

## **DIVISION II. GENERAL ADMINISTRATIVE PROVISIONS**

### **Chapter 3. General Provisions**

#### **Article 28. Procedure for application of administrative provisions**

The administrative provisions stipulated in this Division and in Division III shall apply to all taxes, except as otherwise provided in this Code.

#### **Article 29. Tax control of full and timely receipt of payments to the budget**

1. Tax authorities shall be wholly and exclusively responsible for tax control of legal and physical persons, for verifying the accuracy of calculation and timeliness of payment of taxes, and for all other aspects of tax administration and collection, except where this Code grants this responsibility to another body.

2. Tax control is exercised by tax authorities by means of recording taxpayers and objects of taxation, verifying accounting and reporting data, questioning taxpayers and other persons, examining premises used for earning income, according to the procedure established by the legislation of the republic of Taxastan, and employing other methods consistent with this Code. In cases where the payment of taxes connected to export-import operations is determined according to customs procedures, control is carried out by the customs bodies in accordance with the customs legislation.

3. Tax control carried out by tax authorities may be in the form of an office audit or a field audit. An office audit is carried out by the tax authority on the basis of balances, declarations, explanations, and other documents submitted by the taxpayer as well as documents and information in the possession of the tax authority. A field audit is carried out on the basis of a written decision of the tax authorities by means of a written notice to the taxpayer, which describes the object of audit and basis and approximate time for holding the audit. A field audit may be carried out without prior notice in cases when there is evidence of tax evasion, on the decision of the head of a tax authority.

A field audit is carried out during the course of one month for all types of taxes as a whole no more frequently than once every two years, except that a repeated field audit may be carried out according to the written permission of the Tax Service of the republic. Other state agencies are forbidden from carrying out audits on tax matters.

4. The results of a tax audit are drawn up in the form of an act, which is signed by the responsible official of the tax inspectorate carrying out the tax audit and the taxpayer. In case the taxpayer refuses to sign an act a note is made to this effect.

#### **Article 30. Illegal taxable income or transaction**

The illegality of a receipt of income or other transaction under criminal or administrative law does not affect its taxation.

## **Article 31. Taxpayer identification number**

1. Tax authorities shall assign identification numbers to taxpayers and tax agents to be used for all taxes and customs duties. The procedure for assigning taxpayer identification numbers is established by the Tax Service of the Government of the Republic of Taxastan.

2. Legal persons and physical persons must include their taxpayer identification number on tax returns, tax invoices, correspondence with tax authorities, and other documents determined by this Code.

3. Physical persons - entrepreneurs described in Article 25 and legal persons must apply to tax authorities for an identification number within ten days of registration (foundation) or of the beginning of entrepreneurial activity.

## **Article 32. Rights of the taxpayer**

In addition to other rights contemplated by this Code, the taxpayer has the right:

- a. to provide documents in evidence of his right to tax concessions;
- b. to examine records of audits that are performed;
- c. to present explanations to tax authorities with respect to his computation and payment of taxes or with respect to the records of audits that are performed;
- d. to appeal decisions of tax agencies in the manner stipulated by this Code.

## **Article 33. Right to representation in relations regulated by tax legislation**

1. The taxpayer may participate in relations regulated by tax legislation via his legal or authorized representative, unless otherwise provided in this Code.

2. Personal participation of the taxpayer in relations regulated by tax legislation shall not deprive him of the right to have a representative; likewise, participation of the representative shall not deprive the taxpayer of his right to personal participation in such relations.

3. The powers of the representative shall be documented in accordance with this Code and other laws of the Republic of Taxastan.

4. The rules provided by this Chapter apply to tax agents.

#### **Article 34. Legal representative of the taxpayer**

1. The legal representatives of a taxpayer which is a legal person shall be defined as persons authorized to represent this legal person on the basis of law or its founding documents.

2. The legal representatives of a taxpayer who is a physical person shall be defined as persons acting as his representative in accordance with the civil legislation of the Republic of Taxastan.

#### **Article 35. Actions (inaction) of legal representative of a legal person**

Actions (inaction) of legal representatives of a legal person performed in connection with participation of this legal person in connection with relations regulated by tax legislation are considered actions (inaction) of such legal person.

#### **Article 36. Authorized representative of the taxpayer**

1. An authorized representative of a taxpayer shall be defined as a physical or legal person authorized by the taxpayer to represent his interests in relations with tax authorities, or other parties to relations regulated by tax legislation.

2. Officials of tax authorities, judges, investigators, or public prosecutors may not be authorized representatives of taxpayers.

3. An authorized representative of a taxpayer which is a legal person exercises his authority on the basis of a power of attorney issued according to the procedure established by the civil legislation of the Republic of Taxastan.

4. An authorized representative of a taxpayer who is a physical person exercises his authority on the basis of a power of attorney certified by a notary or a power of attorney equated with one certified by a notary in accordance with the civil legislation of the Republic of Taxastan.

#### **Article 37. Conversion of foreign currency**

Any transaction with foreign currency pertaining to taxation is converted into the national currency of the Republic of Taxastan:

a. at the official exchange rate of the National Bank of Taxastan on the day the transaction takes place; and

- b. in the case of currencies for which an official exchange rate of the National Bank of Taxastan is not available, at a rate based on published cross-rates against the U.S. dollar.

### **Article 38. Measures against tax avoidance and alternative methods of taxation**

1. Any amount that is applied in the interests of a specific person is treated for tax purposes as paid to the person.
2. For the purposes of determining tax liability, the tax authorities have the right:
  - a. to disregard a transaction that does not have substantial economic effect (other than its effect on tax obligations); or
  - b. to reclassify according to its reality a transaction whose form does not reflect its substance.
3. If a taxpayer keeps inaccurate accounts of his transactions, or does not keep accounts and records in the required form and manner, or if accounting documents or records are lost or destroyed, the tax authorities have the right to make an assessment of tax payable based upon an estimate according to the relevant facts and circumstances. In the event of accounting violations or the destruction or loss of documents, or where determination of the taxable object is impossible, tax authorities shall determine the taxable object and the tax on the basis of direct and indirect methods (on the basis of assets, turnover, production costs, method of comparison, etc.).
4. In any transaction between related persons, tax authorities may allocate income or deductions between these persons as is necessary to reflect the taxable income that would have resulted from a transaction between independent persons. If a taxpayer uses in his commercial or financial transactions with a related party prices that differ from those used between independent enterprises, then for taxation purposes tax authorities shall adjust the taxpayer's income by the resulting price difference.
5. In a case where an individual has declared an amount of income insufficient to support expenses incurred for personal consumption, including acquisition of property, the tax authorities shall determine the income for purposes of taxation on the basis of expenses incurred by the individual, taking into account income of previous periods.
6. With respect to all taxes, barter transactions, including the receipt of income and the carrying out of expenses in kind, shall be considered by tax authorities as a sale of goods (or the result of work or services) at market prices, with compulsory issuance of tax invoices for the given transaction on the same basis as sales for cash. If the value of a barter transaction indicated in a tax invoice is a reduced value, the tax inspectorate shall adjust the taxable objects taking into account market prices, reassess the taxes and impose sanctions established by this Code for violation of the tax legislation of the Republic of Taxastan.

## **Chapter 4. Contacts with Taxpayers**

### **Article 39. Procedure for establishing obligations**

Subject to Article 40 and Article 41, no statement provided by tax authorities to a taxpayer is binding with respect to the tax authorities or the taxpayer unless it is in writing and is served upon the taxpayer.

### **Article 40. Written communications with taxpayers**

Any notice or other document sent by tax authorities to a taxpayer must be in writing, signed by a director or an authorized official of the tax agency, noting his last name and initials, officially stamped, and sent to or served upon the taxpayer. Such documents shall be deemed properly served if they are delivered to the address of the taxpayer by registered mail with return receipt or are personally served upon the taxpayer or his representative.

### **Article 41. Sufficiency of notices and other documents**

No assessment or other document issued under the tax legislation shall be considered invalid if:

- a. it is, in substance and effect, in conformity with this Code; and
- b. the person whose tax is assessed or who is affected by the document is designated in it according to common understanding.

### **Article 42. Rulings for the application of tax legislation**

1. Under procedures prescribed by instructions, the Chairman or the deputy chairman of the Tax Service of the Republic may issue to a taxpayer a ruling setting out the position of the tax agencies regarding the application of tax legislation to a transaction proposed by the taxpayer.

2. If the taxpayer has made a full and true disclosure of the nature of all aspects of the transaction relevant to the given ruling, and the transaction proceeds in all material respects as described in the taxpayer's application for the ruling, the ruling shall be binding on the tax agencies and the taxpayer with respect to the application of the tax legislation as it stood at the time of the ruling.

## **Chapter 5. Presentation and Collection of Information**

### **Article 43. Formation and retention of records**

1. A person is obligated to document transactions that:
  - a. may give rise to a tax liability by the person;
  - b. may give rise to an obligation by the person to withhold tax; or
  - c. may give rise to an obligation by the person to file a tax information return.
2. Taxpayers must keep such records in accordance with normative acts of the Ministry of Finance of the Republic of Taxastan and the Tax Service of the Republic and in necessary cases of the National Bank of Taxastan and the Customs Service of the Government of the Republic of Taxastan.
3. If a taxpayer has certain accounting records in a foreign language and they are not understandable to the tax authorities, the latter may require that they be translated into the state language.

### **Article 44. Filing of tax returns**

1. Those taxpayers who are required to file tax returns under the provisions of this Code shall file tax returns with tax authorities by the deadlines established by this Code and in the form and manner established by the Government of the Republic of Taxastan.
2. The tax return must be signed by the taxpayer or, if the taxpayer is absent or incompetent, by the taxpayer's legal representative.
3. An independent auditor who renders services with respect to the preparation of a taxpayer's tax return must sign the return along with the taxpayer, stamp it, and note his own taxpayer identification number. If the tax return is prepared by more than one auditor, only the principal auditor must sign the return.

### **Article 45. Provision of information on payments**

A person effecting payment for goods, work performed or services rendered or making any other type of payment must provide information to the tax authorities and to the recipient on the amount paid, in accordance with the instructions for implementation of this Code.

### **Article 46. Extension of deadline for filing tax returns**

If the taxpayer applies before the filing due date for an extension of time to file a return for income tax or profit tax and pays with the application the amount of tax estimated to be due, the deadline for filing the return is automatically extended for two months. An extension of the deadline under this article does not affect the deadline for payment of the tax and does not suspend the accrual of interest pursuant to Article 72.

## **Article 47. Bank accounts**

Banks and other financial-credit institutions conducting various banking operations must:

- a. open settlement and other accounts for physical and legal persons only upon presentation of documents showing the issuance of a taxpayer identification number presented by tax authorities, notify the tax authorities within a five day period that the taxpayer has opened these accounts, and may not effect transactions on accounts without noting the taxpayer's identification number in the banking documents;
- b. execute, on a first-priority basis, except for the priority of wages, payment orders of taxpayers for the payment of taxes from their settlement or other accounts, including foreign exchange accounts;
- c. credit (transfer) to a bank or other financial-credit institution acting as a cashier for the budget system taxes to the appropriate budget on the day of the transaction with regard to the withdrawal of funds from the settlement or other account of the taxpayer;
- d. furnish to the tax authorities information in accordance with article 32 of the Law of the Republic of Taxastan "On Banks and Banking Activity."

## **Article 48. Provision of information to the tax authorities**

1. For the purpose of carrying out tax control and in respect of a legal purpose, the tax inspectorate has the right, by giving reasonable notice in writing, to require any person, whether a taxpayer or not, within seven days from the date of delivery of the notice,

- a. to furnish the information that is required by the notice, including information concerning another person; or
- b. to come at the time and to the place indicated in the notice for questioning or presentation of documents or other evidence available to the person and indicated in the notice.

2. Arising from a legal purpose, for the carrying out of tax control, a designated officer of the tax authorities has the right under the procedure established by the legislation of the Republic

of Taxastan to enter any premises without prior notification, and to enter a dwelling in accordance with a sanction by a public procurator obtained upon a showing of necessity to do so.

3. A designated officer of a tax inspectorate who is lawfully upon premises or in a dwelling under point 2 of this article has the right under the procedure established by law:

- a. to make a copy of any record;
- b. to seize on the basis of a written confirmation a record or other document that appears to be relevant to an authorized purpose;
- c. to install or monitor meters; and
- d. to seal records or other documents.

If a designated officer of a tax agency uses equipment and materials of another person for the purpose of making an extract or copy of a record under this point, the tax agency must reimburse the person for the use of the equipment and materials, with compensation based on the market value of the use of the equipment and materials. If a designated officer seizes a record or other document pursuant to the authority provided under this point, the tax agency may make a copy of the record or other item and must return the original in the shortest time practicable, but in no event later than 7 days after the date of seizure.

4. This Article does not authorize access without official consent to diplomatic or consular premises, or those of other representatives of foreign countries as well as international organizations which enjoy immunity from such investigations under international law.

5. If a person asserts privilege under legislation of the Republic of Taxastan over documents or other evidence which a tax agency wishes to seize or examine pursuant to this Article, the materials over which privilege is claimed shall be deposited into envelopes which shall then be sealed by the owner and retained unopened by the tax agency pending an application by the tax inspectorate to a court of competent authority to determine whether the items in question are privileged and a relevant ruling by the court.

6. In this Article, "authorized purpose" means the collection of information for the purpose of determining the liability of a taxpayer for a tax, or for purpose of collecting tax from a specific person.

8. In this Article, "designated officer" means an employee of a tax agency designated by the Director of the respective tax agency as an officer entitled to exercise the rights specified in this Article.

## **Chapter 6. Tax Obligations**

### **Article 49. Tax obligation**

1. A tax obligation consists of a taxpayer's duty to pay a certain tax to the budget or state fund under circumstances established by this Code or another act of tax legislation.

2. The foundations for the advent, amendment, or termination of a tax obligation, as well as procedures and conditions for meeting a tax obligation, may be regulated exclusively by this Code or other acts of tax legislation.

3. A taxpayer is responsible for tax obligations from the moment the circumstances providing for payment of the tax as established by the tax legislation arise.

### **Article 50. Satisfaction of tax obligations**

1. Satisfaction of tax obligations consists of the payment by the established deadline of amounts of the tax owed, regardless of the availability of funds in accounts or other property of the taxpayer.

2. Satisfaction of tax obligations is one of the basic responsibilities of a taxpayer and shall be performed regardless of other obligations of a non-tax nature the taxpayer has.

3. Satisfaction of tax obligations shall be effected directly by a taxpayer unless otherwise established by this Code or other acts of tax legislation. In cases established by this Code or other acts of tax legislation, another legally obliged person is responsible for satisfaction of tax obligations.

4. Unilateral refusal to satisfy tax obligations, or unilateral amendment of procedures for their satisfaction by a taxpayer or other legally obliged person, is not allowed if it is not contemplated by the tax legislation.

5. Satisfaction of tax obligations in the case of bankruptcy of the taxpayer is governed by the Civil Code of the Republic of Taxastan and the legislation on bankruptcy.

### **Article 51. Satisfaction of tax obligations in the event of the liquidation of an enterprise (organization)**

1. Tax obligations of an enterprise (organization) being liquidated are satisfied by the liquidation commission of the enterprise (organization) from its monetary funds, including proceeds from the sale of the property of the enterprise (organization). To this end, tax obligations of its branches and other separate units recognized as enterprises under Article 13 must also be satisfied by the liquidation commission, unless otherwise prescribed by this Article. Tax obligations of a branch or another separate unit of an enterprise (organization) being

liquidated are satisfied directly by the enterprise (organization) of which the separate unit was a part; if this enterprise (organization) is also being liquidated, the tax obligations are satisfied by the liquidation commission of the enterprise (organization).

2. If an enterprise (organization) being liquidated does not have enough monetary resources to satisfy its tax obligations in full, including after the sale of its property to meet the tax obligations, the remaining indebtedness for the tax obligations must be paid by the participants (founders) of the enterprise (organization) if, pursuant to the law, charter, or any other constituent documents, they are jointly liable for the obligations of the enterprise (organization).

## **Article 52. Satisfaction of tax obligations in the event of the reorganization of a legal person**

1. Tax obligations of a reorganized legal person are satisfied by its lawful successor (successors), according to the procedure established by this Article.

2. Satisfaction of tax obligations of a reorganized legal person shall be imposed on its lawful successor (successors) regardless of whether the facts or circumstances of the non-satisfaction or improper satisfaction of the tax obligations by the reorganized legal person were or were not known to the lawful successor (successors) before the completion of reorganization. In this connection, the responsibility to pay all interest and penalties due in connection with the tax obligations of the reorganized legal person is imposed on the lawful successor (successors).

3. Reorganization of a legal person does not change the deadline for satisfaction of its tax obligations by the lawful successor (successors) of the legal person.

4. In the event of a merger of several legal persons, the legal person established as a result of the merger shall be recognized as their lawful successor with regard to the satisfaction of tax obligations of each of the enterprises (organizations).

5. In the event that a legal person joins another legal person, the legal person which the first legal person joined shall be recognized as the lawful successor with regard to satisfaction of tax obligations of the joining legal person.

6. In the case of a division, the legal persons established as a result of the division shall be recognized as the lawful successors with regard to satisfaction of tax obligations of the reorganized legal person.

7. If there are several lawful successors, the share of each lawful successor with regard to satisfaction of tax obligations of the reorganized legal person shall be defined in accordance with the separation balance sheet or other document of transfer. If the separation balance sheet or the document of transfer does not help in determining the stake of the lawful successor in the reorganized legal person or rules out the possibility of satisfaction of the tax obligations in full by any of the lawful successors, the newly established legal persons shall bear joint liability for

the satisfaction of the tax obligations of the reorganized legal person or the respective part of such tax obligations.

8. In case of a transformation of one legal person into another by means of a change in organizational and legal form, the newly established legal person is recognized as the lawful successor with regard to the satisfaction of tax obligations of the reorganized legal person.

9. In the event that one or several legal persons are spun off from a legal person, the legal persons that are spun off do not become lawful successors in respect of the legal person with regard to satisfaction of tax obligations, providing this reorganization is not targeted at the non-satisfaction of tax obligations by the reorganized legal person.

### **Article 53. Satisfaction of Tax Obligations of Physical Persons Who Are Deceased, Incompetent, or Missing**

1. Tax obligations of a deceased physical person are satisfied by his heir (heirs) within the limits of the value of the inherited property and in proportion to share in the inheritance, as of the time of receipt of the inheritance.

2. In the absence of an heir (heirs), or the disclaimer of the inheritance by all the heirs, tax obligations of a deceased physical person cease to exist.

3. Tax obligations of a physical person recognized by a court as missing or as incompetent are satisfied by the person who administers the property of this missing or incompetent person, at the expense of this property.

4. If the property of a physical person recognized in accordance with established procedure as missing or incompetent is insufficient to satisfy tax obligations and accrued penalties and fines of the physical person, the part of the tax obligation that was not satisfied because of insufficient assets, including penalties and fines, will be written off by the relevant tax agency in accordance with procedures stipulated in Article 71.

5. In the event of a decision to rescind recognition of a physical person as missing or incompetent (in the latter case, to recognize the physical person as competent) in accordance with established procedure, the validity of previously written off tax obligations shall be restored, but there shall be no accrual of interest and penalties from the day the physical person was recognized as missing or incompetent through the day of the decision to rescind.

### **Article 54. Procedures for Satisfaction of Tax Obligations**

1. The taxpayer independently, unless otherwise stipulated by tax legislation, calculates the sum of tax payable for the tax accounting period, based on the tax base, tax rate, and tax concessions.

2. In instances established by this Code or other act of tax legislation, the responsibility to calculate the sum of tax payable may be delegated to a tax authority or to a tax agent.

3. Tax shall be calculated in accordance with the procedures established for the relevant tax by this Code or other act of tax legislation.

4. The sum of tax payable by the established deadline is paid (transferred) by the taxpayer or other legally obliged person in accordance with this Code or other act of tax legislation.

## **Chapter 7. Assessments**

### **Article 55. Assessments**

1. Assessment in this Code means the entering into the records of the tax authorities of the amount of a taxpayer's liability for tax for a specific taxation period. Assessment includes an amended assessment and a deemed assessment.

2. The tax authorities are authorized to make an assessment of every taxpayer's tax liability under this Code on the basis of one or more of the following sources of information:

- a. the information contained in a taxpayer's tax returns;
- b. information concerning payments described in Article 45; and
- c. audit materials and any other information known to the tax authorities.

If the taxpayer does not furnish the information needed to assess the tax, the tax authorities have the right to assess the tax on the basis of any available information.

3. In cases where tax legislation does not require payment of the tax with a declaration, and in cases where the tax authorities consider an assessment previously made to be incorrect, the tax authorities shall make an assessment and send an assessment notice to the taxpayer according to Article 56. The tax authorities may make an assessment, or may amend an assessment previously made, until the period of limitations in Article 57 has expired.

4. In the case of taxes involving the filing of returns, the filing of a return showing liability for tax shall be deemed to be:

- a. an assessment of such tax; and
- b. notice and demand that such tax be paid by the deadline specified in this Code.

5. In the case of taxes collected by withholding, where a taxpayer does not file a tax return and the tax authorities do not otherwise make an assessment of the taxpayer's tax liability on the basis of other information, the tax authorities are deemed to have made an assessment of the taxpayer's tax liability for the year as the amount of tax, if any, that has been withheld from payments made to the taxpayer during the year and to have served notice of that assessment on the taxpayer.

6. The head of a tax authority has the right to make an assessment in advance of the date on which tax is normally due, if the action is required to secure the collection of the tax, and there is specific evidence that the taxpayer is planning to evade taxation by fleeing the jurisdiction, transferring assets to another person, or taking other actions that will jeopardize collection of the tax unless an immediate assessment is made. An assessment under this point may be challenged by the taxpayer including by an appeal to court.

### **Article 56. Notice of Assessment and Demand for Payment of Tax**

A taxpayer shall be given notice of an assessment of tax liability. The notice of tax assessment must contain the following information:

- a. the family name, first name and patronymic (or the name) of the taxpayer;
- b. the taxpayer identification number;
- c. the date of the notice;
- d. the matter to which the notice relates and the tax year (tax period) or years (periods) to which the notice relates;
- e. the amount of assessed tax, interest, and penalties;
- f. a demand for payment of the tax and deadline for payment;
- g. the place and manner of payment of the tax;
- h. a statement of the grounds upon which the assessment has been made; and
- i. appeal procedures.

### **Article 57. Statute of limitations**

1. The tax authorities may make or amend a tax assessment on a physical person or legal person within four years after the end of the taxable period and the assessed (amended) tax may be collected by the tax authorities within eight years after the end of the taxable period.

2. A taxpayer shall be entitled to request a tax refund or credit within four years after the end of the tax period, with allowance for time additional to this four-year period, as provided for in Article 91.

## **Chapter 8. Payment, Collection and Refund of Tax**

### **Article 58. Payment of tax**

Tax shall be due and payable at the time specified in this Code and other acts of tax legislation.

### **Article 59. Place of payment of tax**

Tax is payable:

- a. at the place specified in a notice of assessment and demand for payment of tax; or
- b. if no notice of assessment is required, at the place specified in the relevant act of tax legislation; or
- c. if no place is specified in the relevant act of tax legislation, according to the place of residence of a taxpayer-physical person or place of management of a taxpayer-legal person.

### **Article 60. Refund of excess tax paid**

1. If the amount of tax paid exceeds the amount of tax assessed, the tax authorities:
  - a. shall apply the excess against the taxpayer's liability for other taxes;
  - b. shall with the agreement of the taxpayer, apply the balance as described in subpoint "a" of this point against the taxpayer's liabilities with respect to future payments;
  - c. unless otherwise provided in this Code, jointly with the financial authorities shall refund the balance to the taxpayer within 45 days of written application by the taxpayer.
2. If the excess tax paid by the taxpayer is applied against the taxpayer's liability for other taxes, the tax authorities must notify the taxpayer.

### **Article 61. Extension of deadline for payment**

Upon receiving a proper, written, motivated application by the taxpayer, the director of the respective financial organ may, according to procedures established by the Government of the Republic of Taxastan, extend the deadline for payment of tax to the respective budget, but for no longer than 6 months. An extension shall not exempt a taxpayer from paying interest for late transfer of the tax to the budget.

### **Article 62. Order of payment of tax debts**

Payments of tax debts to the State Budget shall be made in the following order:

- a. assessed interest;
- b. assessed penalties;
- c. assessed amounts of taxes.

### **Article 63. Effect of objection or appeal**

1. Pending consideration of an objection (appeal) against the assessment of a tax filed with the tax authorities in accordance with Article 91, only the part of the tax obligation that is not contested by the taxpayer is subject to payment and can be collected in accordance with the procedures described in Chapter 11. The suspension of payment of the full amount or part of the tax assessed does not exempt the taxpayer from payment of interest for late payment of the tax to the budget.
2. When an objection (appeal) is filed in court, the tax assessed is subject to payment and may be collected by tax authorities in accordance with the procedures described in Chapter 11.
3. Where tax has been paid under an assessment to which the taxpayer has objected or against which the taxpayer has appealed and, as a result of the taxpayer's success with the objection or appeal, the tax due is remitted in whole or in part, the taxpayer is entitled to receive:
  - a. a refund of the incorrectly paid amount; and
  - b. interest on this amount, according to Article 72.

## **Chapter 9. Enforced Collection of Tax**

### **Article 64. Attachment of property**

1. Attachment of property as a means of securing execution of a tax obligation shall mean an action by a tax authority to restrict a taxpayer's rights of ownership in relation to his

property. Property shall be attached in the event of a taxpayer's failure to execute his tax obligation by the established due dates, and when tax authorities have sufficient grounds for believing that this person will take steps to conceal himself or to conceal his property.

2. Attachment of property may be complete or partial. Complete attachment of property shall mean restriction of a taxpayer's rights in relation to his property such that he does not have the right to dispose of the attached property, and possession and use of this property is with the permission and under the supervision of the tax authority. Partial attachment shall mean restriction of the taxpayer's rights in relation to his property such that the taxpayer possesses and uses this property independently, but may dispose of it only with the permission and under the supervision of the tax authority. Tax authorities may impose partial attachment in the absence of sufficient grounds for believing that the taxpayer will take steps to conceal himself or to conceal his property, but in this case the taxpayer must be informed of partial attachment of his property within fifteen days.

3. In the case of a taxpayer who is a legal person, all of the taxpayer's property may be attached, while an individual taxpayer's property may be attached with the exception of that against which recourse may not be taken pursuant to laws of the Republic of Taxastan.

4. Only that property which is necessary and sufficient for execution of a tax obligation shall be subject to attachment.

5. The decision to attach a taxpayer's property shall be made by the director (chairman, chief) of the tax authority in the form of the corresponding resolution.

6. The property of a taxpayer (or another liable person) shall be attached in the presence of witnesses. The authority attaching the property shall not have the right to deny presence of the taxpayer (his lawful and (or) authorized representative) when the property is attached. Rights and responsibilities shall be explained to persons participating in the property's attachment as witnesses and specialists, and to the taxpayer (his representative).

7. Attachment of property at night shall not be allowed, except when delays cannot be tolerated.

8. Prior to attachment of property, the officials attaching it shall be obligated to present to the taxpayer (to his representative) the decision of attachment and documents attesting to his authority.

9. A record of the property's attachment shall be prepared at the time of its seizure. The property to be attached shall be listed and described on this record or on an inventory appended thereto, with the name, quantity, and individual attributes of the objects and, when possible, their value accurately stated. All objects to be attached shall be shown to the witnesses and the taxpayer (his representative).

10. The director (chairman, chief) of the tax authority that issued a resolution of full attachment of property shall designate the place where the attached property is to be located.

11. Transactions consummated by the taxpayer (or other liable person) in relation to attached property in violation of the procedure established in this Article shall be recognized as null and void (invalid).

12. The decision to attach property shall cease to be effective from the moment this decision is rescinded by an authorized official of the tax authority that adopted this decision, or from the moment this decision is rescinded by a higher tax authority or the court, or from the moment of execution of the tax obligation.

13. The rules of this Article shall also apply to attachment of the property of a tax agent.

14. Any interested person may petition the tax authority to reverse attachment of a taxpayer's property, and the tax authority shall adopt a resolution rescinding attachment when so decided by the director of the tax authority. A decision of a tax authority made pursuant to this Article may be appealed in accordance with the provisions of Chapter 11, and for the purposes of this item the person petitioning for rescission of attachment shall be the taxpayer as defined in Chapter 11.

## **Article 65. Procedure for Collection of Tax From Property of the Taxpayer**

1. A tax authority may collect an unpaid tax amount from a taxpayer's property (hereinafter "seize property") (except the residence of the taxpayer and his/her family within the limits of norms for provision of living quarters in accordance with the Housing Code of the Republic of Taxastan) by decision of the head of the appropriate tax authority indicating the taxpayer whose property is subjected to this procedure, the location of the property, and the assessment of the tax for which this procedure is applied.

2. The tax authorities may seize property pursuant to point 1 of this Article only after attachment of property and no less than 15 days from the receipt of notice by the taxpayer.

3. If the Director of the respective tax agency has reasonable grounds for believing that the collection of tax is in jeopardy, the tax inspectorate at the time of the written notice may demand immediate payment of the tax and, on failure of the taxpayer to pay the tax, may proceed to seize the taxpayer's property immediately pursuant to point 1 of this Article without regard to point 2 of this Article.

4. The tax agency may store the seized property or deliver it on a contractual basis for safekeeping to a third party, or in some instances may leave it in the safekeeping of the taxpayer. In the last case, the taxpayer is responsible for maintaining the property.

## **Article 66. Enforcement of seizure**

1. A person in possession of property subject to seizure proceedings in accordance with Article 65 must, on demand of an authorized officer, surrender the property to the tax authorities.
2. A person who fails to comply with such demand is liable to the State in the amount of the value of the property held, but not in excess of the amount with respect to which the seizure proceedings are undertaken by a tax authority.
3. In addition to the liability under point 2 of this Article, if the failure is without reasonable cause, such person shall be liable for an additional charge equal to 50 percent of the amount recoverable under point 2 of this Article.
4. A person complying with the requirements of point 1 of this Article is, from the time of compliance, discharged from any obligation to the taxpayer, to the tax authorities, or to any other person to the extent of the value of property surrendered and is therefore not liable for any loss or damage incurred as a consequence of compliance.

### **Article 67. Sale of seized property**

1. Property seized from a taxpayer or obtained from a debtor to the taxpayer under Article 68 shall be sold at a specialized open auction, conducted in accordance with procedures and conditions defined by the Government of the Republic of Taxastan.
2. The sales proceeds shall be applied first against the expenses of the sale, then against the interest, penalties, and tax in accordance with Article 62 of this Code. Any balance shall be returned to the taxpayer within three banking days.
3. Foreign currency seized from the taxpayer is transferred to the National Bank of Taxastan for conversion into the national currency of the Republic of Taxastan and transfer to the budget as collections of tax responsibilities of the taxpayer.

### **Article 68. Recovery of amounts due to the taxpayer**

1. Pursuant to procedure for seizure according to Article 65(2) and after expiration of the 15-day time period indicated in the above Article, tax authorities may issue a notice to third parties (including the taxpayer's bank or other financial-credit institution) ordering direct payment to the respective budget of any amount owed by a third party to the taxpayer within 10 days of the receipt of the notice.
2. If the amounts due are not paid within the time specified, the tax authority may file an action in court for collection of these amounts from third parties to the respective budget.

## **Article 69. Secondary liability for unpaid tax**

Where a taxpayer's liability has not been satisfied after the sale of seized property, a person who has received assets of the taxpayer in a transaction that is not at arm's length in the three-year period preceding the date of the seizure proceedings is secondarily liable for the taxpayer's obligation in the amount of the value of the assets received, less any amount paid by this person for such assets.

## **Article 70. Liability for failure to withhold income tax at the source**

Legal and physical persons who pay income and fail to withhold tax at the source as required under this Code are liable for payment of the tax not withheld at the source, as well as the respective penalties and interest, from their own net income (profit).

## **Article 71. Writing off bad tax debts**

1. Bad debts owed for taxes, penalties, and interest are written off by the relevant tax agencies if the following circumstances occur:

- a. expiration of the statute of limitations for collection of tax in accordance with Article 57;
- b. cessation of the tax obligation on grounds established by this Code or other acts of tax legislation.

2. In other cases, bad tax debts are written off according to procedures established by the Government of the Republic of Taxastan.

## **Article 72. Interest on overpayments and tax arrears**

1. If any amount of tax is not paid by the due date, the taxpayer is obligated to pay interest on such amount for the period from the due date to the date the tax is paid.

2. In the case of an overpayment of tax, interest shall be paid to the taxpayer from the date of the application for a refund of the overpayment to the date on which the refund is made. For purposes of the preceding sentence, where an overpayment is credited, the refund is considered to be made when the credit is authorized. For purposes of this point, a refund is considered to be made when authorized, as long as the taxpayer receives the payment within seven days thereafter. Interest is not payable to the taxpayer if the refund is made no more than 45 days from receipt of the taxpayer's application for a refund of the overpayment.

3. Interest for delays resulting from failure to observe the order of priority for debiting from settlement or other accounts of the taxpayer the amounts of taxes to the budget and the amounts of sanctions for delaying the crediting (transferring) to the budget of amounts debited from the accounts of their taxpayer customers, and for returning to the taxpayer, without honoring them, payment orders for payments to the budget when the taxpayer has funds in his accounts is charged to the banks and other financial-credit institutions servicing the taxpayer in the amounts set forth in point 4 of this Article. Taxpayers shall not pay interest for these days.

4. The interest rate under this Article is set at 125 percent of the simple interest rate of the interbank credit auction of the National Bank of Taxastan, determined for each quarter on the basis of the average for the preceding quarter.

## **Chapter 10. Liability**

### **Article 73. Definition of Tax Violation**

Tax violation means any act (action or inaction) of a taxpayer, a tax agent, and their representatives which is contrary to law (violates tax legislation) and for which this Code establishes liability.

### **Article 74. Persons Subject to Liability for Tax Violations**

1. Legal persons and individuals shall bear liability for tax violations in cases provided for by this Chapter.

2. An individual may be held liable for tax violations from an age of 16 years.

### **Article 75. Procedure in Tax Violation Cases**

1. Persons shall be held liable and prosecuted for tax violations according to the procedure established in this Chapter.

2. Subject to points 3 and 4, violations of legislation on taxes and fees possessing the elements of an administrative violation or a crime shall be prosecuted according to procedure established respectively by legislation of the Republic of Taxastan on administrative violations and by legislation of the Republic of Taxastan on criminal procedure.

3. Violations of tax legislation involving movement of goods across the customs border of the Republic of Taxastan shall be prosecuted according to procedure established by customs legislation of the Republic of Taxastan.

4. In case of the violations stated in Articles 81, 82, 83, and 85, violations shall be prosecuted under the same procedure as that applied to the assessment of tax and to

appealing a assessed amount of tax. In this case the statutes of limitations shall be consistent with those applicable to the corresponding tax.

## **Article 76. Circumstances Excluding Liability for Tax Violations**

A person may not be held liable for a tax violation in the presence of at least one of the following circumstances:

- 1) no tax violation has occurred;
- 2) the person is not at fault for the tax violation;
- 3) an act possessing the elements of a tax violation is committed by an individual who had not reached an age of 16 years as of the moment of the act;
- 4) the statute of limitations for the tax violation has run out.

## **Article 77. Forms of Guilt for Tax Violations**

1. A person who has committed an unlawful act deliberately or out of negligence shall be recognized as culpable for a tax violation.
2. A tax violation shall be recognized as deliberate if the person who committed it realized the unlawful nature of his actions (inaction) or the harmfulness of the consequences of these actions (inaction), and desired or consciously allowed the harmful consequences of such actions (inaction) to occur.
3. A tax violation shall be recognized as having been committed out of negligence if the person who committed it did not realize the unlawful nature of his actions (inaction) or the harmfulness of the consequences of these actions (inaction), although this is something he should have and could have realized.
4. The culpability of a legal person for a tax violation shall be determined depending on the culpability of its officials or its representatives whose actions (inaction) are responsible for occurrence of this tax violation.

## **Article 78. Circumstances Excluding Guilt of a Person for a Tax Violation**

1. The following circumstances shall be recognized as precluding culpability of a person for a tax violation:
  - a) an act possessing the elements of a tax violation is committed owing to a natural disaster or other extraordinary and insurmountable circumstances;
  - b) an act possessing the elements of a tax violation is committed by an individual taxpayer who at the time of the act was in a state rendering him unaccountable for his actions, or was unable to control them owing to a pathological condition;

- c) the taxpayer or tax agent has complied with written instructions and explanations given by a tax authority or other authorized state body, or by their officials within the limits of their competency.
- d) the taxpayer has a defensible (?) sound legal basis for his actions.

2. In the presence of the circumstances stated in point 1 of this Article, the person shall not be held liable for the tax violation.

### **Article 79. Period of Limitations for Liability for Tax Violation**

1. A person may not be held liable for a tax violation if 4 years have passed (the period of limitations) from the date of its commitment or from the date following the end of the tax period in which this violation was committed.

The period of limitations shall be reckoned from the date of the tax violation for all tax violations other than those provided for in point 4 of Article 76.

### **Article 80. Fines for late filing of returns**

1. A taxpayer who fails to file a timely tax return is liable for a penalty equal to 5 percent of the amount of tax underpayment for each month (or portion of a month) during which the failure continues, up to 25 percent of such amount.

2. The penalty under point 1 of this Article is limited to 250 nontaxable minimum incomes for the first month (or portion of a month) in which no return is filed.

3. For purposes of this Chapter, an underpayment of tax is the difference between the tax required to be shown on the return and the amount of tax paid by the due date.

4. In any event the penalty may not be less than the smaller of the two amounts:

a. 25 nontaxable minimum incomes;

b. 100 percent of the amount of tax required to be shown on the return.

### **Article 81. Fines for understatement of taxes**

1. If the amount of tax shown on a return understates the amount of tax required to be shown on the return, the taxpayer is liable for a penalty in the amount of 10 percent of the understatement (50 percent if the understatement is considered substantial in accordance with point 2 of this Article).

2. The understatement is considered substantial if it exceeds the smaller of the following two amounts:

- a. 25 percent of the tax required to be shown on the return; or
- b. 5,000 nontaxable minimum incomes.

3. In the process of review of the decision of the tax authorities in accordance with Article 90 of this Code, the Tax Service of the Republic or a court may decide against imposing the penalty under this Article if the taxpayer has substantial legal grounds for his actions.

### **Article 82. Fines for VAT violations**

The following fines are imposed for VAT violations:

- a. in the event of operation without VAT registration where VAT registration is required — 100 percent of the amount of VAT payable to the budget for the entire period of operation without VAT registration;
- b. in the event of the incorrect issuance of a tax invoice resulting in a decrease in the amount of tax or increase in a credit or or in the event of the failure to issue a VAT invoice— 100 percent of the amount of VAT for the invoice or on the transaction;
- c. for issuing a VAT invoice a person who is not registered for VAT is assessed a penalty of 100 percent of the value added tax which is indicated in the tax invoice and is due for transfer to the budget but has not been transferred.

### **Article 83. Liability of banks and other financial-credit institutions conducting various banking operations**

Banks and other financial-credit institutions conducting various banking operations are subject to penalty:

- a. for opening settlement and other accounts of physical and legal persons without presentation of documents showing the assignment of the taxpayer identification number by the tax authorities -- in the amount of 200 nontaxable minimum incomes for every opened account;
- b. for violating the deadline for notifying the tax authorities of the opening by the taxpayer of settlement and other accounts -- in the amount of 5 nontaxable minimum incomes for every opened account;
- c. for violating the order of fulfillment of payment orders of taxpayers concerning payment of taxes from their settlement and other accounts, including foreign currency accounts, in the event of sufficient funds in these

accounts, that is, the nonfulfillment of such payment orders at least after fulfillment of payment orders for withdrawing funds for payment of wages-- in the amount of 10 percent of the funds of payment orders not fulfilled in the established order;

- d. for the failure to deposit or transfer to the bank or other financial-credit institution carrying out cashier services for the budget, the amounts of taxes to the income of the corresponding budget on the day that the transaction on withdrawing funds from the settlement or other account of the taxpayer took place -- in the amount of 150% (calculated on the basis of one day) of the simple interest rate of the interbank credit auction of the National Bank of Taxastan on the nondeposited (nontransferred) amount of taxes for each day of violation of the deadline.

#### **Article 84. Liability for the Impediment of Tax Investigation**

1. If a taxpayer hinders an investigation of its tax obligation, that person is assessed a penalty of 5 percent of the unpaid tax for each month or portion of a month during which the failure to pay occurred.

2. By way of example, the following actions are considered to constitute hindrance to a tax investigation:

- a. refusal to satisfy a lawful requirement of tax authorities regarding the inspection of documents, reports or other information which is related to economic activities and is under the person's control;
- b. noncompliance with a lawful requirement of tax authorities to report for an interview with the tax authorities' officials;
- c. interference with a tax official's lawful right to enter the territory of the person's economic activities.

3. Legal requirements and rights of the tax authorities and their officials in this Code mean requirements and rights that are granted by this Code and other legislative acts of the Republic of Taxastan.

#### **Article 85. Liability Imposed on Responsible Parties**

1. An official responsible for withholding, collecting, reporting on or paying any type of tax established by this Code shall be liable if he/she:

- a. fails to properly withhold, collect, report on or pay the tax;

- b. attempts to evade the payment of the tax.

2. The liability of an official imposed under this Article shall not exceed the total amount of the tax that was not withheld, collected, or paid or whose payment was evaded by that official.

3. Under the terms of this Article a penalty of up to 20 nontaxable minimum incomes is imposed on the following officials:

- a. a manager who was in a position to know of the actions described in point 1 of this Article;
- b. a chief accountant or another senior official who is responsible for supervision or control of actions described in point 1 of this Article and who had advance knowledge of the unlawful actions described above.

#### **Article 86. Unlawful denial of access to authorized officials of the tax authorities onto territory or premises**

Unlawful denial of access of a tax authority official conducting a tax examination pursuant to this Code to the grounds or premises of a taxpayer or other liable person (except living quarters) by a taxpayer or his legal representative shall incur a fine by the tax authorities amounting to 200 times the minimum nontaxable income.

#### **Article 87. Failure to respect the procedure for possession, use and (or) disposal of attached property**

A taxpayer's or tax agent's violation of the procedure established by this Code for possessing, using and (or) disposing of attached property shall incur a fine by the tax authorities amounting to 400 times the minimum nontaxable income.

#### **Article 88. Failure to Furnish Information Concerning the Taxpayer to a Tax Authority**

1. Failure to present taxpayer information to a tax authority, expressed as refusal by a legal person to present documents contemplated by this Code in its possession containing taxpayer information when so requested by a tax authority conducting a tax examination, and equally so, as avoidance of presentation of such documents, or as presentation of documents containing information known to be untruthful, shall incur a fine amounting to 200 times the minimum nontaxable income.

2. If the acts provided for in item 1 herein were committed by an individual, they shall incur a fine amounting to 20 times the minimum nontaxable income.

#### **Article 89. Exoneration of taxpayer from liability**

In the event that errors that led to incorrect determination and execution of tax obligations are corrected independently before commencement of a tax examination, the taxpayer shall be released from liability, with the exception of paying the tax and interest.

## **Chapter 11. Settlement of Disputes**

### **Article 90. Review of tax authority decisions**

1. A taxpayer who disputes a tax assessment or other decision of a tax authority may appeal to the subdivision of the tax organ which issued the decision, with a petition for its reconsideration in an administrative procedure. The petition must indicate the reasons and documents on which the taxpayer bases the request. The petition must be filed within 30 days of the date the taxpayer received notice of the assessment or other decision.
2. The tax authority shall consider the petition of the taxpayer for review, shall issue its decision thereon, and shall so notify the taxpayer within 30 days.
3. A further appeal with regard to the decision taken by the tax authority may be made to the higher organ, which shall notify the taxpayer of its decision within 30 days of receipt of the appeal. The decision of the higher tax authority may be appealed to the central office of the Tax Service of the Republic, which shall notify the taxpayer of its decision within 30 days of receipt of the appeal.
4. Each subsequent appeal may be filed after expiration of the 30-day period for rendering the decision on the taxpayer's appeal by a lower level tax authority, but must be made before the expiration of 15 days after the taxpayer receives notice of the previous decision.
5. A taxpayer who has appealed to the central office of the Tax Service of the Republic shall have the right to appeal to a court if he disagrees with the Tax Service decision, or if the Tax Service fails to make a decision within 30 days of receipt of the appeal.
6. If the taxpayer pays the tax assessed, he may immediately appeal the decision of the tax authority to the central office of the Tax Service of the Republic and then to the court in accordance with point 5 of this Article.

### **Article 91. Burden of proof**

The burden of proving that an assessment is incorrect is on the taxpayer.