

AFGHANISTAN

INCOME TAX LAW

(consolidation to 31 March 2005)

A translation of the Income Tax Act 1965
as published in Gazette number 25 of 1965
and as amended to date.

*** This is not an official translation and has no binding force. ***

This Consolidation has been prepared by the General Presidency of Revenue, Ministry of Finance. It is not an official version of the law and should be read and used with regard to this limitation. All reasonable effort has been made to provide an accurate translation of the official law published in the Dari and Pashtu languages. Where a person requires more certainty than an unofficial translation of the Official Gazettes can provide, that person is advised to seek proper professional advice based on Official Gazettes.

Note: The following Articles have been amended by the Income Tax Amendment Decree 1383 (2005) published in Official Gazette number 845 dated 20 March 2005.

1, 3, 4, 5, 6, 7, 8, 9, 10, 12, 18, 23, 24, 34, 52, 53, 64, 65, 72, 73, 80, 81, 83, 84, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, and 99

This consolidation of the Income Tax Law includes the amendments to those Articles.

***Importantly,** the Income Tax Amendment Decree 1383 comes into force from 30 Jauza 1383 (19 June 2004),*

Article 65 hereof shall be in effect from 1 Hamal 1383 (20 March 2004).

With the enactment of the Income Tax Amendment Decree 1383 attachments number (8) of Official Gazette number (445) dated 1979, (9) of Official Gazette number (481) dated 1981, (10) of Official Gazette number (494) dated 1981, (11) of Official Gazette number (502) dated 1982, (12) of Official Gazette number (521) dated 1981, (13) of Official Gazette number (670) dated 31/4/1367 [1988], (14) of Official Gazette number (704) dated 1989, and decree number (106) dated 28/7/1371 [1992], decree number (610) dated 9/10/1372 [1993], order (hukm) number (366) dated 2/2/1419 H.Q. [1998], part B of decree number (30) dated 23/8/1420 H.Q. [1999], decree number (857) dated 1/12/1420 H.Q. [1999], the decree (2642) dated 12/12/1351 in official gazette (232) dated 29/12/1351, and Article 76 of the Income Tax Law 1344/2/29 are canceled.

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CHAPTER I

**TAX ON INCOME OF PERSONS, CORPORATIONS,
LIMITED LIABILITY COMPANIES AND OTHER ENTITIES**

Article 1 - Article 12

Article 1 A tax is imposed on the income from Afghan sources of all persons, corporations, limited liability companies, and other legal entities whether in Afghanistan or abroad, and on the foreign income of residents of Afghanistan in accordance with provisions of this Law.

A natural or legal person is considered a resident of Afghanistan if:

(1) The person has his or her principal home in Afghanistan at any time during the fiscal year; or

(2) The person is present in Afghanistan for a period or periods amounting to one hundred eighty-three days in the fiscal year; or

(3) The person is an employee or official of the Government of Afghanistan assigned abroad at any time during the fiscal year.

(4) Any other entity is resident in Afghanistan for a taxation year if it was established, formed, or created in Afghanistan or has the centre of its administrative management in Afghanistan at any time during the year.

Article 2 The income tax is imposed for each taxable year on the taxable income of each person, corporation, limited liability company, or other entity. The taxable year is the solar year except as otherwise provided in this Law. The taxable income is the sum remaining after all the deductions and exclusions authorized in this Law and its regulations are deducted from the total of all receipts of the person, corporation, limited liability company or organization.

Article 3 (1) The income tax of legal persons, corporations, limited liability companies, and general partnerships is 20 percent of its taxable income in the fiscal year.

(2) Income in foreign money shall be converted to afghanis for purposes of taxation.

The rate of conversion shall be the average of free rates used by Da Afghanistan Bank to purchase such foreign money at the end of each month.

(3) The income tax of a natural person is the amount calculated in accordance with the following schedule:

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TAXABLE INCOME			AMOUNT OF TAX
From	1 afghani	up to afs 12,501	12,500 per month exempted
	afs12,501	up to afs 100,000	100,000 per month 10%
	afs100,000	above	in addition to afs 8,750 20%

Article 4 Tax on income of resident natural persons in Afghanistan shall be calculated as follows:

1. A natural person who is a resident of Afghanistan is subject to annual income tax on his taxable income including income from sources outside Afghanistan.

2. Any income tax paid to the government of a foreign country by a resident natural person of Afghanistan may be taken as credit only against that part of his annual income tax attributable to his foreign income.

3. If the income of an Afghan resident is derived from more than one foreign country, the income tax credit shall be in proportion to the income from each country as provided in the Income Tax Manual established by the Ministry of Finance.

Article 5 A natural person who becomes a resident of Afghanistan during a fiscal year shall be considered a resident from the time of his arrival in Afghanistan and will no longer be a resident on the day following his departure.

Article 6 All entities that are residents of Afghanistan other than natural persons are subject to the income tax on all taxable income from all sources within Afghanistan and outside Afghanistan according to the provisions of Article 4 of this Law.

Article 7 Non-resident persons are exempt from income tax provided that the foreign country grants a similar exemption to residents of Afghanistan.

Article 8 (1) A non-resident not engaged in trade or business in Afghanistan is subject to income tax on the amount received from sources within Afghanistan as interest, dividends, rents, royalties, and gain or profit of any kind according to the provisions of this Law.

(2) Deductions allowed to legal non-residents under this Law are only allowed in respect of income other than interest, dividends, rents and royalties to those legal non-residents which file a true and accurate return including all information required by this Law and the Income Tax Manual established by the Ministry of Finance.

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- Article 9 (1) Non-resident natural persons, companies and other organizations engaged in economic, service or business activities in Afghanistan are subject to income tax on all taxable income from sources within Afghanistan.
- (2) Deductions are allowable only if and to the extent that they are connected with income from sources within Afghanistan.
- (3) Earnings derived from the operation of aircraft under the flag of a foreign country are exempt from taxation, provided that the foreign country grants a similar exemption to residents of Afghanistan.
- (4) A correct apportionment of expenses with respect to sources of income within Afghanistan shall be determined as provided by this Law and the Income Tax Manual.
- Article 10 The taxability of income in Afghanistan of foreign governments, international organizations, and of their employees not residents of Afghanistan shall be determined by the provisions of existing treaties and contracts with the State.
- Article 11 Organizations which are Exempt from Taxation: Contributions received and income from the necessary operations of organizations that meet the qualifications and conditions stated in this Article are exempt from taxation under this Law. The qualifications that must be met are the following:
- a. The organization must be formally and legally organized under the laws of Afghanistan.
 - b. The organization must be organized and operated exclusively for educational, cultural, literary, scientific, or charitable purposes.
 - c. The organization must be so organized and operated that no profit or gain except those services rendered to anyone else goes to or accrues in the account of any contributor, shareholder, member or officer either during its operation or upon its dissolution.
- Remark 1: Such income becomes exempt only upon approval of an application for exemption. Such application shall be made by the organization in the form and manner stated in the Income tax Manual prescribed by the Ministry of Finance. The application shall be filed with the Ministry of Finance within six months of the enactment of this Law, or, in case of a new organization, within six months of its formation. The Ministry of Finance shall consider the facts presented in the application and other information available and as a result shall approve or reject the application.

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Rejection by the Ministry of Finance of an application for exemption may be appealed from by the organization to the appropriate court as provided in Chapter XII of this Law. In case the application is rejected by the Ministry of Finance, and by the appropriate court if appealed, all income of the organization is subject to taxation as provided by this Law.

Remark 2: Income from any commercial activity not in keeping with the purposes of the organization according to its charter cannot be exempted from taxation under any provision of this Article.

- Article 12
- (1) The income of agencies and departments of the State and of municipalities is exempt from taxation.
 - (2) Government enterprises are excepted from the provision of paragraph 1 of this Article.

CHAPTER II

DETERMINATION OF TAXABLE INCOME

Article 13 – Article 24

Article 13 Taxable Income is the total of all receipts less those exemptions and deductions authorized in this Chapter.

Exemptions are allowances, such as personal exemptions, authorized by provision of this Law.

Deductions are expenses of production, collection, and preservation of income, which are allowed, by provisions of this Chapter, to be deducted from receipts.

Expenditures and costs not specifically defined as exemptions or deductions are not to be allowed.

Article 14 Receipts in cash, or otherwise, subject to income tax include but are not limited to the following items: salaries, wages, fees and commissions, all receipts derived from business and industry, receipts from sale of property, interest, dividends, rents, royalties, awards, prizes, winnings, bakhshishis (gratuities, bonus payments), distributive shares of partnership gross income, income of persons claimed as dependents, and any other return from labor, capital, or economic activity, except as is otherwise provided in this Law.

Article 15 Receipts which are excluded from the gross income of persons, corporations, limited liability companies, and other entities are limited to the following items:

- a. grants, gifts, and awards of the State;
- b. grants, gifts, and awards of foreign governments, international organizations, or nonprofit organizations for contributions to science, art, literature, social progress, and understanding among people;
- c. all scholarships, fellowships, and grants for professional and technical training;
- d. health, accident, and unemployment insurance benefits;
- e. life insurance paid on death;
- f. compensation or damages for personal injuries or sickness;
- g. proceeds of borrowing;
- h. proceeds of issues of stocks and bonds by corporations;

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- i. acquisition of property in connection with mergers of domestic corporations and other entities;
- j. payments on principal received from debtors;
- k. interest on deposits of individuals from banks in Afghanistan;
- l. interest on bonds issued by the State and by municipalities of Afghanistan;
- m. value of property acquired by gift or inheritance by lined descendants;
- n. any other receipts made exempt by the provisions of this Law.

Article 16 Income represented by the value of food, fuel, and goods consumed or used by the producer of the same or by members of his household is excluded from income tax.

Article 17 Rent received in money or otherwise from renting and leasing immovable property used for residential, commercial, or industrial purposes is subject to income tax. Taxation of agricultural lands, gardens, and livestock together with their income are taxed by separate laws.

Article 18 (1) Ministries, agencies and other government organizations, enterprises, companies and charitable institutions are required to withhold taxes from the salary or wages of their employees at the time they are being paid and transfer the withheld amount to the government account.

(2) Pensions of government employees are exempt from income tax.

Article 19 Deduction of all ordinary and necessary expenses of the production, collection, and preservation of income is allowed to persons, corporations, limited liability companies, and other entities. To be deductible, these expenses must have been incurred during the taxable year, or one of three previous years in accordance with provisions of this Law. Personal expenses (not connected with business) and other expenses not specified in the following paragraphs of this Article are not deductible.

- a. Any expense directly related to the cost of production or trade and business, such as insurance and freight expenses, etc., is deductible.
- b. The cost of supplies, materials, fuel, electricity, water, and ordinary and necessary expenses used in the production of income, or in a trade or business, is deductible.

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- c. Wages, salaries, commissions, and fees paid for services rendered by employees in trade or business are deductible.
- d. Interest on business debts is deductible.
- e. Rent paid on property necessary to and used in trade or business is deductible.
- f. Cost of repairs and maintenance of properties necessary to and used for purposes of the business or trade is deductible.
- g. Depreciation of property (except agricultural land) used in a trade or business or held by the producer for the production of income, is deductible according to the Income Tax Manual. The total of deductions for depreciation of any item of property over a period of years shall not exceed its cost to the taxpayer.
- h. Any tax or charge that is an ordinary and necessary expense of doing business, holding property for income, or of producing income, if paid or accrued during the taxable year, is deductible. Taxes imposed by this Law and taxes not qualifying as necessary business expense are not deductible, except as otherwise provided by this Law.
- i. Damages to property, which are substantiated by records or other evidence, caused by fire, earthquake, and by casualty or disaster of any kind are deductible over a three year period, to the extent that the loss was not recovered by insurance.
- j. Losses in business or trade from bad debts are deductible according to the Income Tax Manual established by the Ministry of Finance.
- k. Dividends paid in money by a corporation or limited liability company organized under the laws of Afghanistan are deductible from the taxable income of that corporation or limited liability company. Such dividends are to be included in the taxable income of the person, corporation, limited liability company, or other entity receiving the same;
- l. Other expenses of doing business and of holding property for the production of income are deductible in accordance with the rules and regulations established by the Ministry of Finance.
- m. Advertising and entertainment expense evidenced by documents and up to two per cent of net income is deductible.

Article 20 Personal expenses including but not limited to the following items are not deductible:

- a. wages or other compensation paid to any person for services rendered to the taxpayer or his family for his or his family's benefit and enjoyment.

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- b. expenses and costs of maintenance, repair, construction, improvement, furnishing, and other expenses of the taxpayer's or his family's house or residence or any property devoted to his own personal or family's use;
- c. interest on personal indebtedness;
- d. costs of commuting to and from work and cost of travel for personal purposes;
- e. cost of life, accident, health, and liability insurance for the protection of the taxpayer and his family; and
- f. cost of insurance of any kind for the protection of property used for personal purposes.

Article 21 The cost of acquiring land, buildings, durable items such as machinery, equipment, fixtures, and furniture, or costs of additions or improvements to the same are not deductible, except in the form of depreciation expense allowable under paragraph "g" of Article 19, and except at the time of sale of the property as provided in Chapter III.

Article 22 Additions to reserves for contingencies, bad debts, and other similar purposes are deductible as provided by law.

Article 23 Taxes paid to foreign countries by non-residents on income from sources within Afghanistan are not deductible from income, nor allowable as credits against the income tax, except as provided by an existing treaty.

Article 24 Income from sources within Afghanistan is as follows:

- 1. Interest from loans, deposits, investments, etc;
- 2. Dividends received from resident companies doing business in Afghanistan;
- 3. Salaries, wages, self-employment income, etc., for services performed;
- 4. Rentals and royalties from any property (movable and immovable);
- 5. Gain from sale of immovable and movable property;
- 6. Commissions on sales of any kind including insurance;
- 7. Income from commercial activities within Afghanistan;

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8. Gains from the sale or transfer of any movable property used in commercial or employment activities;
9. Royalties, a management fee, or a commission paid by a resident of Afghanistan;
10. Income from other sources in Afghanistan which is subject to tax according to the provisions of this Law;
11. Income from exploitation of any interest in a right to explore for, or exploit, any mineral, petroleum, or any other resources.

CHAPTER III

**GAIN OR LOSS FROM THE SALE, EXCHANGE,
OR TRANSFER OF ASSETS**

Article 25 – Article 34

- Article 25 Gain from the sale or exchange of assets is subject to the tax on income as specified in this Chapter.
- Article 26 Gain from the sale or exchange of any asset of a corporation or limited liability company is taxable income in the taxable year the asset was transferred.
- Article 27 Gain from the sale, exchange, or transfer, except by inheritance, of an asset, belonging to an individual and specified below is taxable income:
- a. a trade or business, including goodwill;
 - b. a factory including equipment, machinery, buildings and land, or any part of such assets;
 - c. equipment used in the business of transporting persons and property; and
 - d. shares of stock in corporations or limited liability companies.
- Article 28 Proceeds from sale, exchange, and transfer of assets, except by inheritance, shall be reported in full. The following deductions from proceeds of sale or exchange are allowed in determination of taxable gain:
- a. Cost to the taxpayer of the asset and investment sold, less the total amount allowable for its depreciation since it was acquired.
 - b. Expenses of sale including sales commissions, advertising expense, legal expense, transaction and document taxes, and other expenses of selling and transferring the asset
- Article 29 The market value of the asset at the time it was transferred or exchanged (except inheritance), other than by sale, shall be the basis for computing the gain.
- Article 30 The nature of the transfer shall not affect taxability of gain from the transfer, except by inheritance, which is not taxable.

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- Article 31 Losses from the sale or exchange of fixed assets used in trade or business are deductible from the taxable income of the taxpayer in the taxable year in which the sale or exchange took place, provided that the gain from such sale or exchange would have been actually taxable.
- Article 32 Loss from sale or exchange of shares of stock is not deductible except from gain from sale or exchange of shares of stock in the same year. For any such gain, if in excess of loss from such transactions, the excess is taxable, but if any such loss is in excess of gain, the excess loss is not deductible.
- Article 33 Method of Determining and Computing Tax on Capital Gains:
- a. Gain, taxable under Article 27, from sale or exchange of an asset owned by an individual eighteen months or more is subject to the provisions of this Article if one or more of the following criteria and conditions is met:
 1. the transfer (except by inheritance) of property was not a sale;
 2. the asset transferred was a capital asset;
 3. the asset was transferred in the sale or liquidation of a business.
 - b. The income tax of any individual in any taxable year during which fixed assets and investments owned by him eighteen months or more were transferred under any of the circumstances described above, should be the product of his taxable income from all sources multiplied by the special rate imposed by paragraph "c" of this Article.
 - c. The special rate imposed by this Article shall be determined as follows:
 1. the gain from transfer of any assets (except by inheritance) subject to the provisions of this Article is divided by the number of years (to the nearest year) it was owned;
 2. the average annual gain or gains so determined are added to all other taxable income;
 3. a tentative tax is computed on this total by applying the rate schedule in Article 3;
 4. the tentative tax so obtained, divided by the amount in which it was computed, is the special rate referred to above, except that if the resulting rate is less than four per cent the special rate shall be four percent.

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- Article 34
- (1) Except by inheritance and as mentioned in Article 27 of this Law, a gain from sale or transfer of immovable property is subject to a fixed tax of one percent of the market value of the property at the time of transfer of the ownership in lieu of income tax.
 - (2) A gain from sale of movable property or a vehicle is subject to a fixed tax of two percent of the market value of the property at the time of transfer of ownership in lieu of income tax.

CHAPTER IV

PARTNERS AND PARTNERSHIPS

Article 35 – Article 40

- Article 35 The following definitions apply with reference to provisions of this Law:
- a. A partnership is an association of two or more persons joining under an agreement, in accordance with the provisions of the Commercial Code, to carry on business and share the profits.
 - b. A partner is one of the members of the partnership.
 - c. The partnership agreement is the body of provisions agreed to by the partners under which they operate the partnership
 - d. A general partnership (Sherkat-Tazamoni) is one in which the partners are liable for payment of debts of the partnership individually and collectively.
 - e. A special partnership (Sherkat-Tazamoni-Mekhtalet) is one in which one or more partners have unlimited liability for debts of the partnership and the rest of the partners have liability limited to their shares of capital in the partnership.
 - f. A limited liability company (Sherkat-Mahdudul Masseliat) is a partnership in which the partners are not individually liable for debts of the company, but each partner has liability limited to his shares of capital in the company.
- Article 36 A limited liability company is subject to the same provisions of this Law as corporations (Sherkat-Sahami). Partners in such companies are considered shareholders, and distributions of earnings are considered dividends for purposes of this Law.
- Article 37 A special partnership is subject to the same provisions of this Law as a general partnership.
- Article 38 A general partnership in itself is not subject to the income tax imposed by this Law. Partners are liable for income tax only in their separate and individual capacities. The income of the general partnership is taxable as income of the partners individually, each of whom is required to include his share of the partnership income in his taxable income.
- Article 39 Every general partnership is required to make an annual report of all its receipts, expenses, and disbursements, and to determine its net

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income in the same manner as an individual, except that no deductions for personal exemptions may be made. The partnership is required to report separately for each partner his share of the following items:

- a. the net income or net loss;
- b. the gains or losses from sale or exchange of movable and immovable property; and
- c. salary, interest, dividends, advances, etc.

Article 40 The income, expenses, and net earnings of a general partnership shall be deemed to have been shared by the partners according to the terms and conditions of the general partnership agreement.

CHAPTER V

RULES FOR ACCOUNTING

Article 41 – Article 46

- Article 41 All persons with taxable income in a taxable year, all partnerships, limited liability companies, corporations, and other entities shall keep records of all transactions, of all movable and immovable property owned or leased, and of all income. Such records together with all statements, receipts, and other documents pertaining to transactions, leases, contracts, and other business shall be preserved by the owner and be available to the Ministry of Finance upon request.
- Article 42 Corporations and limited liability companies shall compute their income using the accrual method of accounting which recognizes income and expense when due.
- Article 43 A taxpayer, except a corporation and a limited liability company, shall compute taxable income using the cash method of accounting together with adjustments for inventories and depreciation. The Ministry of Finance may permit a taxpayer to compute his income using the accrual method. Before a taxpayer may change his accounting method he must have the consent of the Ministry of Finance.
- Article 44 The Ministry of Finance is authorized to prescribe the records that shall be kept by any taxpayer or class of taxpayers to reflect income clearly and to require such reports as it deems necessary to administer the income tax.
- Article 45 Inventories of goods, products, and materials used in business shall be taken at the close of each taxable year and priced at cost or market value, whichever is lower. All taxpayers engaged in manufacturing, trade, or other business are required to take inventories on such basis as the Ministry of Finance may prescribe.
- Article 46 In case two or more organizations, trades or businesses are owned or controlled directly or indirectly by the same person, group of persons, corporation, or other entities, the Ministry of Finance may distribute, apportion or allocate receipts, deductions, credits, or allowances between or among such organizations, trades or businesses to reflect accurately the income and prevent evasion of taxes or may require returns on a consolidated basis if deemed necessary in order to prevent evasion of taxes and clearly reflect income.

CHAPTER VI

**SPECIAL PROVISIONS RELATING TO
CORPORATIONS AND LIMITED LIABILITY COMPANIES**

Article 47 – Article 53

- Article 47 Carry-Over of Losses. A net operating loss is defined as the amount by which deductions allowed under this Law exceed receipts. A corporation or limited liability company incurring a net operating loss in a taxable year should deduct this loss from its taxable income of three succeeding years, deducting each year one-third of the loss.
- Article 48 Distribution of Property; not Dividends, by Corporations and Limited Liability Companies. Except payments of dividend, and except when made in connection with liquidation of a corporation or a limited liability company, the distribution of the assets of the corporation or limited liability company to its shareholders or partners shall be treated by the shareholder or partner as a reduction in the cost of his stock or capital share.
- Article 49 Liquidation of a Corporation or a Limited Liability Company. A distribution of assets among shareholders or partners in connection with liquidation of a corporation or a limited liability company shall be treated by the shareholder or partner as proceeds from sale or exchange of assets as provided in Chapter III of this Law. In such cases, the amount distributed in money plus the market value of any other assets distributed less the shareholder's cost of the stock or the amount of partner's capital on which distribution is made, is taxable income of the shareholder or partner. No gain or loss shall be recognized to the corporation or limited liability company on the distribution of its assets in partial or complete liquidation.
- Article 50 Dividends in Money and Securities. A dividend is any distribution of money or assets made by a corporation or a limited liability company to its shareholders or partners out of earnings. Dividends are subject to the following provisions:
- a. Dividends paid by a corporation which is organized under the laws of Afghanistan and a wholly owned affiliate which cannot be consolidated may be excluded from the income of the corporation receiving such dividends if it is organized under the laws of Afghanistan and whose income is subject to income tax.
 - b. Dividends paid in the form of securities of any kind are not deductible from income of the corporation or limited liability company.

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- c. Dividends in money are taxable income of the recipient at the time received, but dividends in the form of securities of any kind are not considered taxable income of the recipient at the time received.

Article 51 Withholding of Tax on Dividends, Wages, and Salaries Paid by Corporations and Limited Liability Companies. Any corporation or limited liability company organized under the laws of Afghanistan is required to withhold income tax from wages and salaries paid, as provided in Chapter IX of this Law. A corporation or limited liability company is also required to withhold 20 percent of all dividends or distributions paid in money. An additional 10 percent (total of 30 percent) shall be withheld from such dividends upon anonymous investments in shares of the corporation or limited liability company. The amounts withheld are to be paid by the corporation or limited liability company to the State within one week. At the same time a report shall be filed with the Ministry of Finance listing the names of all shareholders or partners, the amount of dividend withheld, and the amount paid each shareholder or partner. When distributing dividends, a corporation or limited liability company shall issue to each shareholder or partner a statement of the amount of his dividend, the amount withheld, and the balance paid to him. The amount withheld shall be a credit against the income tax of the shareholder or partner on all of his income, including the dividend before withholding. The statement from the corporation or limited liability company shall be attached to his income tax return for the taxable year in which the dividend was paid.

Article 52 The credits mentioned in this Article shall not be allowed from 21 March 2005 (1 Hamal 1384).

To companies meeting the following conditions for the purpose of expansion, a credit for five years of not more than 15 percent in total and no more than five percent in any year is allowed only for acquisition cost of new machinery, equipment, and apparatus based on the certification of the Ministry of Mines and Industries, and only against tax liabilities of five consecutive years beginning with the first day of the taxable year during which the new machinery, equipment, or apparatus was acquired:

- a. the corporation is engaged in manufacturing or mining;
- b. the corporation has purchased and acquired new machinery, equipment, or apparatus which has been or will be placed in operation in Afghanistan;
- c. the corporation has furnished copies of all documents pertaining to the purchase and delivery of the property involved to the Ministry of Finance in accordance with the Income Tax Manual.

The allowance of this credit shall affect neither depreciable value nor the deductibility of depreciation of the assets acquired.

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- Article 53 (1) In the event of any conflict between contracts, agreements and provisions of other laws with the Income Tax Law, the provisions of the Income Tax Law shall prevail.
- (2) International contracts and agreements signed by the Government of Afghanistan with foreign countries or United Nations agencies are not subject to paragraph (1) of this Article.
- (3) Enterprises approved under the Law on Domestic and Foreign Private Investment in Afghanistan (Official Gazette number 803 dated 20 Sunbulla 1381) ("approved enterprises") (*tashabuz mansur shuda*) prior to 22 November 2003 (1 Kawos 1382) which have commenced activities may use the concessions mentioned in the provisions of that Law only if they have complied with all the requirements set out in the provisions of related laws.
- (4) Approved enterprises which have not met the requirements set out in the Law on Domestic and Foreign Private Investment of Afghanistan are not entitled to use the tax exemptions mentioned in the provisions of that Law after 21 June 2004 (1 Saratan 1383).
- (5) Approved enterprises shall be entitled to a deduction for the depreciation of capital assets as follows:
- four years for buildings; and
 - two years for other capital assets.
- (6) As an exception to Article 47 of the Income Tax Law, approved enterprises which incur a net operating loss in a fiscal year based on legal records and accounting records may carry this loss forward as a deduction from taxable income in each subsequent year until the loss is fully extinguished. The loss incurred by such approved enterprises shall be calculated in accordance with Article 47.
- (7) If approved enterprises granted tax exemption under the provisions of the Law on Domestic and Foreign Private Investment in Afghanistan hold capital assets on the date on which the tax exemption ends as a result of paragraph (4) of this Article, after the calculation of the depreciation for the capital assets, the remaining value of the capital assets on that date will be treated as the cost of the capital assets for the purpose of applying paragraph (5) of this Article.
- (8) The depreciation deduction for buildings and equipment shall be an equal deduction for each fiscal year of depreciation. If a capital asset is owned by the enterprise for less than one half of the year, then a deduction for half the annual amount will be allowed.
- (9) The depreciation deduction shall only apply to capital assets acquired and first used in the year in which the enterprise was approved or the following two years.

CHAPTER VII

TAXATION OF INSURANCE COMPANIES

Article 54 – Article 59

- Article 54 Insurance companies, to qualify for the provisions of Articles 55, 56, 57, and 58, shall meet the following conditions:
- a. They shall have been organized as corporations under the laws of Afghanistan.
 - b. If the company is engaged in more than one field of insurance, such as casualty-risk insurance, life insurance, or in any other business, it must have separate accounting and reserves for each of its fields of insurance and other activities.
- Article 55 Taxable Receipts of Insurance Companies. The following receipts of insurance companies are subject to income tax:
- a. Interest, dividends, rent, and other income from investments and property;
 - b. all receipts from activities other than insurance;
 - c. all premiums for insurance against fire, theft, accident, sickness, casualty, or risk, the insurance of which is for a specified term, and no money claim because of the insurance may be presented to the company by the policyholder except for losses from the eventuality insured against;
 - d. gains from capital transactions which are taxable as provided in Chapter III of this Law.
- Article 56 Premium Income that is Exempt from Income Tax. All insurance premiums received for written contracts that require ultimate payment of specified benefits to the policyholder or his beneficiaries are exempt from income tax.
- Article 57 Non-deductible Expenses of Insurance Companies. The following expenses and payments made in connection with insurance for which premium income is tax exempt under Article 56 are not deductible:
- a. Commission expense and other costs of writing such insurance;
 - b. Payments of benefits to the policyholders or their beneficiaries.

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Article 58 Deductible Expenses of Insurance Companies. The following expenses and payments of insurance companies are deductible from their income:

- a. claims paid on insurance for which premium income is taxable;
- b. commissions and other costs of writing insurance for which premium income is taxable;
- c. reinsurance costs of insurance for which premium income is taxable;
- d. additions to reserves for claims, provided such reserves do not exceed 100 per cent of premiums for marine insurance and 50 per cent of premiums for any other risk insurance received during the taxable year;
- e. additions to reserves for losses in operations in the field of insurance for which premium income is taxable, provided such reserves do not exceed twice the amount of paid-in capital for such field of insurance;
- f. all necessary expenses of doing business as provided in Chapter II except those cited in Article 57.

Remark: Any transfers or payments from reserves cited in clause "d" and clause "e" above, except for actual claims and losses or for dividend payments in money, are taxable income in the taxable year during which the transfer or payment was made.

Article 59 Any foreign insurance company or underwriter receiving premium income of any kind from within Afghanistan is subject to taxation on its net income from within Afghanistan. Such income shall be determined as follows:

- a. the premiums received by the company from within Afghanistan in the taxable year shall be determined;
- b. the total premiums received world-wide by the company in the same period shall be determined;
- c. the net income before income tax and dividend payments of such company from its world-wide business shall be determined;
- d. the amount determined in "a" divided by the amount determined in "b" multiplied by the amount determined in "c" shall be taxable income.

CHAPTER VIII

**TAXATION OF BANKS, LOAN AND
INVESTMENT CORPORATIONS**

Article 60 — Article 63

- Article 60 Banks, loan and investment corporations are subject to income tax on all income from dividends, interest, discounts, rents, service charges, fees, commissions, and on gains from capital transactions.
- Article 61 Necessary and ordinary business expenses, as provided in Chapter II, are deductible from the income described in Article 60. Losses from capital transactions, dividends paid in money and additions to a reserve against losses on loans are also deductible.
- Article 62 Additions to reserves against losses on loans are deductible only if such reserve does not exceed 25 per cent of loans outstanding at the end of the taxable year. Any transfers or payments from such reserve, except in accordance with the purpose of the reserve, are taxable income in the year the transfer or payment was made.
- Article 63 Increase or decrease in value of securities owned is not recognized for purposes of this Law until realized through sale or exchange of the securities. When gain or loss is realized through sale or exchange of the securities, such gain or loss shall be income or loss in the year in which the sale or exchange took place.

CHAPTER IX

WITHHOLDING TAXES ON INCOME

Article 64 - Article 71

Article 64 Withholding of Taxes on Salaries and Wages. All partnerships, organizations, agencies, departments, and enterprises of the State and municipalities; all corporations and limited liability companies employing two or more persons in any month of a year are required to withhold taxes as provided in Article 3 of this Law from all salary and wage payments, and pay the amount withheld to the Government account.

Article 65 (1) Payments of rent for buildings and constructions which are rented to legal or natural persons and are used for business purposes or offices where the monthly rent is more than 15,000 afghanis, are subject to a 20 percent income tax.

(2) Tenants of buildings and constructions mentioned in paragraph (1) of this Article are required to pay tax according to the rulings issued by the Ministry of Finance.

(3) Tax collected under this Article is paid by the tenant in respect of the income tax liability of the landlord on rental income under this Law. This tax shall be treated as prepayment of the tax liability of the landlord and shall be credited at the time of annual tax payment. In the event of a dispute about the amount of rent owed by a tenant, the tenant will be treated as having paid to the landlord as rent any tax that was paid to the relevant authorities under this Article.

(4) Payments for rental services include:

– any money, goods or services or any other benefit received by person or persons for rental services; and

– the cost of any repairs, renovations or improvements to the property carried out by the tenant or for the tenant and paid for by the tenant.

(5) If the rental payment of a property is less than the actual rental value of the property, the Ministry of Finance will calculate the rent according to the market value by its authorized panel.

(6) Property dealers are required to send a copy of the agreement to the Ministry of Finance as soon as it is signed. If a property dealer makes a false agreement or delays sending the agreement, the Ministry of Finance will officially notify the Ministry of Justice to take necessary action.

(7) Where it is proven that the rent in a lease agreement is more than 20 percent lower than the market value rent, paragraph 5 of this Article will be applied. In the case of a dispute on market value of the rent,

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the onus is on the landlord to prove that the rate fixed by Ministry of Finance is not correct. This subsection is applicable where the Ministry of Finance finds evidence and documents which show that the rent mentioned in the contract is less than what is paid. In this case, the Minister of Finance can seek an order of an authorized court that requires the landlord to lease the property to the Minister of Finance at the end of the current lease for a period twice the period set out in the current lease for the rental price set out in the current lease.

(8) If the tax has not been paid within 15 days of the due date, the following rules will apply:

(1) Subject to an order from an authorized court, the right of the landlord in a lease agreement or similar contract to receive payment for rental services shall be treated as if it has been temporarily transferred to the Minister of Finance as representative of Government of Afghanistan;

(2) If the tenant has not paid the tax due within 30 days after receiving notice from the Ministry of Finance of the amount overdue, the right of the landlord in a lease agreement or similar contract to evict tenants for non-payment of rent shall be treated as if it has been transferred to the Minister of Finance as representative of Government of Afghanistan;

This arrangement will remain in place until the Ministry of Finance receives rental tax and non payment fine.

(3) The provisions of paragraph (8) of this Article shall apply only on the basis of an order of an authorized Court.

Article 66 Remittance of Tax Withheld. Any employer required to withhold taxes by Article 64 is required to remit to the State the amount withheld within one week. The remittance shall be made to Da Afghanistan Bank or to an agent authorized in the rules and regulations of the Ministry of Finance to receive tax payments. The employer shall submit with this remittance a Tax Withholding Report in such form as is prescribed in the Income Tax Manual of the Ministry of Finance.

Article 67 Annual salary and tax statement to be furnished to each employee. At the end of the taxable year, each employer required to withhold taxes from salaries and wages shall prepare for each person on the payroll during the taxable year a salary and tax statement in the form prescribed by the Ministry of Finance.

Article 68 Annual Summary Report of Taxes Withheld from Salaries and Wages. Every employer required to withhold taxes from salaries and wages shall file an annual summary report of taxes withheld from salaries and wages in the form and at the time and place prescribed by the Ministry of Finance.

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- Article 69 Person Who Discharge Tax Liabilities Through Taxes Withheld.
The income tax liability for a taxable year is discharged by a person filing his salary and tax statement, certified by his employer, within six months after the end of the taxable year, provided he meets the following conditions:
- a. He has no taxable income in the taxable year other than the salary or wage form which taxes were withheld.
 - b. He was not employed during the taxable year by more than one employer.
 - c. The taxes withheld were in accordance with the tables of instructions issued by the Ministry of Finance as provided in Article 65.
- Article 70 Additional Tax Liability of Person Employed by More than one Employer Subject to Tax Withholding. Any person with income from salaries or wages subject to tax withholding from more than one employer, but with no other taxable income, shall file an income tax return as provided in Chapter XII. The amounts of taxes withheld at the sources from salary or wages shall be a credit against the taxpayer's tax liability.
- Article 71 Tax Liabilities of Persons with Income Other than Salaries and Wages. Any person with taxable income in addition to his salary or wages shall file an income tax return as provided in Chapter XII. The taxes withheld shall be a credit against the taxpayer's tax liability.

CHAPTER X

BUSINESS RECEIPTS TAX OF LIMITED

LIABILITY COMPANIES AND CORPORATIONS

Article 72 - Article 77

- Article 72 (1) The business receipts tax is imposed on the business activities of limited liability companies, corporations, general partnerships and organizations.
- (2) Natural and legal persons deriving 50,000 afghanis or more income per month from providing taxable services mentioned in paragraph 2 of Article 73 of this Law are subject to tax mentioned in paragraph 1 of this Article.
- Article 73 (1) The business receipts tax is collected from limited liability companies, corporations, general partnerships and organizations as follows:
- 1- Five percent of the gross receipts (before any deductions) during the fiscal year of commissions, fees, interest, dividends, rent, royalties, and similar income. However, the business receipt tax does not apply to the rental income of a natural person from which tax has been withheld under Article 65.
 - 2- Two percent of all the gross receipts (before any deductions) during the fiscal year for materials, equipment, services, transportation, and construction provided under terms of a contract;
 - 3- Two percent of the gross receipts (before any deductions) during the fiscal year from premium income for insurance;
 - 4- Two percent of the gross receipts (before any deductions) during the fiscal year from sale of admissions to public entertainment including cinema shows, plays, concerts, exhibitions, sports and other shows.
 - 5- Two percent of the gross receipts (before any deductions) during the fiscal year from sales of products, goods, assets, and other services.
 - 6- Ten percent of the income derived from the services provided by a legal or natural person which is 50,000 afghanis or more per month in accordance with the rulings issued by Ministry of Finance.

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(2) Taxable services mentioned in paragraph 6 of Article 73 are hotel services, restaurant services, telecommunications services, and airline services:

- "hotel services" means the provision of sleeping accommodation and related services, including the provision of meals, beverages, laundry and communications services, to persons who occupy such accommodation as transient guests;
- "restaurant services" means the provision of food or beverages by an establishment that provides facilities for immediate consumption at that establishment, or catering services of prepared food; or sales of cooked foods that were prepared on the premises;
- "telecommunications services" means the provision of telephonic services or internet services by a telecommunications service provider or internet service provider, including digital or analogue telephone, facsimile or data transfer communications, and internet access by any means.
- "airline services" means passenger air services where the flight originates in Afghanistan.

(3) Total income of a business entity is not separable.

(4) The monthly receipts of a person for the provision of taxable services includes money, goods and services. The cost of goods and services are computed in afghanis according to market value.

(5) Persons who derive taxable income from the provision of taxable services are required to file return forms for each quarter year of the fiscal year by the 10th day of the month following each quarter.

(6) If a taxpayer claims that he had no taxable income for the past one or more months, he is required to file a return form and submit it to the Ministry of Finance.

If the claim is accepted then the taxpayer shall be subject to the tax mentioned in paragraph (1) of this Article.

Article 74 The business receipts tax is due and payable within six months after the close of the taxable year. The taxable year is the solar year in which the receipts and income were realized. The business receipts tax must be paid either before or at the same time as the income tax is paid.

Article 75 Business receipts tax is payable on the total receipts and it is not affected whether the taxpayer has a profit or loss during the taxable year.

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Article 76 Article 76 repealed with effect from 19 June 2004 (30 Jauza 1383)

Business Receipts Tax Subject to Exemptions for New Industries and by Investment Laws. Exemption given to companies under laws to encourage new industries or under the Foreign Investment Law shall apply with respect to the business receipts tax provided by this Chapter.

Article 77 Business Receipts Tax is Deductible from Income. The business receipts tax paid or payable shall be a deductible expense in computing taxable income for the same taxable year.

CHAPTER XI

FIXED TAXES OF INDIVIDUALS

Article 78 - Article 91

- Article 78 The taxes imposed by this Chapter are called fixed taxes and are imposed on commercial activities of individuals, limited liability companies, and corporations who are engaged in the activities or who own the properties described in this chapter, and in the manner and at rates fixed by each activity.
- Article 79 Fixed taxes are due and payable during the taxable year unless otherwise provided in this Chapter.
- Article 80 (1) Persons who import goods without having a business license are subject to three percent fixed tax on the total cost (including customs duties) of the goods imported in lieu of taxes on income from such activities.
- (2) Persons who import goods and have an interim business license but do not provide their business declaration form to the Ministry of Finance are subject to three percent fixed tax on the total cost (including customs duties) of goods imported in lieu of taxes on income from such activities.
- (3) The tax mentioned in paragraphs (1) and (2) of this Article shall be paid at the customs house where customs duties of the goods are paid.
- Article 81 (1) Persons who export goods without having a business license are subject to two percent fixed tax on the total cost (including customs duties) of the goods exported in lieu of taxes on income from such activities.
- (2) Persons who export goods and have an interim business license but do not provide their business declaration form to the Ministry of Finance are subject to two percent fixed tax on the total cost (including customs duties) of the goods in lieu of taxes on income from such activities.
- (3) The tax mentioned in paragraphs (1) and (2) of this Article shall be paid at the customs house where customs duties of the goods are paid.
- Article 82 Fixed Tax of Internal Traders All individuals engaged in internal trade without any business license, in which goods are moved from one province to another, are subject to fixed tax of four percent of the total cost of foreign goods purchased and two percent of cost of domestic

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goods purchased, except foodstuffs and fuel, and raw materials for domestic manufacturing. The tax shall be paid at the custom houses of the district in which the goods were purchased. Such tax is in lieu of taxes on income from such internal trade.

Article 83 Persons who transport persons or goods for business purposes are required to pay an annual tax as follows, before renewal of their driving license:

No	TYPE OF VEHICLE	TAX
1. Vehicles based on tons		
1	From 1 up to 2 tonnes	2600 afs
2	From 2 up to 3 tonnes	3400 afs
3	From 3 up to 4 tonnes	4200 afs
4	From 4 up to 5 tonnes	5000 afs
5	From 5 up to 6 tonnes	6000 afs
6	From 6 up to 8 tonnes	7500 afs
7	From 8 up to 10 tonnes	9000 afs
8	From 10 up to 12 tonnes	10500 afs
9	From 12 up to 14 tonnes	12000 afs
10	From 14 up to 16 tonnes	13500 afs
11	From 16 up to 18 tonnes	15000 afs
12	From 18 up to 20 tonnes	16500 afs
13	From 20 up to 25 tonnes	18500 afs
14	More than 25 tonnes	18500 afs and 500 afs per additional tonne
15	More than the total allowable tons of a trailer	Over 500kg then 200 afs per tonne
2 Passenger vehicles		
1	Taxi with capacity of 3 to 5 passengers	2000 afs
2	Taxi with capacity of more than 5 passengers	2000 afs and 200 afs per additional seat
3	Microbus with up to 14 seats	2600 afs
4	Other buses from 15 to 22 seats	4000 afs
5	Other buses from 22 up to 30 seats	6000 afs
6	Other buses from 30 up to 40 seats	7000 afs
7	Other buses from 40 up to 50 seats	7500 afs
8	Other buses from 50 up to 60 seats	8000 afs
9	Other buses with more than 60 seats	8000 afs and 200afs per additional seat
3 Vehicles according to their cylinders		
1	4 cylinders	1500 afs per vehicle
2	6 cylinders	2000 afs per vehicle
3	8 cylinders	3000 afs per vehicle
4	More than 8 cylinders	3000 afs and 500 afs per additional cylinder
4 Rickshaw		
1	Motorbike rickshaw	500 afs
2	Rickshaw	1000 afs

Article 84 Persons who furnish supplies, materials, or services or construction under contract to the State or its agencies without a business license are subject to a seven percent fixed tax in lieu of taxes on income from such activities. Fixed tax is to be withheld from the amount to be paid.

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- Article 85 Fixed Taxes of Cinemas, Theaters, Exhibitions, Carnivals, Etc. Organizations not subject to taxation under Chapter X of this Law or individuals who are the owners of cinemas, theaters, exhibitions, carnivals or other places of entertainment and who at the same time operate such places, are subject to a fixed tax of ten per cent of receipts from sale of admissions. This fixed tax is in lieu of taxes on income from such business. The fixed tax on admissions sold during each month is to be paid before the sixth day of the following month at the tax office of the district in which the showing took place.
- Article 86 Fixed Tax of Grain and Processing Mill, Cane and Seed Oil Machinery. Owners of mills grinding grains or processing rice, cane or seed oil extracting machines other than those included in Article 86 and its regulations are subject to a fixed tax in lieu of taxes on income from such property. This tax shall be ten per cent of the estimated gross income per year from such mills or machines. The estimated gross income per year shall be determined in accordance with rules and regulations of the Ministry of Finance, and the tax shall be paid by the owner at the tax office of the district in which the mill or machine is located.
- Article 87 Fixed Tax on Mills and Saw Mills Operated Electrically or By Diesel Owners of mills and saw mills with machines which operate by electric or diesel power are subject to a fixed tax on the income from such mills. The fixed tax is equal to 200 afghanis per year per horse power of the motors or machines providing power for the mill. The tax shall be paid by the owner of the mill at the tax office of the district in which the mill is located.
- Article 88 All individuals selling goods and services from established places of business are subject to taxes specified in the schedule of tax categories of businesses. These taxes are in lieu of income taxes from the sale of such goods and services. The tax due from an individual owner (or owners) of a fixed place of business is the amount specified for the related category and grade of such establishment. This tax shall be paid at the tax office of the district in which the business establishment is located. The schedule of tax categories of business establishments shall be prepared by the Ministry of Finance.
- Article 89 (1) The fixed tax of business establishments is to be set by a committee considering the following factors and is to be approved by the Minister of Finance every three years:
- 1- The kind of goods and services offered;
 - 2- The estimated volume of business;
 - 3- The size and rental value of the establishment;

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- 4- The economic advantages of its location in relation to the population;
- 5- Demand for goods and services offered;
- 6- Estimation of turnover, cost of goods and sales of goods;
- 7- Classification between domestic and foreign products;
- 8- Classification between consumable and non-consumable goods;
- 9- Estimation of daily, monthly and annual net income of the business establishment.

(2) A fixed tax is imposed on business establishments which do not have complete accounting documents, and is computed according to the following categories:

- 1- The fixed tax of business establishments which have reliable purchase documents is three percent of the total annual purchases.
- 2- The fixed tax of business establishments which have reliable sales documents is two percent of the total annual sales.
- 3- The fixed tax of business establishments which are not covered by subparagraphs (1) and (2) of paragraph two of this Article is 2.5 percent of the estimated total annual sales.
- 4- The fixed tax of business establishments whose calculation of annual net income is not possible is six percent of the market value of current stock on hand.

Article 90 (1) Physicians or medical practitioners who treat patients outside of State hospitals are required to have a medical treatment license and are subject to a fixed tax in lieu of income tax.

(2) A medical treatment license is valid for one year and can be distributed by the Ministry of Health in Kabul and its health directorates in the Provinces.

(3) The annual fixed taxes of physicians or medical doctors who treat patients outside of State hospitals shall be levied as follows:

- 1- 5,000 afghanis for physicians or medical practitioners, who have up to 10 years of experience,

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2- 7,000 afghanis for physicians or medical practitioners who have more than 10 years and up to 20 years of experience,

3- 10,000 afghanis for physicians or medical practitioners who have more than 20 years of experience.

(4) The fixed taxes mentioned in paragraph (3) of this Article are collected by the relevant section of Ministry of Public Health while issuing or renewing medical treatment licenses.

Article 91 (1) Amendments to categories, exemptions and tax rates of this Law must be proposed by the Ministry of Finance and approved by the ministerial council and legislative authorities.

(2) Tax imposition and exemptions are not valid without the approval of the Ministry of Finance.

Article 92 Persons who are shopkeepers engaged in commercial activities with no fixed place of business and are not otherwise taxed under the provisions of this Law are subject to fixed occupational tax in accordance with the provisions of Article 94. Fixed occupational tax is payable to the nearest tax office of the district in which the person resides.

Article 93 (1) Persons who are subject to Income Tax are required to file a detailed return to report income, deductions, and other necessary information required by this Law and its regulations, as prescribed by the Ministry of Finance and submit it to the relevant tax office.

(2) An individual who derives wage income that is subject to income tax withholding in accordance with the provisions of Articles 51 and 64 shall not make a return unless the person receives wages from two or more employers or the person has other income in addition to his wage income. Withholding tax from salaries and wages withheld according to this Law is not refundable.

(3) Persons who are required to complete a tax return must submit their tax return by the end of Jawza (the third month) of the next year to the relevant tax office.

(4) Residents and non-residents who will leave Afghanistan before the due date for payment of their tax are required to submit their return form and pay the tax due two weeks before leaving the country.

(5) Individuals, companies and organizations which are, according to the Income Tax Law and the Customs Law, required to pay taxes or customs duties, social, non profit and welfare organizations which are withholding taxes from the salaries or wages of their employees, and individuals who have or open an account with a bank or other financial institution, are required to have a Tax Identification Number. The

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Ministry of Finance will issue rulings on how to apply for and use a Tax Identification Number.

Employees and contracted employees of the State and employees of State agencies whose income is salary or wages only are excluded from this provision.

Article 94 Persons who are brokers, commission agents, or sellers of goods without a fixed place of business shall pay tax according to the rates determined by the Ministry of Finance.

Article 95 (1) Persons who are, according to the provisions of this Law, required to pay income tax and submit a return form, shall pay their tax no later than the end of Saratan (fourth month) of the next year.

(2) Persons who are required to pay business receipts tax on services shall pay their tax quarterly no later than the fifteenth day of next month.

(3) Persons who carry on business from fixed business establishments are required to pay their tax quarterly.

(4) Persons who own moveable and immovable property shall pay tax due when the ownership of such property is transferred.

(5) Tax on contracts signed with the government agencies, according to provisions of Article 84 of this Law, shall be withheld at the time the payment is made by the relevant government agency.

(6) Income tax on gains by brokers shall be paid no later than the end of the fiscal year.

(7) Income tax on exhibitions, theaters, cinemas, shows, sports, and concerts shall be paid no later than the fifteenth day of the next month. If the mentioned shows are not continuous, tax shall be paid at the end of each show.

CHAPTER XII

FINAL ARTICLES

Article 96 - Article 99

- Article 96
- (1) The Ministry of Finance is required to provide forms that are necessary for the purpose of determining and collecting tax according to the Law.
- (2) The Ministry of Finance may issue public and private rulings regarding income tax for the better administration of the provisions of this Law.
- Issued rulings are not binding on the taxpayer but departments of the Ministry of Finance are required to apply these rulings.
 - The Ministry of Finance is not required to apply a private ruling if the person requesting the ruling does not provide complete and correct information about the planned transaction.
- Article 97
- (1) Persons who deliberately do not submit relevant documents to the representatives of Ministry of Finance in order to escape the payment of tax will be considered to have committed a crime and are liable to be prosecuted.
- (2) Persons who under report their original income shall not be fined or penalized if it is proved that his action was not deliberate but he shall be required to pay the shortfall of tax.
- (3) Persons who under report their original income and are fined or penalized because of the late payment of tax shall be required to pay the shortfall of tax plus additional tax if it is proved that his action is not a deliberate.
- (4) Persons who do not complete and submit their return form by the due date will be required to pay additional tax for late payment as follows:
- 1- where they have no business activities: 400afs.
 - 2- where they have a business license: 1,500afs.
 - 3- If business or profitable company: 2500afs.
- (5) Persons who do not pay their tax by the due date shall be liable to additional tax of 0.10 percent per day.
- (6) The time for payment and the amount of additional tax for non-payment of rent withholding tax on buildings and constructions shall

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be implemented according to a ruling prepared by the Ministry of Finance.

(7) An individual, company or organization that is required to have a Tax Identification Number according to paragraph 5 of Article 93 of this Law, but fails to apply for or gives a false Tax Identification Number shall be required to pay additional tax as follows:

1- Natural person: 500 afghanis.

2- Businesses that are not legal entities: 5,000 afghanis.

3- Persons and companies who do not apply for a Tax Identification Number as a result of carelessness are required to pay 25 percent of the income tax and customs duties of that year.

4- Persons and companies who do not apply for a Tax Identification Number in order to evade tax are required to pay 100 percent of the income tax and customs duties of that year.

5- Persons and companies who deliberately submit a false or another Tax Identification Number are required to pay 5,000 afghanis.

6- Persons and companies who provide a false Tax Identification Number in order to evade tax are required to pay 100 percent income tax and customs duties of that year.

7- Additional tax mentioned in this Article shall be considered as income tax and is payable by the fifteenth day of next month at which time the person is required to have applied for a Tax Identification Number.

8- The Ministry of Finance is authorized to revise the rates of additional tax.

Article 98 (1) A deliberate evasion of tax is a crime and shall be liable to prosecution.

(2) Legal persons who conceal their taxable income are required to pay their income tax and additional tax as follows:

- First, tax payable and two times the concealed tax as additional tax.

- Second, tax payable and four times the concealed tax as additional tax.

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- If they conceal their income tax more than two times, then subject to an order of the court, their business activities shall be terminated.

(3) If documents of a company are proved false, the Ministry of Finance is authorized to calculate 15 percent of the total cost of its goods (including custom duties and administration costs) as profit and collect tax on this basis.

(4) If tax of an individual businessman cannot be calculated based on his documents, the Ministry of Finance is authorized to calculate 15 percent of total cost of exported and imported goods (including custom duties and administration costs) as profit and collect tax on this basis.

(5) If an individual businessman has a business license and does not have any business activity without lawful excuse during the year or when his calculated tax is less than 10,000 afghanis, he is required to pay 10,000 afghanis as income tax.

(6) If a trading company has a business license and does not have any business activity without lawful excuse during the year or when calculated tax is less than 20,000 afghanis, it is required to pay 20,000 afghanis as income tax.

- Article 99
- (1) Considering the provisions of this Law, all government agencies which have the authority to issue licenses shall, prior to renewal or issuance of licenses, request the applicant to provide a document of compliance approved by the Ministry of Finance.
- (2) Ministries, government agencies and other organizations shall not issue or renew a business license for a natural or legal person who is required to have a Tax Identification Number and fails to provide it.

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