taxation is not settled within the simplified tax system of agricultural producers;
 - **the persons applying** the special tax regime for subjects of the gaming, except for the income which is not connected with the gaming.
3. Transition from the general tax regime to the simplified mode and from the simplified mode on generally established is performed in the following order:
- if **by results of** no more than 12 consecutive previous calendar months **the gross** income of the taxpayer using the general tax regime is less than sum determined by Part 1 of Article 374 of this Code and if from the moment of transition of such person from the simplified mode to the general regime of taxation there passed 36 calendar months, the taxpayer can no more than 10 calendar days from the moment of emergence of such cases in time submit the application to tax authority of the place of accounting for transition to the simplified tax regime;
 - if **by results of** no more than 12 consecutive calendar months **the gross** income of the taxpayer using the simplified tax regime exceeds the sum determined by Part 1 of Article 374 of this Code the taxpayer no more than 10 calendar days from the moment of emergence of such cases is obliged to submit in time the application to tax authority of the place of accounting for transition to the general regime of taxation;
 - if the taxpayer voluntarily addressed **for** registration as the payer of value added tax, **he** is obliged to submit the application to the tax authority in the place of registration about transition to the general system of taxation in time which is not exceeding 10 calendar days from the moment of the address;
 - in case of non-compliance **with the paragraph** by the taxpayer of requirements of the first or second with this part, the transfer of such taxpayer from one mode in another is made by tax authority and about it the notification to the taxpayer is sent.
4. The taxpayer has the right to voluntarily choose payment of the tax on the simplified mode on the permitted difference of income and expenses, in cases when he submits the application in the established form to tax authority in the place of registration in the following terms:
- 1) the newly created taxpayer - within 5 working days after state registration;

2) the acting taxpayer - till December 31 of calendar year.

5. Calculation and payment of the tax is made for taxpayers who choose payment of the simplified mode of the tax on the basis of the difference between the permitted income and expenses:

- for newly created taxpayers - from the date of filing of application;
- for the acting taxpayer after filing of application – since January 1 of the next calendar year.

6. The taxpayers who chose one of methods of calculation of the tax for the simplified mode are obliged to adhere to this mode until the end of **the current** calendar year. Such taxpayers have the right to change the chosen mode from the beginning of the next year if till December 31 of the current year submitted the application to tax authorities in the place of the registration.

Article 376. Taxation object

1. If Parts 2, 3 and 4 **of this article do not provide other**, the taxation object on the simplified mode is **the gross** income, including income from delivery of goods, performance of works and rendering services and also other gained income.

2. For the taxpayers specified in Part 4 of Article 375 of this Code **the gross** income less the expenses provided by Chapters 28 and 29 of this Code is recognized as the taxation object.

3. When choosing by the taxpayer of the method of calculation of the tax on the simplified system on the gross income without deductions, the taxation object is defined by the cash method of accounting.

4. When choosing by the taxpayer of the method of calculation of the tax on the simplified system on the gross income less expenses, the taxation object of such taxpayer is estimated in the accrual method.

5. Accounting of income and expenses the accrual method is performed according to **provisions of Article 93** of this Code.

6. **The gross** income gained by the foreign legal entity performing activity in the Republic of Tajikistan through branch and (or) representation is defined on the basis of its income gained from sources in the Republic of Tajikistan.

Article 377. Tax base

1. On the simplified mode the monetary value of the gross income gained for the tax period is recognized as tax base of the tax if other order is not provided in this article.

2. In case of failure of payment for goods (**the performed** works or **the rendered** services) delivered by the taxpayer in time more than 6 **months**, the goods for the purposes of calculation of the tax specified (works, services) are considered paid to the taxpayer. In case of failure to pay the bad debts by debtors **to the taxpayer** which are earlier included in its taxable profit they are subtracted from the taxable profit of the taxpayer.

3. The taxpayers applying the tax on the simplified mode for the purposes of determination of tax base can apply the simplified system of financial accounting installed by the Ministry of Finance of the Republic of Tajikistan.

4. For the taxpayers **defined** in Part 4 of Article 375 of this Code, **the gross** income gained for the tax period less the permitted deductions is recognized as tax base.

Article 378. Privileges

1. The privileges provided by points 6) and 7) of Part 2 **of Article 189** of this Code are not applied to the purposes of this chapter.

2. The subsidies received by public institutions at the expense of budgetary funds for preserving of the activity do not join in their gross income.

Article 379. Tax period

For taxpayers on the simplified mode calendar year, and the reporting period - is recognized **every quarter** as the tax period.

Article 380. Tax rates

The tax rate on the simplified mode is established in the following sizes:

1) for activity of the taxpayers provided in Article 375 of this Code except for the taxpayers defined in Part 4 of Article 387 - 6 percent;

2) for activity of the taxpayers provided in Parts 4 of Article 375 of this Code, rates established in Article 183 of this Code.

Article 381. The order of calculation and payment of the tax on the simplified mode

1. The tax on the simplified mode for taxpayers **whose** tax base is established according to Part 1 of Article 377 of this Code is estimated by multiplication of the corresponding amount of the gross income by the corresponding tax rate.

2. In case of implementation by the taxpayer **of several** types of activity, accounting of the gross **income** and expenses for each type of activity and also calculation of the corresponding amounts of tax is made separately.

3. For taxpayers **whose** tax base is established according to Part 4 of Article 377 of this Code the amount of tax on the simplified mode is estimated in the order established **by Section VII** of this Code for income tax.

4. Taxpayers who before transition **from the general** tax regime to the simplified mode **used** the method of charges at calculation of taxes at payment of the tax on the simplified mode carry out the following rules:

- join in tax base **of the simplified mode the amount received** before transition to the tax on the simplified mode **according to which** delivery of goods, performance of works and rendering services in the agreement after transition to the tax on the simplified system is performed;

- do not join in tax base **the amount received** for delivery of goods, performance of works and rendering services after transition to the tax in the simplified mode if by the method of charges the specified means were added to income on the general tax regime.

5. Income from sales of goods (performance of works, **rendering** services, property rights) during application of the simplified tax regime, payment (partial

payment) of which was not made before date of transition to the general regime of taxation, are included **income in the last** declaration of the simplified tax regime upon transition to the general regime of taxation.

6. The amount of tax received on the simplified system before transition to the general system of taxation in connection with which delivery of goods, performance of works and rendering services in the agreement after transition to the general system of taxation is performed is subtracted from the income tax amount in the general system of taxation.

7. Upon transition from the general regime **of taxation** to the tax on the simplified mode and from the tax on the simplified mode on the general **regime of taxation**, taxpayers **in connection with the value added tax** carry out the following rules:

- upon transition to the tax on the simplified mode, the amounts of tax on added value estimated and paid to the budget from payment amounts (partial payment) received before such transition to the account of the forthcoming deliveries of goods (works, services) performed during the period after transition to the tax on the simplified mode are subject to offset on the value added tax in the last tax period;

- upon transition to the general tax regime, the amounts of tax on added value paid by the taxpayer applying the tax on the simplified mode concerning the remaining balance of the goods purchased by it are accepted by this taxpayer to offset on the value added tax in the first tax period after transition to the general regime of taxation.

8. The tax declaration in the form approved by authorized state body is submitted quarterly no later than the 15th day of the month following the tax period.

9. Payment of the tax on the simplified mode is made quarterly in the place of accounting of the taxpayer before the date specified for submission of the declaration in the local budget.

10. The instruction for calculation and payment of the tax on the simplified mode and also forms of declarations (calculations) affirm **on representation of authorized state body** by the Ministry of Finance of the Republic of Tajikistan.

CHAPTER 53. THE SIMPLIFIED TAX REGIME FOR PRODUCERS OF AGRICULTURAL PRODUCTS

Article 382. General provisions

1. The simplified tax regime for agricultural producers (further - the unified agricultural tax) represents special tax regime activity of the subjects performing production of agricultural products without the subsequent industrial processing.

2. The unified agricultural tax is applied to Dehkan (farmer) and other legal manufacturing persons of agricultural products.

3. **The payer** of the unified agricultural tax, performing production of agricultural products without the subsequent industrial processing, is exempted from payment of the following taxes:

- **income tax (the tax on the simplified mode for small business entities)**, except for the income taxed at source of payment;

- **the value added tax**, except for the value added tax which is subject to payment at commodity importation on customs area of the Republic of Tajikistan and (or) in case of the transactions taxable at the source of payment;

- land tax.

4. The income of the members of Dehkan (farmer) economy **paying** the unified agricultural tax from the agricultural activity performed without creation of the legal entity is exempted from payment of the tax on income for natural persons.

5. The instruction **for determination of regulations of use of the equipment and labor power (including manual work)** for one hectare of the earth for producers of agricultural products approves by the Ministry of Agriculture of the Republic of Tajikistan in coordination with the Ministry of Labour, migration and employment of the population of the Republic of Tajikistan.

6. At simultaneous conducting nonagricultural activity payers of the unified agricultural tax are in addition taxpayers on the simplified mode or on the general regime of taxation. Such taxpayer is obliged to keep separate account of income and expenses on production of agricultural and nonagricultural products.

7. Payers of the unified agricultural tax pay other taxes in the order established by this Code and fulfill duties of tax agents.

8. Payers of the unified agricultural tax have the right to switch over to the general regime of taxation.

Article 383. Taxpayers

1. The producers of agricultural products conforming to requirements of Part 1 of Article 382 of this Code are recognized as payers of the unified agricultural tax.

2. For the purpose of this chapter the any kind of agricultural products which is not subjected to industrial processing belongs to agricultural products.

3. The following taxpayers cannot be payers of the unified agricultural tax:

- public institutions;

- taxpayers who are engaged in production of excise goods;

- producers of agricultural products which rented the earth;

- land users who rent the land plots at Dehkan (farmer) and other legal manufacturing persons of agricultural products, for agricultural activity;

- the taxpayers using the simplified tax regime of subjects of the gaming.

4. Transition from the general tax regime to the unified agricultural tax and from the unified agricultural tax to the general tax regime is performed since January 1st of the calendar year **following after reporting year** in the following order:

- the producers of agricultural products taxed with the unified agricultural tax have the right no later than January 10th of the calendar year **following after reporting year** to submit the application to the relevant tax authority for transition to the general tax regime;

- the producers of agricultural products **taxable** on the general tax regime, only after 3 calendar years can submit the application till January 10th **of the corresponding** calendar year to tax authority about transition to the mode of the unified agricultural tax.

5. For transition from one tax regime to another, the taxpayer is obliged to fulfill completely all the tax liabilities for the operating (previous) tax regime.

Article 384. Taxation object and tax base

1. The land plot of the producer of agricultural products, except for the lands freed from the single tax according to Article 385 of this Code is subject to taxation of the unified agricultural tax.

2. Tax base is the area of the land plot specified in the documents confirming the right to its use, or actually **(without documents)** used by the taxpayer.

3. **The amount of the unified agricultural tax** does not depend on results of activity **of the taxpayer** and is established in the form of the steady payment for the fixed land area in **the year**.

4. **The gross** income of the payer of the unified agricultural tax for last calendar year is determined by the accrual method in the same order, as well as for taxpayers on the general regime.

5. Payers of the unified agricultural tax are obliged to keep **financial accounting** which form approves by the Ministry of Finance of the Republic of Tajikistan in coordination with authorized state body.

Rate 385. Tax benefits

The following land plots are exempted from payment of the unified agricultural tax:

- the land plots of territories of reserves, **botanical gardens**, national and dendrology parks, the list of the organizations and which area of the territory **are established** by the Government of the Republic of Tajikistan if the allocated land plots are not used for **implementation** of business activity;

- the land plots recognized according to the order of the Government of the Republic of Tajikistan **broken** and also the lands recognized according to **the official conclusion of authorized state body on regulation of the land relations and authorized state body in the sphere of agriculture** being at the stage of agricultural development;

- the lands occupied with the strip of tracking along frontier if such lands are not used for implementation of business activity;

- **the earth** of the state stock if these lands are not used for implementation of business activity;

- the earth of pastures, **the meadow**, the woods and other lands which are allocated under laying of gardens and vineyards if such lands were not used for production of agricultural products **earlier** – for 5 years from the date of allocation of the land plot. The taxpayer is obliged within 45 calendar days after laying of gardens and vineyards officially to provide **information in** tax authority in the place of their placement about the actual area of the mortgaged gardens and **vineyards**. In case of non-presentation at the scheduled time **of the specified** information, these lands are subject to taxation as the lands occupied with long-term plantings.

Article 386. Rates of the unified agricultural tax

1. **Annual rates** of the unified agricultural tax under **the land registry** to zones are established by the Government of the Republic of Tajikistan for each hectare of the earth each 5 years on representation **of authorized state body on the regulation of the land relations** approved with authorized state body.

2. For the lands which are not determined by provisions of the part of 1 this article the rates of land tax established by Part 1 of Article 352 of this Code are recognized as rates of the unified agricultural tax.

3. The authorized state body makes annual indexation of rates of the unified agricultural tax according to the rate of inflation for **previous** year. Indexed rates of the unified agricultural tax the current year are posted on the official site of authorized state body.

Article 387. Tax period

The tax period of the unified agricultural tax is calendar year.

Article 388. Terms, order of calculation and payment of the unified agricultural tax

1. **Payers** of the unified agricultural tax **are obliged to provide** annually till March 1st of the current year to tax authority in the location of the lands the tax declaration the current calendar year.

2. **The amount** of the unified agricultural tax for the current **calendar** year is paid by the taxpayer not later than the 10th day of the third month of every quarter in the following sizes from the annual amount of tax:

- the first quarter of the current calendar year – 15 percent;
- the second quarter of the current calendar year – 15 percent;
- the third quarter of the current calendar year – 35 percent;
- the fourth quarter of the current calendar year – 35 percent

3. The full amount of the unified agricultural tax can be paid by the taxpayer ahead of schedule and in the complete size.

4. The instruction for calculation and payment of the unified agricultural tax and also the form of declarations (calculations) are established **on representation of authorized state body** by the Ministry of Finance of the Republic of Tajikistan.

5. Control of payment of the unified agricultural tax is exercised by tax authorities **in** interaction with self-government institutions of settlements and villages.

CHAPTER 54. THE SIMPLIFIED TAX REGIME FOR SUBJECTS OF THE GAMING

Article 389. The concepts used in this chapter

1. The simplified tax regime for subjects of the gaming (further - the tax on the gaming) represents special tax regime according to which subjects of the gaming, except for the income of subjects of the gaming which taxation is performed at the source of payment are subject to taxation.

2. For the purposes of this chapter the following concepts are used:

- the gaming - the activities for rendering services in connection with betting with participants of the game based on risk of the prize or loss and (or) the organization of work on the conclusion of such bets between two and more participants of the game;

- the bet - the agreement on the prize based on risk concluded by two or several participants of the gaming among themselves or with the subject (the owner, the representative of the owner) of the gaming which outcome depends on the event will come or not which is unknown;

- the game table - the place which is specially equipped with the subject (owner) of the gaming with one or several game fields intended for holding games (with the prize and without) in which the subject (owner) of the gaming through the representatives participates as the party or as the organizer, except as specified gamblings;

- the gaming machine - the special equipment (mechanical, electric, electronic or other technical equipment) and (or) the personal computer used for holding games (with the prize and without) without participation in the specified games of the subject (the owner, representatives of the owner) of the gaming, behind the exception in cases of gamblings;

- point of the totalizator - the equipment for calculation of game money which defines the amount of the rate and the paid prize;

- **the collection point** for rates in bookmaker office – specially equipped place of the owner of the gaming where the amount **of the rate** is considered, and is defined the amount of the prize which is subject to payment;

- the website of the gaming - any **Internet website** via which the gaming is done;

- the game path - the special path intended for playing bowling (bowling alley);

- the pool table - the special table intended for playing billiards;

- the lotto - the game on special cards with numbers (pictures or other designations) which are closed by counters;

- the lottery - the organized mass game at which distribution **of benefit** and losses depends on accidental extraction of this or that ticket or number (the lot, lot) and the amount of prize fund for each release of the lottery. The part of funds deposited by players goes to organizers of the lottery, other their part is paid to the state in the type of tax;

- other objects of the gaming applied to commercialization, determined by local public authorities;

- release of the lottery - the number of the lottery tickets prepared for sale by the organizer of the lottery;

- the registration card of accounting of the taxation objects the document certifying registration **of the taxation objects** connected with the gaming the form of which approves **as tax authorities** by authorized state body.

3. Application of the simplified tax regime for subjects of the gaming exempts from payment of the following taxes, except for the income taxed at source of payment:

- tax on gaming revenue;

- the tax on income directly from gaming revenues of the individual entrepreneur functioning on the basis of the certificate;
- **the value added tax**, except for the value added tax for the delivered services (works) of nonresidents and in connection with commodity import to the Republic of Tajikistan.

4. The persons applying the tax on the gaming are not exempted from fulfillment of duties of the tax agents provided by this Code.

Article 390. Taxpayers

Taxpayers of the tax on the gaming are the legal entities, their branches, branches and representative offices of foreign legal entities and individual entrepreneurs performing business activity in the sphere of the gaming.

Article 391. Taxation object

1. Are subject to taxation for the tax on the gaming:

- website of the gaming;
- collection point for rates in the totalizer;
- collection point for rates in bookmaker office;
- game table;
- the gaming machine without winnings;
- the game path (at playing bowling (bowling alley));
- the pool table (at playing billiards);
- the organization of the lotto (at the game in the lotto);
- sale of the lottery;
- other objects of the gaming determined by local public authorities.

2. For the purpose of this chapter each taxation object specified in the part of 1 this article (except release **for** sale of lotteries), not later than 10 calendar days before date of application (use) is subject to registration in tax authority on the installation site of this taxation object.

3. Each release **for** sale of lottery tickets specified in parts of 1 this article and nominal amount of their sales in terms of money are subject to registration in the relevant tax authority no later than 10 calendar days to the sale date of lottery tickets.

4. Registration is made by tax authority on the basis of the statement of the taxpayer for accounting of the object (objects) of taxation with obligatory issue within 10 calendar days of the appropriate certificate. Application forms and certificates approve by authorized state body.

5. The taxpayer is obliged to register in tax authority on the location of the taxation objects any change of quantity of the taxation objects not later than 10 calendar days before installation date or phase-out (use) of each taxation object, including each release **for** sale of lottery tickets.

6. At the termination of activity in the sphere of the gaming and (or) leaving of all taxation objects (completion of sale of lottery tickets), the registration card of accounting of objects is subject to delivery in tax authority within 10 calendar days.

7. Implementation of the gaming without registration of the taxation objects is not allowed.

Article 392. Tax base and tax rate

1. For the purposes of calculation of tax base of the tax on the gaming the income expected from each unit of the taxation object is applied (each release in sale of lotteries).

2. The amount of tax on the gaming for the tax period, taking into account Parts 3 and 4 of this article irrespective of the amount of the gained income in the fixed **amount**, from each unit of the taxation object (each release **for** sale of lotteries), **is established by local public authorities of the cities (areas)** in coordination with authorized state body.

3. The tax rate for the website of bookmaker office is established at a rate of not less than 5000 indicators for calculations for each tax period.

4. The tax rate for other types of the websites of the gaming is defined by local public authorities.

5. The tax rate for point of the totalizator, point of bookmaker office and sale of lotteries is established at a rate of the fixed rate established by local public authorities.

6. Payers of tax on the gaming are obliged to keep account of income and expenses in the order determined by regulatory legal acts of the Republic of Tajikistan.

Article 393. Tax period

Calendar month is recognized as the tax period.

Article 394. Payment procedure of the tax

1. The amount of tax is calculated by the taxpayer independently taking into account base and the tax rate established for each taxation object.

2. The tax declaration moves the taxpayer in tax authority in the place of registration of the taxation objects no later than **the 15th** day of the month following the reporting period.

3. At issue of article of incorporation of the object (objects) of taxation, the amount of tax is defined as the amount of total number of the corresponding taxation objects (including the new taxation objects) and the tax rate established for these taxation objects **in the following order:**

- the full amount of the tax on objects is paid for the reporting period if such objects are put into operation to **the 15th** of month under report;

- 50 percent of the tax amount on objects **are paid** for the reporting period if such objects are put into operation after **the 15th** of month under report.

4. Payment of the tax on the gaming is made by the taxpayer (his authorized **person**) in the local budget for the location of the taxation object, no later than **the 15th** day of the month following the reporting period.

5. In case the subject of the gaming performs other types of activity, accounting of activities for the gaming and other activity and also their taxation, is performed separately.

6. The instruction for calculation and payment of the tax on the gaming and also forms of declarations (calculations), affirm **on representation of authorized state body** by the Ministry of Finance of the Republic of Tajikistan.

CHAPTER 55. THE SIMPLIFIED TAX REGIME OF POULTRY-FARMING, FISH ACTIVITY AND TO PRODUCTION OF THE COMBINED FORAGES FOR BIRDS AND ANIMALS

Article 395. The simplified tax regime of poultry-farming, fish activity and to production of the combined forages for birds and animals

1. Economic entities in the sphere of poultry farming, fish breeding and production of the combined forages for birds and animals, are exempted from payment of the following taxes:

- tax on revenues of legal entities;
- value added tax;
- the tax for real estate;
- land tax.

2. In cases of delivery of imported goods to domestic market of the Republic of Tajikistan, such transactions are subject **to taxation** on added value, the customs duty and other taxes in the general order established by this Code and the Customs code of the Republic of Tajikistan.

3. The instruction for taxation of the activity **taxable** according to this chapter and also forms of declarations (reports, data) approve by authorized state body in coordination with the Ministry of Finance of the Republic of Tajikistan.

CHAPTER 56. THE SIMPLIFIED TAX REGIME INNOVATION AND TECHNOLOGY ACTIVITY

Article 396. The simplified tax regime of innovation and technology activity

1. The simplified tax regime of innovation and technology activity represents the specific mode of taxation of activity of subjects of the innovation and technology activity.

2. **The list of types** of innovation and technology activity **is defined** by the Government of the Republic of Tajikistan.

3. Subjects of innovation and technology activity at implementation of the activity by them are exempted from payment of any kinds of the taxes provided by this Code except for payment of social tax as the taxpayer insurer, payment of the

income tax and the social tax insurer and also at the time of payment of income at the source of payment, including dividends as the tax agent.

4. Import of innovation processing equipment by subjects of innovation and technology activity who will be directly used for own **needs** of this subject is exempted from **payment** of the value added tax. In case of realization of the imported innovation processing equipment by subjects of innovation and technology activity, such transactions are assessed with the value added tax and other taxes in the general order established by this Code.

SECTION XV. FINAL PROVISIONS

CHAPTER 57. FINAL PROVISIONS

Article 397. Transitional provisions

1. Until reduction in compliance with the Tax Code of the Republic of Tajikistan of regulatory legal acts of the Republic of Tajikistan, regulatory legal acts of the Republic of Tajikistan work in the part which is not contradicting this Code.

2. The Tax Code of the Republic of Tajikistan is implemented in the legal relationship arising after its introduction to action. In the legal relationship which arose before its enforcement, the Tax Code of the Republic of Tajikistan is applied to those rights and duties which arise after its introduction to action if did not expire **established** terms **of limitation** period.

3. Before decision making **Madzhlisov** of People's Deputies of the cities (areas) about the local taxes, calculation and payment of the local taxes is performed according to the Tax Code of the Republic of Tajikistan of September 17, 2012 and other regulatory legal acts.

4. Tax rates for added value, stipulated in Item 1) Parts 1 of Article 264 of this Code, for taxable transactions and taxable import are established from January 1, 2024 to December 31, 2026 – 14 percent and since January 1, 2027 – 13 percent.

5. The payers of value added tax taxable at the standard rate, upon transition to the reduced tax rate for added value according to **point 2)** of Part 1 of Article 264 of this Code, are obliged to cancel the amount of tax on the added value reckoned on the date of entry into force of this Code except for the paid amount of the value added tax concerning taxable import.

6. Action of Chapters 46-48, except for Chapter 471 of the Tax Code of the Republic of Tajikistan of September 17, 2012, according to **provisions** of this chapter are applied to the subjects applying them till December 31, 2021 before the expiration of these privileges.

7. Provisions of Chapter 471 of the Tax Code of the Republic of Tajikistan of September 17, 2012 and Chapter 55 of this Code work till December 31, 2023.

8. Provisions of Chapter 56 of this Code work till December 31, 2026.

9. The Ministry of Finance of the Republic of Tajikistan is obliged together with the Ministry of Economic Development and Trade of the Republic of Tajikistan, the Ministry of the industry and new technologies of the Republic of Tajikistan, the Ministry of Agriculture of the Republic of Tajikistan, Tax committee

at the Government of the Republic of Tajikistan, Customs service at the Government of the Republic of Tajikistan, the Agency according to the statistics at the President of the Republic of Tajikistan, National bank of Tajikistan **to develop** till March 31, 2022 for realization of provisions of this Code regulatory legal acts and to take measures for introduction of the uniform integrated electronic form of accounting of the transactions made by the taxpayer, electronic marking, the electronic fiscal check, the electronic invoice of cost of goods (works, services) and the non-cash payment method.

10. **Users natural resources** and the Ministry of Finance of the Republic of Tajikistan, representatives of authorized state body in the field of geology, authorized state body, are obliged to bring current **agreements** on use of natural resources into accord with provisions of this Code. Such reduction in compliance or change of terms of the contract shall be made within sixty days from the effective date of this Code.

11. **Provisions** of paragraphs of the fifth, the eighth, thirteenth and fourteenth Part 4 of Article 251 of this Code work till December 31, 2026.

12. Provisions of point 10) of Part 2, Parts 5 and 6 of Article 251, the paragraph **of the seventh** of Part 1 of Article 286 and Chapter 50 of this Code work till December 31, 2026.

13. The rate established in the paragraph **the first** Part 4 of Article 183 of this Code works till December 31, 2025, since January 1, 2026 the tax rate is established of 18 percent.

14. **The concept "income tax"** which is earlier used in regulatory legal acts on taxes is recognized as "the tax on revenues of legal entities" from now on.

15. Provisions of Chapter 11 of this Code extend to the individual entrepreneurs acting under the certificate with special conditions in non-stationary places, and on the individual entrepreneurs acting under the patent since January 1, 2023.

Article 398. About recognition become invalid for the Tax Code of the Republic of Tajikistan

Recognize become invalid the Tax Code of the Republic of Tajikistan **adopted** on September 17, 2012 (Akhbori of Majlisi Oly of the Republic of Tajikistan, 2012, No. 9, Article 838; 2013, No. 12, Article 889, Article 890; 2015, No. 3, Article 210, No. 11, Article 965, Article 966; 2016, No. 3, Article 150, No. 11, Article 883; 2017, No. 1-2, Article 21, No. 5, Part 1, Article 280; **2018, No. 2, Article 66, Article 67, No. 7-8, Article 529; 2019, No. 4-5, Article 227, No. 6, Article 322, No. 7, Article 473; 2020, No. 1, Article 21, Article 22, No. 7-9, Article 614, No. 12, Article 918, Article 919)** taking into account provisions of Article 397 of this Code since January 1, 2022.

Article 399. Enforcement of the Tax Code of the Republic of Tajikistan

1. **Enact the Tax Code** of the Republic of Tajikistan (except for Chapter 33 of this Code) since January 1, 2022.

2. To put into operation **provisions of Chapter 33** of this Code since January 1, 2023.

President
Republic of Tajikistan

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