

LAW OF MONGOLIA

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Ulaanbaatar

GENERAL TAXATION LAW

(Revised)

PART ONE

GENERAL CHAPTER

CHAPTER ONE

GENERAL PROVISIONS

Article 1 Purpose of the Law

1.1. The purpose of this Law is to establish the legal grounds for the creation and setting of taxes in Mongolia, registering taxpayers, tax assessment, reporting, payment, auditing, collection, providing tax credits and exemptions, and withholding and refund of taxes; to define the rights, duties and responsibilities of the Tax administration of Mongolia (hereinafter referred to as ‘the Tax administration’), the taxpayers and other persons having the obligations to the Tax administration under this Law, and to regulate relations arising between them.

Article 2 Tax legislation

2.1. The tax legislation shall comprise of the Constitution of Mongolia¹, this Law and other related legislative acts issued in conformity with these.

2.2. If an International treaty to which Mongolia is a party stipulates otherwise than the tax legislation of Mongolia, the provisions of international treaties shall prevail.

Article 3 Scope of applicability of the Law

3.1. This Law shall apply to the taxpayers, the Tax administration and those who are obligated to comply with the tax legislation under the law.

3.2. In the case, where a matter is not regulated by this Law, or other tax-related Laws have stipulations different from those in this Law on the matter, the Articles, provisions and paragraphs of the Tax Law that specifically regulates the matter in detail shall prevail.

3.3. In the event that the Law, the Articles, provisions and paragraphs that regulate in detail the matter referred to in Article 3.2 of this Law cannot be determined, the Law, the articles, provisions and paragraphs of the latest approved Law shall be adhered to.

Article 4 Introduction, change, granting credits, exemptions and annulment of

¹ Constitution of Mongolia published in 1st Edition of “State Information”1992.

taxes

4.1 The Parliament of Mongolia shall have the sole right to introduce, change, give tax credits and exemptions as well as annul taxes, except for the cases stipulated below:

4.1.1 Stabilization of the tax rates and amounts to be paid by the legal entity implementing an investment project in accordance with the Investment Law²;

4.1.2 A special tax regime to be adhered to in free zones shall be established in accordance with the Law on Free Zones³, and the relations arising from its implementation shall be regulated by the relevant Tax Law.

4.2 The draft law related to tax credits, exemptions, changes in tax rates and amounts and reduction of the tax base shall be developed in conjunction with the draft law on Annual Budget of the particular year.

Article 5 Principles to be adhered to in taxation

5.1. The following principles shall be adhered to in creating, setting, and imposing, and payment of taxes, tax audits, tax collection, credits and exemptions:

5.1.1. to be mandatory;

5.1.2. to be clear;

5.1.3. to be fair

5.1.4. to be efficient.

Article 6 Definitions of legal terms

6.1. The following terms used in this Law shall have the following meanings:

6.1.1. "'Transaction profit split method" means determining the conditions and value of the controlled transaction through economically valid splitting of the profit of the controlled transaction between related parties involved in the transaction and comparing it to the profit level of comparable independent transaction;

6.1.2 "Transactional net margin method" determining the conditions and value of the controlled transaction by comparing its net profit margin with the net profit margin of the comparable independent transaction

6.1.3 "Business day" means the days except for Saturday, Sunday or public holidays;

6.1.4 "Enforcement measures" means activities such as court proceedings, execution of the court decision, pledge right, creation of a bankruptcy case related to the taxpayer and collection of tax debts;

6.1.5 "Tax" means irrevocable monetary contribution to the budget imposed on the income or property of the individuals or entities, on goods, works and services at a

² Investment Law; "State Information" Edition No. 41, 2013.

³ Law on Free Economic Zone; "State Information" Edition No. 09, 2015.

specified rate and amount for specific period of time;

- 6.1.6 “Principles of determining the arm’s length price” means determining the arm’s length price of transaction and making adjustments to tax assessment where the tax base is reduced due to the difference between the terms of the transaction between the related parties and the terms of the transaction between nonrelated parties that is comparable for tax purposes;
- 6.1.7. "Transfer pricing adjustment method" means determining the terms and price of transaction of goods, works and services performed between related parties under arms-length principles;
- 6.1.8 “Group” means the related entities in terms of ownership and management that produce consolidated financial statements for financial reporting purposes, or when shares of one of the entities are openly traded at the stock exchange;
- 6.1.9 “Resale price method” means determining the terms and price of the controlled transaction by comparing its gross profit margin with the gross profit margin of an independent transaction that is comparable in terms of sales revenue;
- 6.1.10 "Transaction for internal comparison" is a transaction of the taxpayer with related parties and with independent parties;
- 6.1.11 “Benchmark pricing method" means assessment of the tax based on arms-length estimation of the business activities, income, expenses or other variables of an entity that is running similar activities as the taxpayer in terms of capacity and conditions, and in the absence of such taxpayer, assessment of the tax by the tax administration based on of the information available to it;
- 6.1.12 "Authorized representative" means an accredited person with a right and obligation to represent the taxpayer based on an authorization or a contract and to interact with the Tax administration;
- 6.1.13 “Re-assessment of tax” means a tax amount determined by the Tax administration based on the results of tax audit conducted as stipulated in this Law;
- 6.1.14 “Re-assessment report” means a document to be delivered to a taxpayer which reflects the amount of re-assessed taxes, penalties and due losses as assessed by the Tax administration;
- 6.1.15 "Report validating value-added tax assessment and its payment" means a document on tax withholder’s value-added tax assessment and its payment reviewed and validated by the Tax administration according to the Value-added Tax Law ⁴;
- 6.1.16 “Certificate of residence” means document certifying that a taxpayer is a resident taxpayer in the tax year issued by the Tax administration according to an established template.

⁴ Law on Value Added Tax; Edition No. 29, 2015

- 6.1.17 "Cost plus method" means determining the terms and price of controlled transaction by comparing its gross profit margin to the gross profit margin of a comparable independent transaction;
- 6.1.18 "Tax scheme" means a tax avoidance activities undertaken for the main purpose of gaining tax benefits;
- 6.1.19 "Tax withholder" means a person obligated to withhold taxes payable by a taxpayer under the relevant tax Law, and pay withheld tax to the budget and report it;
- 6.1.20 "Taxpayer" means a person obligated to pay tax in accordance with the tax legislation or a withholder;
- 6.1.21 "Taxpayer's certificate" shall refer to electronic or paper documents with a secure code issued from the integrated database of tax administration a taxpayer with the taxpayer's identification number and containing tax information;
- 6.1.22 "Taxpayer's identification number" means a unique identification number of the taxpayer in the integrated tax registration system provided to a taxpayer by the Tax administration;
- 6.1.23. "Tax evasion" means the action or inaction of a taxpayer violating the tax legislation with the purpose of not paying taxes or reducing or concealing the amount of taxes payable;
- 6.1.24 "Tax avoidance" means the actions of a taxpayer leading to conditions stated in Article 16 of this law with the main purpose of under-assessing the tax, reducing the tax base, or increasing the loss;
- 6.1.25 "Tax administration" shall refer to the state administrative body, aimag and districts' tax departments, divisions and soums tax units, the state tax inspectors and tax collectors with duties to ensure and oversee tax compliance;
- 6.1.26 "Tax report" shall refer to re-assessment report, report validating assessment and payment of value added tax and tax refund report prepared by the state tax inspector;
- 6.1.27 "Tax refund report" shall refer to a document created for refund of taxes collected by the Tax administration in excess for no reason and payment of due losses;
- 6.1.28" Tax year" means a calendar year;
- 6.1.29 "Tax return" means the written or electronic reporting sheet issued according to the templates approved by the Tax administration and to be submitted by the taxpayer that determines the tax base, taxes, payments and charges assessed;
- 6.1.30 "State tax inspector" means an authorized administrative public servant employed by the Tax administration with duties to ensure tax compliance, provide services to taxpayers, collect taxes, receiving tax returns, and conducting tax audit in accordance with this Law;

6.1.31 “Tax debt collection costs” means expenses related to operations on recovery of tax debts, including sealing and seizure of properties and assets, request for subtraction, storage and/or transportation of a seized assets or property, auctioning, and confiscation and allocation of the securities and intangible assets rights;

6.1.32 “Simplified tax regime” means a comprehensive set of specific activities on tax registration, assessment, tax rates, reporting and payment;

6.1.33 “Tax base” means monetary value of income, property and assets, goods, works, services, specific rights, land, subsoil, natural resources, mineral reserves; air, soil and water pollution determining the specific amount or percentage of taxes payable.

6.1.34 “Electronic tax documents” shall refer to a set of tax documents prepared, stored, sent or received in electronic form, that are verified by secure electronic signature as per provided in the tax legislation;

6.1.35 “Tax action without distinct business purpose” refers to the taxpayer’s action of engaging in, planning and execution of transactions leading to reduction of the taxes payable or tax avoidance or postponement of tax payments;

6.1.36 “Payment” means the monetary remittance from any person for using the state-owned land, subsoil, natural resources, forests, plants, mineral springs, minerals, petroleum deposits, for polluting air and contaminating water, soil, and hunting animals, and that are channeled to the state budget;

6.1.37 "Comparability analysis" means the analytical method of comparing the terms and conditions of transactions between the related parties to the terms and conditions of transactions between the independent parties, and making accurate adjustments to remove the impacts of different factors and discrepancies between them;

6.1.38 "Comparable uncontrolled price method" means determining the price and the factors affecting the price of the controlled transaction by comparing them with similar, comparable independent transaction price and the factors affecting such price;

6.1.39 “Collector” refers to a Tax administration officer who performs duties of a state tax inspector other than tax re-assessments and tax audit;

6.1.40 “Charges” refers the monetary fees charged public bodies for each service provided to a person and paid to the budget;

6.1.41 “‘Reasonable excuse’ means the following:

6.1.41.a. Undergoing a medical treatment in a hospital as per evaluation of a doctor or health institution that is evidenced by the patient’s card, the laboratory analysis and analysis by the medical devices;

6.1.41.b. Caring for a patient who is receiving medical treatment in a hospital in accordance with the Article 6.1.41a of this Law;

6.1.41.c. Being on public mobilization announced by the authorized person as per provided in the Law;

6.1.41.d. Being held in a quarantine area due to a countrywide life-threatening contagious disease announced by the authorized person specified in the Law;

6.1.41.e. Causes including a fire and/or sudden natural disaster or force majeure (flood, drought, dzud/severe weather conditions, dangerous snow or dust storm, earthquake, etc.) that prove the official announcement by the authorized person as per provided in the Law;

6.1.42 "Controlled transaction" means a transaction between the related parties;

6.1.43 "Independent transaction" means a transaction between unrelated parties;

6.1.44 "Electronic signature" means what is referred to in Articles 4.1.1 and 4.1.2 of the Law on Electronic signature⁵;

6.1.45 "Gaining economic benefits" means increasing profits or profitability by raising operational efficiency, cost saving, reducing the operating costs and timing of the recipient;

6.1.46 "Exerted resistance" means intentional action or inaction that exerted violent resistance to or pressure on the state tax inspectors or collectors in relation to performing their official duty;

6.1.47 "Person" means an individual, legal entity, organization with no rights of an entity and any other party of a similar nature participating in civil relations;

6.1.48 "Ultimate owner" means a person that owns 30 percent or more of shares, equity participation, or voting rights of the holder of a license and special permit of mineral resources, oil, radioactive minerals, or holders of land titles for possession and use, or has a right to receive the dividends directly or through a representing legal entity of one or more continuous structure, exercises the voting rights through representation, or has a right to receive the dividends.

CHAPTER TWO TAXES OF MONGOLIA

Article 7 Taxes of Mongolia

7.1. Taxes of Mongolia shall comprise of taxes, charges and fees (hereinafter referred to as taxes)

7.2. The taxes of Mongolia shall have the following types:

7.2.1. Corporate income tax;

7.2.2. Customs duties;

7.2.3. Value added tax;

7.2.4. Excise tax;

7.2.5. Gasoline and diesel fuel tax;

⁵ Law on Electronic Signature; "State Information", Edition No.01, 2012

- 7.2.6. Royalty;
 - 7.2.7. Exploration and mining license fees;
 - 7.2.8. Air pollution payment;
 - 7.2.9. State stamp duty;
 - 7.2.10. Water pollution payment;
 - 7.2.11. Petroleum Royalty;
 - 7.2.12. Petroleum and unconventional petroleum exploration and exploitation license fee;
 - 7.2.13. Personal income tax;
 - 7.2.14. Immovable property tax;
 - 7.2.15. Livestock tax;
 - 7.2.16. Automobile and vehicle tax;
 - 7.2.17. License fee for exploitation of natural resources other than minerals;
 - 7.2.18. Land payment;
 - 7.2.19. Gun tax;
 - 7.2.20. Capital City tax;
 - 7.2.21. Dog tax;
 - 7.2.22. inheritance and gift tax;
 - 7.2.23. waste disposal service fee;
 - 7.2.24. fees for the use of natural plants;
 - 7.2.25. fees for use of water resources;
 - 7.2.26. fees for use of spring water;
 - 7.2.27. fees for use of forest reserves;
 - 7.2.28. fees for use of wildlife;
 - 7.2.29. fees for use of widespread mineral resources.
- 7.3. Relations pertaining to specific tax type shall be regulated by this law and the particular tax law.

Article 8. Setting tax rates and amounts

8.1. Tax rates and amounts shall be set by the Parliament and by the Cabinet, and Citizens' Representatives Assembly of aimags, capital city, soum and district as authorized by the Parliament according to the legislation.

8.2. The tax rates set forth in Articles 7.2.2, 7.2.3, 7.2.4, 7.2.6, 7.2.8, 7.2.10, 7.2.11, 7.2.18, 7.2.25 and 7.2.27 of this Law may be established by the Cabinet where it is specifically authorized by the Parliament in the law regulating such taxes within the limits set out in the law.

8.3. The tax rates specified in Articles 7.2.13, 7.2.14, 7.2.15, 7.2.16, 7.2.17, 7.2.20, 7.2.21, 7.2.24, 7.2.26, 7.2.28 and 7.2.29 of this Law may be established by the Citizen's Representative Assembly of aimag or the Capital City where these are specifically authorized by the Parliament in the law regulating such taxes within the limits set out in the law.

8.4. The tax rates specified in Article 7.2.23 of this Law may be established by the Citizens' Representatives Assembly of soums and districts where these are specifically authorized by the Parliament in the law regulating such taxes within the limits set out in the law.

8.5. The tax rate and amount specified in Article 6.2 of the Law on State Stamp Duties⁶ shall be established by the Cabinet and the tax rate and amount specified in Article 6.3 shall be established by the Aimag and Capital City Citizens' Representatives Assembly respectively.

Article 9 Taxable items

- 9.1. Taxable items shall be the income, assets, property, goods, works, services, certain rights, land, subsoil, natural resources, mineral resources and reserves, as well as pollution of air, and contamination of soil and water
- 9.2. Taxable items shall be specifically defined by the relevant laws on the types of taxes.

Article 10 Tax credit and exemption

- 10.1. The tax credits and exemptions shall be in the following forms:
 - 10.1.1. Reduction of taxes imposed;
 - 10.1.2. Reduction of tax rates;
 - 10.1.3. Exemption of income, assets, property, goods, works and services that are below the established minimum level from taxes;
 - 10.1.4. Exemption of a taxpayer from taxes;
 - 10.1.5. Exemption of certain portion of a taxable item from taxes;
 - 10.1.6. Other credits or exemptions as specified in the tax legislation.

Article 11 Simplified tax regime

- 11.1. The Tax administration and taxpayers may use a simplified tax regime.
- 11.2. The taxpayers that wish to use the simplified tax regime shall be connected to the integrated tax registration and information database.
- 11.3. Unless otherwise stated in the law the simplified tax regime shall be applied for the entire tax year only, and it is prohibited to move out of the regime in the middle of a tax year.
- 11.4. Procedures for implementing a simplified tax regime shall be set out in detail by a Law on a specific tax type.

CHAPTER THREE TAXPAYERS

⁶ Law on State Stamp Duty "State Information", Edition No.01, 2011

Article 12 The rights of taxpayers

12.1. Taxpayers shall have the following rights:

12.1.1. To obtain information, guidance and direction related to tax compliance, exercising their rights and performing their duties as taxpayers; and the procedures, methodologies and forms for tax assessment, payment and filing of tax returns, from the Tax administration and the state tax inspectors;

12.1.2. To benefit from the tax credits and exemptions specified in the tax legislation;

12.1.3. To be granted an extension of the tax payment due dates in accordance with the legislation;

12.1.4. To be refunded or offset the overpaid taxes, and to claim and be paid the due losses;

12.1.5. To protect their rights and legitimate interests personally and/or through their authorized representative or tax practitioners; to be represented and be present during the tax audit in person;

12.1.6. To review the tax re-assessment reports and other documents issued by the Tax administration, and where these are considered groundless or inconsistent with the law, file a complaint according to the administrative and/or the judicial procedures within thirty (30) days after receiving such documents;

12.1.7. To obtain or provide an explanation on tax assessments, payments, and the conclusions of the tax audit;

12.1.8. To require the Tax administration and state tax inspectors to comply with the tax legislation, and to be compensated for any losses or damages incurred due to unlawful decisions and/or actions of the Tax administration in accordance with the procedures set out in the law.

12.1.9. To file complaints related to unlawful activities and decisions of the Tax administration and state tax inspectors to their direct supervisors or higher-level officials or to the court. Filing of a complaint shall not constitute grounds for ceasing or suspending the payment of taxes, fines or penalties or due losses imposed;

12.1.10. To get assistance and/or advice from the authorized accountants and the tax practitioners as allowed by the law on exercising their rights and performing the duties and obligations prescribed by the tax legislation;

12.1.11. Not to pay taxes at the rates higher than the stabilized rates specified in the stability certificate during its validity term if the stability certificate was issued according to the investment legislation.

12.1.12. Other rights provided for by the legislation.

12.2 In order to implement the provisions of Article 12.1.1 of this Law, the Tax administration shall not disclose to the taxpayer the detailed risk indicators to be covered by the tax audit.

Article 13 Guarantee of confidentiality

- 13.1. The Tax administration shall not disclose the taxpayer's information by giving it to others or using it for the personal purposes on grounds other than those stipulated in this Law.

- 13.2. The Tax administration, state tax inspectors, other current and former employees of the Tax administration and those who have been involved in general compliance activities of the Tax administration as witnesses shall be obligated to maintain the confidentiality of the taxpayer's information that they become aware of during performance of their official duties. Such information may be disclosed to the following officials according to a decision of the Commissioner of a Tax administration:
 - 13.2.1. The state tax inspectors performing their official duties in accordance with the tax legislation;
 - 13.2.2. The case registrars, investigators, prosecutors and judges who are obligated to register, inspect and resolve infringements and crimes violating the tax legislation, in connection with matters related to that infringement or crime only;
 - 13.2.3. Authorized person appointed or selected for the purpose of exchanging information in accordance with the international treaties in connection with exchange of information related to such treaties.

- 13.3. The provision 13.1 of this Law shall not apply to the taxpayers' names, identification numbers and taxes paid to be publicly announced as permitted by the taxpayer or as required by the law and bid selection, as well as integrated reports and data consolidated at the Tax administration for statistical purposes.

- 13.4. The Tax administration, without permission of a taxpayer may publicly inform about a taxpayer who has violated the tax legislation or failed to rectify the violation within the timeframe as specified in the Law, or who has repeated the same infringement for three (3) or more times or who is being sought under investigation.

- 13.5. The state tax inspector with the right to access the database of the integrated tax registration and information database shall be appointed by the decision of the head of the state administrative body in charge of tax affairs, and their access to database and data use shall be track recorded.

Article 14 Termination of a tax payment obligation or assignment thereof to others

- 14.1. A tax payment obligation shall be terminated in the following instances:
 - 14.1.1. The tax debt of the particular type has been fully paid;
 - 14.1.2. The tax debts of the particular type of tax are offset from other taxes overpaid;
 - 14.1.3. The taxpayer is exempt from tax of the particular type in accordance with the Law;

- 14.1.4. The Law on the particular tax type is abolished, and the tax debts of the particular type have been fully paid;
- 14.1.5. A court has established that a taxpayer who has died or is presumed to be dead has no heir or no asset for inheritance.
- 14.2. In the case, where a legal entity is to be liquidated, a liquidation commission, or in the case, where bankruptcy of a legal entity, a trustee shall collect unpaid taxes from the assets of the legal entity in accordance with the procedures set out in the law and pay to the budget.
- 14.3. In the case, where a legal entity has been restructured through merger, consolidation or change, the rights and obligations associated with the tax assessment and payment shall be assigned to the legal entity that is formed as a result of the restructuring.
- 14.4. In the case, where a legal entity has been restructured by separation or demerger, the tax payment obligation shall be assigned to the new restructured entities proportionately to the taxable items and value of allocated assets or property.
- 14.5. In the case, where a legal entity to be liquidated is considered as risky according to this Law, it shall undergo the tax audit.
- 14.6. Tax payment obligations and rights of a private individual who has died or is presumed to be dead shall be assigned to any heirs in proportion to the inherited asset or property. Tax penalties or fines shall not apply in this case.

Article 15 Statute of limitations for taxes

- 15.1. The statute of limitations for the tax re-assessment, imposition of penalties, fines and due losses, tax credits or exemptions, loss carry-forward, value added tax assessment and ensuring payment shall be four (4) years; and the statute of limitations prescribed in the Civil Code⁷ shall not apply to tax legislation.
- 15.2. The statute of limitations referred to in Article 15.1 of this Law shall not apply to the relations pertaining to payment of taxes, penalties and due losses, and the procedures on tax debt collection referred to in the Article 12 of this Law, and tax refunds as requested by taxpayers.
- 15.3. The statute of limitations referred to in Article 15.1 of this Law shall be counted as follows:
- 15.3.1 For the tax types the tax payment of which is made and the tax return is filed once at the end of the reporting year as stated in the Law, the statute of limitations shall commence from the business day following the due date for full payment of tax and filing of the tax return.
- 15.3.2 For the tax types the tax payment of which is made and the tax return is filed on a monthly or a quarterly basis as stated in the Law, the statute of limitations shall commence from the business day following the due date for full payment of the tax and filing of December tax return of the current year or annual tax return.

⁷ Civil Code; "State Information", Edition No.07, 2002

15.3.3 For the tax type the payment of which is made within certain period of time after the sale has taken place as stated in the Law and for the withholding tax, the statute of limitations shall commence from the business day following the due date for filing of the tax return and full payment of the tax.

15.3.4 For the tax types the payment of which is made without filing a tax return, the statute of limitations shall commence from the business day following the due date for tax payment as stated in the Law on particular tax.

15.4. If the taxpayer filed a complaint to the dispute resolution council, the statute of limitations shall be disrupted until a resolution is issued, or until a final decision if the taxpayer filed a complaint or the case is under an investigation of a law enforcement agency.

15.5. The statute of limitations shall be considered disrupted from the date the Tax administration filed a request for information from the foreign country Tax administration for the purpose of transfer pricing adjustment until the date the request was answered.

CHAPTER FOUR

INTERNATIONAL TAX COOPERATIONS AND GENERAL ANTI-AVOIDANCE RULES

Article 16 General anti-avoidance rules

16.1. The Tax administration shall have the right to implement general anti-avoidance rules in occurrence of following events during an audit, but tax cannot be reassessed by implementing measures specified in the law under the law:

16.1.1. A taxpayer has organized a tax scheme on his/her/its own or together with other person/s or an entity;

16.1.2. The taxpayer has gained tax benefit through tax avoidance within the scope of the scheme referred to in Article 16.1.1 of this Law.

16.2. Where the taxpayer has gained tax benefits through avoidance of tax in the form specified in Article 16.1 of this Law, the Tax administration shall reassess the tax under a condition where the taxpayer did not use such tax scheme or gained tax benefits and make adjustments to the tax assessment accordingly.

16.3. Where the taxpayer has undertaken the actions specified in Articles 16.1.1 and 16.1.2 of this Law together with other person/s, the taxes of such person/s shall be reassessed and adjusted under the same conditions.

16.4. Where the tax administration has made tax adjustments under this Law, the relevant taxes shall be reassessed.

16.5. The tax re-assessment shall commence within the statute of limitations stated in Article 14.1 of this Law, and the re-assessment shall cover preceding four (4) years from the assessment of tax as stipulated in Articles 16.3 and 16.4 of this Law.

16.6. A taxpayer shall be considered as having gained tax benefits where the taxpayer has reached the following outcomes using the *tax* scheme stipulated in Article 16.1.2 of this Law:

16.6.1. Reducing the tax base or changing the tax exempted income, tax credits, tax withholding, and deductible expenses from the taxable income through an accounting method;

16.6.2. deferring the tax payment obligation;

16.6.3. gaining an advantage by deferring tax payment obligation;

16.6.4. reducing the taxable income by increasing the amount of tax exempted income or nontaxable income;

16.6.5 failing to impose tax on the taxable income.

16.7 The Risk Management Committee shall make a decision on whether to apply the general anti-avoidance rule and the Cabinet member in charge of finance and budget issues shall approve the implementation procedures.

Explanation: “General Anti-Avoidance Rule” refers to the rule used in tax administration at an international level.

Article 17 Mutually agreed procedures

17.1. The mutual agreement procedures of the Treaties of Mongolia signed with other countries on prevention from double taxation of income and assets, and tax avoidance shall be implemented within the framework of the Treaties.

17.2. Unless otherwise stipulated in the law, the taxpayers of foreign countries that have not concluded the international treaties with Mongolia on mutually agreed procedures shall not be subject to Article 17.1 of this Law.

17.3. The Member of the Cabinet in charge of finance and budget affairs shall approve the mutually agreed procedures in conformity with the requirements of the international treaties between Mongolia and other countries, and the international organizations that Mongolia is a member of.

Article 18 Procedures on exchange of information with the authorities of foreign countries

18.1. The following terms used in this Article shall have the following meanings:

18.1.1 “Automatic exchange of information” means the exchange of information related to the resident of foreign country and that has been discussed and agreed upon between the parties to the agreement referred to in Article 18.1.5 of this Law without any prior request and on a regular basis with the fixed frequency.

18.1.2 “Information” means the facts, reports, documents, records and accounts information containing either one or all of the following for the purpose of

implementing the agreement referred to in Article 18.1.5 of this Law:

18.1.2.a. documents, reports, records and accounts information held by the bank, financial institution, the person or an entity designated by them, a trustee of the assets, the broker and the guarantor;

18.1.2.b Facts, reports, documents, records and accounts information related to the ultimate owner, partner and other persons of the entity;

18.1.2.c in the case, where of joint investment fund, the information about shares, equity participation, voting rights and other interests, In the case, where of Trust Fund, the information about the payment settlement operator, authorized representative and the beneficiary.

18.1.3 “Financial institution” means any person other than individual operating banking, non-banking the financial, custodians, savings, investment and insurance activities defined with the purposes to implement the agreement specified in Article 18.1.5 of this Law;

18.1.4 “Party” means a party involved in the agreement

18.1.5. “Agreement” means the international agreement, treaty or convention that Mongolia concluded with other countries to the exchange information for tax purposes, including the automatic exchange of information;

18.1.6 “Request” means an application submitted by one party to the other within the scope of the agreement specified in Article 18.1.5 of this Law;

18.1.7 “Requesting country” means the country sending a request for information within the scope of the agreement specified in Article 18.1.5 of this Law;

18.1.8 “Electronic data” refers to the data processed and stored in electronic form as specified in Article 18.13 of this Law;

18.1.9 “Authorized person ” means a member of the Cabinet in charge of finance and budget affairs or authorized person designated by him/her, for the foreign country, the person authorized by the contracting party within the framework of the agreement;

18.1.9 “Agreement between the authorized persons” means a bilateral or multilateral agreement or contract concluded between the authorized persons designated by the parties to the agreement or contracting parties, for the purpose of implementing the agreement referred to in Article 18.1.5 of this Law, interpreting and clarifying the provisions of such agreement.

18.2. The exchange of information with the foreign authorized persons through the authorized person, within the scope of the agreement concluded between Mongolia and other countries shall apply only to the information on tax related matters specified in Article 18.1.2 of this Law.

18.3. The authorized person referred to in Article 18.1.9 shall have the following rights and obligations:

18.3.1. The following activities may be carried out in order to fulfill the request

referred to in Article 18.1.6 of this Law:

18.3.1.a to receive reports and information from any person or entity;

18.3.1.b to collect and deliver the relevant information and evidences to the person requesting information, for the purpose of implementing Article 18 of this Law and the agreement;

18.3.1.c to deliver the documents and materials;

18.3.1.d The authorized person shall undertake the general operations referred to in the Articles 20, 21, 22, 23 and 24 of this Law in order to implement the activities specified in the agreements and information exchange specified in Article 18.1.2 of this Law;

18.3.1.e Other actions as required.

18.3.2 To exchange information and automatically exchange the information referred to in Article 18.1.2 of this Law with the Contracting Parties for tax purposes, as well as to implement agreements concluded by authorized persons in conformity with the provision 18.1.5 of this Law;

18.3.3 To determine the expenses to be incurred within the scope of the agreements referred to in Article 18.1.5 of this Law, calculate and allocate fairly the expenses to be incurred in connection with any request;

18.3.4 To enter into agreements with the authorized person and approve the procedures on collaboration with them in order to implement the agreements referred to in Article 18.1.5 of this Law;

18.3.5 To perform other functions as stated in this Article.

18.4 The authorized person shall provide assistance to the requesting country in accordance with the conditions of the agreement concluded with the particular country.

18.5 The authorized person after receiving the request referred to in Article 18.1.6 of this Law, shall fulfill the request in accordance with the relevant agreement and this provision;

18.6 In the case, where the authorized person considers it is necessary, he/she/it may request the additional information from the requesting country referred to in Article 18.1.7 of this Law.

18.7 Upon request of the Agreement Party, the authorized person shall collect the information stipulated in Article 18.1.2 of this Law and other information required that is in possession and control of any person or financial institution by delivering the notification specified in this Law to financial institutions and shall provide to the authorized person of the

country that entered into agreement.

18.8 The notification referred to in Article 18.7 may contain the following information:

18.8.1 The deadline to provide the information;

18.8.2 The form the documents shall be provided in as required by the authorized person whether it shall be its original or a copy;

18.8.3 Information on whether the document shall be officially approved.

18.9 The information referred to in Article 18.1.2 may be collected in a form of witness testimony based on the request of the authorized person.

18.10 The deadline referred to in Article 18.8.1. of this Law shall not exceed 14 (fourteen) calendar days and in the case, where it is considered necessary the authorized person may set a different timeframe.

18.11 The authorized person may store and make a copy/copies of the information referred to in Article 18.7 of this Law.

18.12 It shall be prohibited to demand any information obtained by virtue of the law through the notification referred to in Article 18.7 of this Law.

18.13 Where the information obtained through notification is stored in an electronic form, it shall be converted into a document form without changing its content and re-processed.

18.14 The authorized person shall deny the request where it is confirmed that such request is not consistent with the relevant agreement and shall immediately notify the requesting country about such inconsistencies.

18.15 If the request is denied the authorized person and the requesting country shall resolve the issue according to the provisions of the relevant agreement.

18.16 The documents and notifications may be delivered to the person/s concerned in person, by mail or in the form established by a member of the Cabinet in charge of finance and budget affairs.

18.17 The authorized person may demand the organizations referred to in Article 18.1.3 of this Law the necessary information with the set time frame in a specific form in order to implement automatic exchange of information within the scope of the agreement between authorized person/s.

18.18. The member of the Cabinet in charge of finance and budget affairs together with the Cabinet member in charge of legal affairs may approve and enforce the following procedures in order to implement the stipulation in Article 18.17 of this Law:

18.18.1 Determining of the financial institutions that are required to deliver the reports and information;

18.18.2 The content and templates of the information and electronic information that are required to be reported;

18.18.3 Standards defining the comprehensiveness and level of details of the information to be reported;

18.18.4 Procedures on implementation of the agreement on exchange of information;

18.18.5 Procedures regulating the security of information and its storage;

18.18.6 Procedures considered necessary for the implementation of activities related to the issues referred to in Article 18.15 and the automatic exchange of information.

18.19 Article 13 of this Law shall apply to relations pertaining to security of information of the Tax administration.

18.20 The person who has an obligation to implement or is implementing this Law shall have the obligation to ensure confidentiality of the information obtained within the scope of the Article 18 of this Law and those within the scope of the agreement and may use such information for the sole purpose of fulfilling the duties and obligations under this Law and the agreement.

18.21 The Tax administration may use the information obtained by the authorized person with the purpose of implementing the tax legislation.

18.22 Where the confidential information has been delivered to the authorized person for the purpose of fulfilling the request or for the automatic exchange of information there shall not be the liability under other laws, for disclosing such information in connection with such action.

18.23 The action of the person who provided information in accordance with the Article 18.22 of this Law shall not be considered as violation of the guarantee of the confidentiality provided to other party, and such person and/or his/her employer shall not be liable for such action.

18.24 If any person is involved in a civil or criminal case for disclosing the information obtained by virtue of Law, such person shall not be a subject for the protection specified in Article 18.22 of this Law.

18.25 Any damage caused by the action or inaction of the authorized person, or the person delegated by the authorized person, during performing his/her/its official duties prescribed by this Law it shall not serve as a ground for civil and criminal liability.

18.26 The provisions of this Article shall prevail regardless of the limitations in connection with confidentiality of information that are regulated by other legislation.

18.27 Where the provisions of this Law and the provisions of the agreement conflict with the provisions of other legislation, the provisions of this Law and the provisions of the agreement shall prevail.

CHAPTER FIVE

GENERAL TAX ASSESSMENT AND TAX COLLECTION ACTIVITIES

Article 19 General tax assessment and collection activities

- 19.1. The State tax inspectors shall have a right to conduct common operations such as to collect data, information and proof of evidence, do inspections, inventory audits and do time and motion study with the purpose of determining the taxes to be imposed and collecting taxes by accessing the taxpayers' premises and warehouses.
- 19.2. The State tax inspectors shall present their state tax inspector's identification card and explain the purpose of their activities in implementing the common operations specified in Article 19.1 of this Law;
- 19.3. The Police organization shall provide support under the Article 15.1.7 of the Law on Police⁸ to the state tax inspectors where the taxpayer has used force or an organized resistance during the general operations being undertaken.
- 19.4. The procedures related to accessing the taxpayers' premises and warehouses with the purpose of collecting data, information and evidence, doing inspections, inventory audits and doing time and motion study as stipulated in Article 19.1 of this Law shall be approved by a head of the state administrative body in charge of tax affairs.
- 19.5. The Regulation on implementation of the operations specified in Article 19.3 of this Law shall be approved jointly by the Cabinet members in charge of finance and budget affairs and justice and internal affairs.

Article 20 Accessing the premises and warehouses

- 20.1. State tax inspector shall have rights to access the taxpayers' industrial and/or service premises, offices, warehouses and cellars that are not prohibited by law, and that are being used for the purpose of earning income, storing the taxable items, tax related information, data, surveys and other documents; and do time and motion study, do inspections, inventory audits; to temporary sequester the documents and property and conduct audits.
- 20.2. State tax inspectors shall have a right to access to computers, hardware equipment and software systems of the taxpayer containing information on the taxpayer's income, expenses and transactions in addition to the premises and warehouses, with the purpose of collecting data, information and evidence.
- 20.3. The guidance on the operations referred to in Article 20.1 of this Law shall clearly

⁸ Law on Police Department; "State Information" Edition No.08, 2017

reflect in which of the taxpayer's premises and the warehouses such operations shall be carried out and such operations shall be carried out under the official assignment of the relevant tax authority.

20.4 It shall be prohibited to carry out operations referred to in Article 20.1 of this Law in the foreign diplomatic representatives' premises, consulates and offices of the international organizations, and workplaces of the officials of diplomatic standing and privileges.

Article 21 Collection of data, information and documentation

21.1 The Tax administration shall adhere to the following procedures when collecting data, information and documents:

- 21.1.1 To make records and get signature when temporarily obtaining the original copies of the data, information and documentation required by the Tax administration;
- 21.1.2 To document the data, information and documentation by making copies, taking photographs and video, audio or other recordings when necessary;
- 21.1.3 To obtain written explanations and references, or to produce records and have them signed by relevant persons where inquiries or interviews were conducted;
- 21.1.4 To obtain other data, information and documentation similar to those stated in Articles 21.1.1, 21.1.2 and 21.1.3 of this Law.

21.2 The Tax administration shall secure copies of substantiation, copies of documentation, data, surveys, account statements, other relevant documents and information required for ensuring tax legislation compliance from the taxpayer, economic entities, organizations, individuals and financial institutions dealing with the taxpayer free of charge

21.3 Where the equipment of other parties is used for making copies or documenting the data, information and documentation specified in Article 21.2 of this Law, the payment for such use shall be paid by the tax administration on the basis of the market price or mutually agreed price.

21.4 The Tax administration shall have a right to demand the data, information and documentation, including prices, payments, fees, charges and contracts used by the taxpayer in selling, purchasing, human resources, technical services and co-production and operations from the taxpayer and third party that worked with the taxpayer;

21.5 The Tax administration may secure information from a third party that is in relations with a taxpayer in accordance with the following procedures:

21.5.1 To have a full access to the premises, warehouses, documents and materials, and computers that contain the information;

21.5.2 To demand the written information and documents;

21.5.3 To summon to a certain place at certain time to get information.

Article 22 Conducting inspections

- 22.1. The Tax administration shall adhere to the following procedures when conducting inspections:
- 22.1.1. To have an independent witness in presence who has full legal capability, reached 18 years of age, has no conflicts of interests, and has no subordination or vice versa relationship to the taxpayer, to the Tax administration or the State tax inspector;
 - 22.1.2. To have the possessor of the document or property being subjected to inspection or his/her legal representative in presence, or in the case, where it is not possible, a representative from the relevant local administrative body;
 - 22.1.3. To take notes of the inspection and get signature of people who participated or present during the inspection; where they refuse to sign, to give them an opportunity to explain the reason of not signing and attach the explanations to the notes.
- 22.2. The Tax administration and the state tax inspectors shall have the right to conduct an inspection regardless of the difference in ownership or possession status of the items to be subjected to the inspection.
- 22.3. The Tax administration shall have a right to collect data, information and documentation to be used for tax collection and tax audit during the course of inspections.

Article 23 Conducting inventory audits

- 23.1. The Tax administration shall adhere to the following procedures when conducting inventory audits:
- 23.1.1. When conducting an inventory audit of goods, property and cash, the taxpayer or his/her legal representative or accountant, or a representative from the relevant local administrative body shall be in presence; and the state tax inspectors shall produce records and notes of such audit;
 - 23.1.2. The records and notes of such audit shall be signed by the state tax inspector who conducted such audit, and the individuals who were in presence during such audit; and in the case, where they refuse to sign, to give them an opportunity to explain the reason of not signing and attach the explanations to the notes.
- 23.2. The Tax administration shall have a right to collect during the inventory audits the data, information and documents to be used in tax collection and tax audit.

Article 24 Time and motion study

- 24.1. The Tax administration shall adhere to the following procedures in doing time and motion study:
- 24.1.1. To do time and motion study of a taxpayer with or without prior notice to the taxpayer, for the purposes of defining taxes payable by the taxpayer and determining the volume, income and cost of production and services;

- 24.1.2. To involve relevant specialists in the time and motion study and use necessary measuring devices;
- 24.1.3. To do estimation and issue conclusions for the time and motion study, make notes, and have the people who were present to sign such notes; and in the case, where they refuse to sign, to give them an opportunity to explain the reasons of not signing and attach the explanations to the notes.

PART II
TAX MANAGEMENT AND REGULATION

CHAPTER SIX
REGISTRATION OF TAXPAYERS,
TAX ASSESSMENT, PAYMENT AND FILING TAX RETURNS

Article 25 Registration of taxpayers

- 25.1. The person that has the obligations to pay taxes or withhold taxes under the tax Law shall be registered a taxpayer.
- 25.2. The following individuals shall be registered as a taxpayer and provided a taxpayer identification number:
- 25.2.1. Citizen of Mongolia;
- 25.2.2. Citizen of a foreign country whose specified in Article 5.1.5 of the Law on Status of a Foreign Citizen⁹.
- 25.3. The registration of taxpayers shall be undertaken in accordance with the general procedures referred to in the Article 26 of this Law.
- 25.4. The procedures for registering taxpayers shall be regulated in detail by the Law on particular type of tax.
- 25.5. The registration of a non-resident shall be undertaken based on his/her certificate of residence.

Article 26 General procedures for registering taxpayers

- 26.1. Person obligated to pay taxes as specified in Article 25.1 of this Law shall be registered as taxpayer to the integrated tax registration information system.
- 26.2. The Tax administration shall register a newly established or registered entity based on the information of the authorized body as a taxpayer, issue a taxpayer identification number and certificate, create a taxpayer's dossier.
- 26.3. The taxable items shall be registered to the integrated tax registration and information database based on the information of the authorized registration body that registers the

⁹ Law on the status of foreign citizen; "State Information", Edition 32, 2010.

information on owners, possessors or users of the taxable items, or the person/s with taxable items, as well as information of the authorized body that registers the information on licenses issued to the taxpayer or transferred for ownership, possession or use, or taxpayers' request.

- 26.4. A taxpayer shall register the taxpayer registration data, its update and the information specified in Articles 26.2 and 26.3 of this Law within 7 days on his/her own to the integrated tax registration and information database or to confirm on time within the same period and record on the taxpayer's certificate upon notification from the tax administration.
- 26.5 The taxpayer information in the tax administration integrated registration and information database shall be open to the taxpayer and taxpayer shall be responsible for accuracy of the information.
- 26.6 Where the tax administration is to modify the information specified in 26.3 and 26.4 of this law based on other third party information if it deems necessary, the taxpayer shall be informed and confirm the change within the period specified in Article 26.4 of this Law. If the Taxpayer failed to confirm, they shall be considered as a risk and recorded in the file as a basis for an audit.
- 26.7 The procedures on taxpayer registration shall be approved jointly by the head of the public administration bodies in charge of tax affairs and state registration.
- 26.8 The legal entity of Mongolia shall have an obligation to register its subsidiary or a branch, or representative office or permanent establishment that have been set up in a foreign country with the Tax administration.
- 26.9 A citizen of Mongolia who is a resident taxpayer of Mongolia shall have an obligation to register the name and address of the entity or organization established in a foreign country with the Tax administration.
- 26.10 A holder of a license for oil, radioactive minerals, land title, or right to use the land shall register the information on the ultimate beneficial owner with the Tax administration.
- 26.11 A license holder for oil, radioactive minerals, land title, or right to use the land shall register the information on the change of ultimate beneficial owner with the relevant tax administration within 30 (thirty) days after the decision on it is made.
- 26.12 Where license holder's own and/or ultimate beneficial owner's shares are listed on the foreign and/or domestic stock exchanges regardless of what is stated Article 26.11 of this Law, the holder of the license for oil, radioactive minerals, land title, or right to use the land shall register the information on the change of ultimate beneficial owner with the relevant tax administration in accordance with the form approved by the Tax administration within July 20; and the end-of-the-year information within February 10 of the following tax year.

Article 27 Related parties

- 27.1 The following persons shall be considered as related parties when one person or more persons and entities may directly or indirectly interfere in the activities on the assets, supervision and management of 2 (two) or more legal entities and by this way

influencing the conditions and economic results of the transactions:

27.1.1 The taxpayer's father, mother, sibling, child, grandfather, grandmother, grandchildren, spouse, partner and their parents and siblings;

27.1.2 The persons related to the group referred to in Article 6.1.8 of this Law;

27.1.3 The person that holds at least 20 (twenty) percent of shares or equity participation or voting rights directly or indirectly;

27.1.4 The person entitled to receive directly or indirectly at least 20 (twenty) percent from the profit, or from the remaining assets after liquidation;

27.1.5 The entity in which a third party holds directly or indirectly at least 20 (twenty) percent of shares or equity participation/capital or voting rights;

27.1.6 The entities in which a third party is entitled to receive directly or indirectly at least 20 (twenty) percent from the profit, or the remaining assets after liquidation;

27.1.7 The persons that have relations referred to in Articles 27.1.3, 27.1.4, 27.1.5, and 27.1.6 of this Law and that are directly or indirectly owned or possessed by the person referred to in Article 27.1.1 of this Law;

27.1.8 The persons specified in Article 27.1 of this Law, or the person who has the right to appoint them, or successor of the rights and obligations thereof or has been elected to represent them;

27.1.9 The persons specified in Article 27.1 of this Law and the subsidiaries and branches and the permanent establishment of related entities;

27.1.10 The persons that established relations with a sole purpose of reducing the taxable income and increasing the losses of the resident taxpayer of Mongolia;

27.1.11 Other persons that fall under the definition specified in Article 27.1 of this Law.

27.2 Where shareholders entered into an agreement to act from a unified position in making a decision related to the entity's activities, directly or indirectly, and make decisions based on this agreement, such shareholders shall be considered as one entity in terms of shares and equity participation/capital referred to in Articles 27.1.3, 27.1.4, 27.1.5, 27.1.6 of this Law.

27.3 The indirect participation shall be determined by multiplying the proportions of direct participations. In the case, where the direct participation exceeds 50 percent, it shall be considered as 100 percent participation.

Article 28 Tax assessment and payment

28.1 The taxpayer shall self-assess the taxes payable in accordance with the tax law, and make payment to the budget within the timeframe specified in the Law.

28.2 The taxpayer, when undertaking the tax assessment shall adhere to the general procedures referred to in this Law, and shall fully use the cash register, equipment, computer and other supplementary tools that have the functions of registering and

documenting the income and expense transactions, producing electronic payment receipts, printing, sending, transmitting the information to the integrated tax registration and information database; and that are connected to the integrated system and that meet the requirements of standards; and shall send and register the sales information with the integrated tax registration and information database within 14 (fourteen) days.

- 28.3 When it is impossible to determine the taxpayer's income and expenses due to the taxpayer's failure to compile the book records, failure to maintain the accounting records, and failure to connect to the integrated tax registration and information database; or when the taxpayer has used unrealistic prices in determining the taxable income or expenses deductible from the taxable income, the taxes shall be assessed based on the reference prices and through transfer pricing adjustments.
- 28.4 Each time the taxable property/assets or rights are transferred to or from others' ownership, possession or usage, the taxpayer shall have an obligation to deliver respective documents to the Tax administration;
- 28.5 The taxpayer shall have an obligation to print a payment receipt with the unique number from the user system or send it electronically each time a sale has taken place.
- 28.6 The person that has performed the legal obligation to do tax assessment, withhold taxes and pay taxes to the budget shall not be paid any fees for performing his/her/its duties.
- 28.7 A tax withholder shall withhold taxes from the persons that have an obligation to pay the particular type of tax in accordance with the tax legislation.
- 28.8 The taxes shall be registered, assessed, reported and paid in MNT/togrogs, the national currency of Mongolia.
- 28.9 The relations arising from the tax assessment and payment shall be regulated in detail by the law on particular type of taxes.
- 28.10 Taxpayer shall be obligated to comply with the legislation and adhere to the guidelines, methodology, forms, guidance, rules and procedures issued by the Tax administration.

Article 29 Producing and filing the tax returns

- 29.1. The taxpayer shall file the tax return electronically or in paper in accordance with the approved form and instructions to the relevant tax administration within the timeframe as prescribed in the law; and shall perform the following duties:
- 29.1.1 To compile the book records, maintaining the accounting in accordance with the established procedures and accounting standards based on payment receipts, and produce tax returns based on the balance statements of financial and commercial activities;
- 29.1.2 To produce calculations and reports related to the tax assessment and payment, and submit them to the tax administration within the prescribed time period;
- 29.1.3. To accurately report the taxes withheld to the relevant tax department within

the timeframe prescribed by law;

- 29.1.4. Where the documents and information pertaining to tax returns are in a foreign language, these shall be translated into the Mongolian language, and any cost associated with the translation shall be borne by the taxpayer.
- 29.1.5. The taxpayers and the person that is obligated to compile the evidences and maintain records shall keep such evidences and records in the territory of Mongolia until the statute of limitations for tax payment has lapsed.
- 29.1.6. Where the payments and settlements to be reflected and included in tax returns were made in a foreign currency, these shall be expressed in MNT/togrog by a calculation using the official exchange rate of Bank of Mongolia of the day of the transaction.
- 29.2. The due date for filing tax returns and paying taxes shall be established by the Law; and unless otherwise stipulated by the law the due dates for paying taxes and filing tax return shall be the same.
- 29.3. Where the due date for paying taxes and filing tax returns falls on a weekend or public holiday, the previous business day shall be considered to be the deadline for paying taxes and filing tax returns.
- 29.4. The head of the state administrative body in charge of tax affairs may extend the due date to receive the tax returns by up to seven (7) days when necessary, and a prior notice shall be made to the public on such extension.
- 29.5. The taxpayers eligible for tax credits and/or exemptions in accordance with the legislation, shall not be relieved from the duty to file their tax returns, and such tax returns shall serve as a main document allowing them to receive a tax credit on and/or exemption from the tax of the particular type.
- 29.6. The tax returns shall be signed by the authorized official, or the taxpaying individual, or their legal representatives, and the persons who have produced or participated in the production of the tax returns.
- 29.7. The tax returns sent electronically shall be verified by an electronic signature; and in the case, where it is not verified in this way, the tax returns shall be filed to the Tax administration in paper.
- 29.8. A head of the state administrative body in charge of finance and budget affairs shall approve the procedures on defining the electronic documents, setting out the requirements applicable thereto and storing such electronic documents.

Article 30 Receiving and processing tax returns

- 30.1. The Tax administration shall oversee whether the taxpayers have filed their tax return on time prescribed by law, and whether they have accurately assessed their tax liabilities and are paying taxes.
- 30.2. When the tax return is received, the following processing shall be done to review the returns and ensure accuracy and correctness of tax assessment and payments:

- 30.2.1. Whether the tax returns have been prepared in accordance with the approved forms and instructions without any correction of errors thereon, and whether they have been approved with signatures or seals or stamps of the taxpayer, or other respective person/s or filed electronically in accordance with the relevant procedures;
- 30.2.2 Whether the tax returns were filed within the time period prescribed by law;
- 30.2.3 Whether the documents and information attached to the tax returns are complete;
- 30.2.4. Whether the tax returns were produced on the basis of accounting records with regard to the legal entities, or the income and tax registration book and other relevant documents with regard to the private individuals;
- 30.2.5. Whether the accounting records and the tax return data are consistent;
- 30.2.6. Whether the amounts in different tax returns are consistent in between and with the amounts in the receipts and information attached to one, and whether there are any calculation errors;
- 30.2.7. Whether the tax credits and exemptions included in the tax returns have been calculated and determined in compliance with the legislation;
- 30.2.8 Whether the tax accounts balance reflected in the return and the tax paid during the filing period, are consistent with the records held by the Tax administration;
- 30.2.9. Whether the information from the third parties in the Tax administration's integrated registration database that relate to the reporting period, is consistent with the data in the tax returns.
- 30.3. The Tax administration shall review the tax returns in accordance with Article 30.2 of this Law, and accept returns with no discrepancies; and the primary and other relevant proof of evidence may be demanded if necessary.
- 30.4. Where Tax administration identifies discrepancies when reviewing the tax returns as stipulated in Article 30.2 of this Law, it shall deliver a notice to the taxpayer requiring to clear the discrepancy within 3 (three) business days after such identification.
- 30.5. The taxpayer shall have an obligation to adjust the discrepancy specified in the notice and file the revised tax return within three (3) business days after receiving the notice referred to in Article 30.4 of this Law; and the Tax administration shall accept such tax return.
- 30.6 Where the taxpayer considers the demand to be unjustified, he/she/it shall deliver a written explanation electronically or in paper form to the Tax administration within the time period referred to in Article 30.5 of this Law;
- 30.7. After receiving the explanation referred to in Article 30.6 of this Law the Tax administration shall receive the tax return within five (5) business days.
- 30.8. Where explanation referred to in Article 30.6 is not filed on time, or the Tax administration considers that the explanation is unjustified, it shall record the relevant

information in the integrated tax registration and information database; and it shall serve as a ground to conduct tax audit on issues related tax assessment and tax payment for that reporting period and determine the tax liability.

- 30.9. Failure to accept a tax return during returns processing shall not serve as a ground not to charge due loss.
- 30.10. The procedure on producing, filing, acceptance, processing and making adjustments shall be approved by the head of state administrative organization in charge of tax affairs.
- 30.9. The Cabinet member in charge of finance and budget affairs shall approve the procedures on regulating the discrepancies between the indicators in the tax returns, the forms/templates of the tax return, guidance on filling in the form and adjustments of discrepancies.

Article 31 Making adjustment to the tax return

- 31.1. The taxpayers may adjust their tax returns in the subsequent tax year.
- 31.2. In the case, where the taxpayer makes an adjustment in a tax return resulting in a reduced tax liability, they shall file the adjusted tax return together the primary and other relevant documents that prove such adjustment.
- 31.3. The Tax administration when receiving the adjusted tax return shall undertake the activities referred to in the Article 30 of this Law.
- 31.4. No adjustments shall be made in accordance with the article stated in Article 31.1 once the taxpayer has been notified that a tax audit is to be conducted.
- 31.5. Adjustments made to the tax returns based on taxpayer's request shall not constitute grounds for relief from a due loss for taxes unpaid within the timeframe prescribed in law.
- 31.6. The adjustments to the tax returns that resulted in a reduced tax liability shall not constitute grounds for changing the amount of due losses calculated before the adjustment.

CHAPTER SEVEN INTEGRATED TAX REGISTRATION AND INFORMATION DATABASE

Article 32 Integrated tax registration and information database

- 32.1. The Tax administration shall have an integrated tax registration and information database. The Tax administration shall use the information system and technology for the purpose of performing its functions and exchange of information; and shall operate fully ensuring their confidentiality and reliability.
- 32.2. The integrated tax registration and information database shall have the following purposes:
 - 32.2.1. To register and oversee the taxpayers, tax returns, tax assessment, tax payments

and tax debts;

- 32.2.2. To base the tax audit on risks;
 - 32.2.3. To ensure consistent nationwide compliance with the tax legislation;
 - 32.2.4. To ensure openness and transparency of activities of the Tax administration;
 - 32.2.5. To organize swiftly all types of services for taxpayers;
 - 32.2.6. To identify potential risks that might occur to the Tax administration's activities as well as to taxpayers.
 - 32.2.7. To reduce the tax management costs, including information management costs, and ensure expeditious, efficient and transparent reporting.
- 32.3. The Tax administration may use sources of information from other state bodies as well as other external and internal sources of information within the scope of the relevant legislation.
- 32.4. The Tax administration shall oversee the registration of the information with the integrated tax registration and information database, data enrichment, its safety and security, and data usage.

Article 33 Maintaining the integrated tax registration and information database

- 33.1. The following information and data shall be included in the integrated tax registration and information database:
- 33.1.1. Taxpayers Registration and information on updates thereto;
 - 33.1.2. Records of taxes, due losses and penalties;
 - 33.1.3. Tax returns, reports and information from the electronic payment receipts system;
 - 33.1.4. Documents issued by the state tax inspectors and information on their fulfillment;
 - 33.1.5. Information on the decisions of the Tax dispute resolution council;
 - 33.1.6. Information on the court decisions and rulings on tax violations and disputes;
 - 33.1.7. Information received from relevant organizations;
 - 33.1.8. Information obtained from the state integrated information database in accordance with the laws and regulations;
 - 33.1.9. Third-party information;
 - 33.1.10. Tax legislation and other legal documents;
 - 33.1.11. Information on the Tax administration's human resources, budget, and assets;
 - 33.1.12. Information on tax debts, debt recovery and tax collection activities.
- 33.2. The Tax administration shall maintain the records specified in Article 33.1.2 of this Law in conformity with the legislation, and include in the tax registration full details

of each taxpayer's tax liabilities due, tax credits or exemptions, due losses, penalties; their payments and settlements, as well as debts, based on original receipts and documents.

- 33.3 The head of the state administrative body in charge of tax affairs shall approve the procedures for compiling the integrated tax registration and information database, storage, protection and use of information in the database, and supervision of data usage.

Article 34 Obtaining the information from other organizations and cooperation

- 34.1. The Tax administration shall collect information from the third parties in respect of the taxpayers, and create the third-party information database, and use such information in tax audit, tax assessment, collection, and registration of taxpayers and their risks; and the third parties referred to in Articles 34.3, 34.4, 34.5, 34.6, 34.7, 34.8, 34.9, 34.10, 34.11, 34.12, 34.13, 34.14, 34.15, 34.16, 34.17, 34.18, 34.19, 34.20, 34.21, 34.22, 34.23, 34.24, 34.25, 34.26 and 34.27 of this Law shall have an obligation to provide the Tax administration with the required information and cooperate with the Tax administration for the tax purposes.
- 34.2. Organizations and officials shall send the information specified in Articles 34.3, 34.4, 34.5, 34.6, 34.7, 34.8, 34.9, 34.10, 34.11, 34.12, 34.13, 34.14, 34.15, 34.16, 34.17, 34.18, 34.19, 34.20, 34.21, 34.22, 34.23, 34.24, 34.25, 34.26 and 34.27 of this Law in electronic form regularly for the purpose of the Tax administration to compile the third-party information database within 10th of each month unless the time is stipulated otherwise:
- 34.3. A Central state administrative body in charge of finance and budget affairs shall deliver the data on financial statements related to the taxpayer, information on foreign financed projects and activities, treasury department's expenditures, and information on special permits/licenses in each instance.
- 34.4 Commercial banks and non-banking financial institutions, credit and savings cooperatives and other authorized financial institutions shall prepare the following information and deliver to the Tax administration:
- 34.4.1 Taxpayer's account information and information related to the accounts each time the Tax administration demands;
- 34.4.2 The information on opening new payment accounts, savings accounts or other types of accounts with a bank, non-banking financial institution, savings and credit cooperative or other licensed banking and financial entity, or making changes and/or movements to their existing accounts, such information shall be sent to the Tax administration each time whenever such event occurs;
- 34.4.3. Taxpayer's accounts transactions data based on the written request of the Tax administration for it
- 34.5. The Police department shall prepare the following information and deliver to the Tax administration:

- 34.5.1. The information and research in its possession related to registration of citizens of Mongolia, foreign citizens and stateless persons, clarifying the address of such people that is not subject to confidentiality of the individual's privacy upon the request from the Tax administration;
- 34.5.2. The information on holders the firearms, the movement and removals of such firearms, the information on purchase or country's border crossing of firearms, bullets and other devices similar to firearms, and information on individuals and legal entities that have a permission;
- 34.5.3 The information on special permits/licenses for contracted security guards;
- 34.5.4 The information on drivers-training schools, courses and registration of the driving licenses;
- 34.5.5 The information regarding tax evasion crimes and its proceedings
- 34.6 The police department shall cooperate in determining the address of, searches and the investigations of the taxpayer who has evaded taxes and escaped;
- 34.7 The customs organization shall ensure inclusion of the taxpayer identification number on the custom's declaration and send the information related to exports and imports activities of the taxpayer to the tax administration in each instance.
- 34.8. The state administrative body in charge of state registration matters shall prepare the following information and sent it to the Tax administration:
 - 34.8.1. The detailed state registration information of the citizens of Mongolia;
 - 34.8.2. The detailed state registration data and its updates of properties and assets registered in Mongolia;
 - 34.8.3. The detailed state registration data of the legal entities, and its updates.
- 34.9. The state administrative body in charge of intellectual property shall send the detailed information on the intellectual property, and authors, patent and certificate holders of inventions, industrial and other useful designs to the Tax administration in each instance.
- 34.10 The state administrative body in charge of immigration matters shall send the following information to the Tax administration in each instance:
 - 34.10.1. The information on residential addresses of foreign citizens and stateless individuals, the dates of entering and exiting Mongolian border, the information on persons who invited them, and their assets guarantee information;
 - 34.10.2. The information related to registration of foreign invested non-governmental organizations and its updates.
- 34.11 Other central state administrative and local bodies and, their management officials shall have the following obligations:
 - 34.11.1 To advocate the social and economic importance of taxes and provide support

and assistance in creating conditions and opportunities for ensuring implementation of tax legislation;

34.11.2 Where a state administrative body in charge of inspection matters or its officials has discovered information on violation of tax legislation while performing their official duties, they shall send such information to the Tax administration in each instance;

34.11.3 To send to the Tax administration the information on registration of and changes in licenses; financing from the reserve funds and other funds in each instance;

34.11.4 To cooperate with the Tax administration and provide assistance in tax audit, and provide with other required information;

34.12 The Stock Exchange shall send the following information to the Tax administration in each instance:

34.12.1 The information on dispersion of the shareholders of the joint stock companies;

34.12.2. The information on sales of shares of the joint stock companies;

34.13 The Financial Regulatory Commission shall send the following information to the Tax administration:

34.13.1 The information related to the registration of and changes to the legal entities holding the special permits/licenses issued by the Financial Regulatory Commission in each instance;

34.13.2 The information on traded securities in each instance;

34.13.3 The registration data and detailed information of individuals who have registered with the Financial Regulatory Commission and that have a right to undertake activities on the financial markets.

34.14 Central securities depository shall send the following information to the Tax administration in each instance:

34.14.1 The information on registration of and changes in securities, and payments and settlements;

34.14.2 The information on changes in accounts with the Central securities depository;

34.14.3 The information on payments of the dividends of the joint stock companies;

34.15. The state administrative body in charge of mineral resources and petroleum matters shall send the following information to the Tax administration in each instance:

34.15.1. The information related to the mineral resources and petroleum sector;

34.15.2. The information related to license holders, those engaged in mining production, the information on strategically important deposits.

34.16 The border protection body shall send the information related to citizens who passed

the border based on the request from the Tax administration:

- 34.17. The state administrative body in charge of road and transportation matters shall send to the Tax administration information regarding owners, possessors of and changes in ownership and possession of road vehicles in Mongolia.
- 34.18. The state administrative body in charge of road and transportation matters provide support and assistance in collection of taxes on road vehicles and automobiles, and collection of fees for air pollution and organize joint audits.
- 34.19 Bank of Mongolia shall send the following information to the Tax administration:
- 34.19.1 The information on the sales of gold, and information on the credit database.
- 34.19.2 The information on the transactions for the amount MNT 20 million or more in cash or foreign payment settlement transaction by the person referred to in Article 4.1 of the Law on fighting against money laundering and financing of terrorism¹⁰, in relation to potential money laundering and tax avoidance and noncompliance issues thereto under the information exchange and cooperation agreement to be signed with the Tax administration.
- 34.20 The state department of probe testing shall send the information on gold submission and other required information in each instance.
- 34.21 The notaries and other persons with a mandate to register contracts and transactions shall send the information on the contracts and transactions related to taxable items shall send information to the Tax administration.
- 34.22 The state administrative body in charge of land affairs shall exchange the information related to the registration of the persons that make land payments, and the taxpayer of the tax on land as an immovable property, information on assessment of land payments, and its payment and assessment of immovable property tax on land in each instance.
- 34.23 The state administrative body in charge of health insurance shall send electronically the detailed information on individuals and legal entities that pay the health insurance premiums, in each instance.
- 34.24 The state administrative body in charge of social insurance shall send electronically the detailed information on individuals and legal entities that pay the social insurance premiums, in each instance.
- 34.25 The state administrative body in charge of state property policy and coordination shall send the following information to the Tax administration in each instance:
- 34.25.1 The detailed information on performance of public procurement of goods, works and services; the information on the individual/s and the legal entity/s who participated in such procurement, the detailed information on the budgeted cost, the

¹⁰ Law on fighting against money laundering and financing of terrorism; “State Information”, Edition No.24, 2013

individuals and the legal entities that concluded contracts.

34.25.2 The detailed information on the state-owned enterprises, locally owned entities, and the entities with the state participation.

34.26 The central state administrative body in charge of construction and urban development, land and cartography shall send the information on individuals and legal entities that hold the special permits/licenses, in each instance.

34.27 The state organizations, and the state-owned enterprises, the locally owned entities, and the entities with the state participation shall send the information similar to those, at the demand of the Tax administration immediately.

CHAPTER EIGHT RISK MANAGEMENT OF THE TAX ADMINISTRATION

Article 35 Risk management of the Tax administration

35.1. The Tax administration shall carry out activities to identify, manage and control the potential risks of tax relations during its implementation of the tax legislation.

35.2. The Tax administration shall adhere to the following principles in the implementing the risk management:

35.2.1 Within the framework of the acting legislation of Mongolia, the Tax Administration shall pursue the lowest risk in achieving its goals.

35.2.2 The risk management shall be comprehensive and continuous;

35.2.3 The risk management shall be a part of the organization's planning and decision making;

35.2.4 The risk management shall be aimed at the efficient allocation of the organization's resources and cost saving.

35.3 The Tax administration's risk management refers to a continuous, comprehensive activities aiming at identification in advance, analysis, determination and evaluation of the causes and circumstances of any action or inaction of the participants in the tax relations for failing to perform their obligations under the law; and the selection of the optimal ways to resolve such issues, and prevention from the risks.

35.4. The Tax administration shall implement the risk management activities in following stages:

35.4.1 To determine the circumstances;

35.4.2 To identify and register the risks;

35.4.3 To evaluate and analyze the risks;

35.4.4 To manage the risks and define the controlling measures;

35.4.5 To control the risk management process.

35.5 The risk management system of the Tax administration is the set of activities based on the electronic system of calculations used in the tax administration management and professional and methodological activities within the scope of tax legislation.

35.6 The risk assessment and analysis referred to in Article 35.4.3 of this Law shall be conducted based on the information of the integrated tax registration and information database.

35.7 A risk management committee shall operate with the functions to update, change and abolish the indicators for calculating risks, to manage and mitigate the potential tax administration risks, facilitate review of the risk analysis results and to decide whether to apply the general anti-avoidance rules stipulated in Article 16 of this Law.

35.8 The members of the risk management committee shall be appointed and released by the Decree of the head of the state administrative body in charge of tax affairs, and the representative of the central state administrative body in charge of finance and budget affairs shall be included in the composition of the committee.

35.9 The indicators to be used in the risk assessment and analysis shall be set in consistency with the tax legislation, and approved by the head of the state administrative body in charge of tax affairs upon discussion by the risk management committee.

35.10 The taxpayers for tax audit shall be selected based on the results of the risk assessment and analysis referred to in Article 35.4.3 of this Law.

35.11 The Cabinet member in charge of finance and budget affairs shall approve the procedures for the risk management activities and the committee, in consistency with the risk management standards.

Article 36 Impossibility to determine the tax liability

36.1. When it is impossible to accurately determine a taxpayer's tax liability the Tax administration shall assess the tax using the reference price method and issue a tax re-assessment report.

36.2. The Tax administration shall assess the tax by using reference price method based on the information available to it on the following grounds:

36.2.1. the taxpayer did not maintain reports and records as prescribed in the Law;

36.2.2. the taxpayer maintained incomplete or incorrect reports and records;

36.2.3. the taxpayer's reports and records have been lost or destroyed;

36.2.4. It becomes obvious from the comparison of indicators in tax returns with those in the financial statements that the tax has been under-assessed;

36.2.5. The taxpayer has not been connected to the integrated tax registration and information database.

36.3. The procedures on assessment of tax liabilities through reference price method shall be approved by the Cabinet member in charge of finance and budget affairs.

Article 37 General principles applicable to transfer pricing

- 37.1 If the determinants of income, profits and the tax base in the terms and conditions of a controlled transaction differ from those of the uncontrolled transactions, and that resulted in decrease of the tax base, the tax base shall be increased by the amount of such discrepancy and the relevant tax shall be re-assessed.
- 37.2 The tax base for the controlled transaction shall not be less than the tax base for the comparable uncontrolled transactions.
- 37.3 For determining the tax base for the controlled transaction prescribed in Article 37.2 of this Law, whether the terms and conditions of such transaction is consistent with those of the comparable uncontrolled transactions shall be determined through the following:
- 37.3.1 Price and terms of the transaction;
- 37.3.2 Whether there was a real reason to do the transaction;
- 37.3.3 Whether parties to the transaction have performed their duties, or whether the real transaction has taken place.
- 37.4 Where there were discrepancies between the contract terms and conditions, and the real execution of the contract concluded between the related parties, the tax base shall be adjusted taking into account the real execution of the contract, such as the participation of the parties to contract, their functions, execution, resources spent and the risks taken.

Article 38 Transfer Pricing Report

- 38.1 The Transfer Pricing Reports shall be classified as follows:
- 38.1.1 An annual report on the transfer pricing transactions;
- 38.1.2 Internal transfer pricing report;
- 38.1.3 General transfer pricing report;
- 38.1.4 Country by country report.
- 38.2 The taxpayers shall have an obligation to maintain and report the information on controlled transactions.
- 38.3 The taxpayers, shall provide the information related to transfer pricing report demanded by the Tax administration prior to and/or during the tax audit, in each instance.
- 38.4 The taxpayers shall deliver the annual report on the transfer pricing transactions together with the annual tax return to the relevant tax administration.
- 38.5 The domestic transfer pricing report shall contain the following information:
- 38.5.1 The information on the business activities, business strategy and policy of the taxpayer residing in Mongolia or the permanent establishment;
- 38.5.2 The information required for comparative analysis of the controlled transactions, information on comparable uncontrolled transactions, and the methodology used for transfer

pricing, and other relevant information;

38.5.3 Financial information on the transactions related to the taxpayer residing in Mongolia;

38.5.4 Other information required as specified in Article 38.9 of this Law.

38.6 The general transfer pricing report shall contain the following information:

38.6.1 The direct and indirect structure of ownership of the shares and equity participation of a group and the group participants;

38.6.2 The geographical location of the business activities of a group and the group participants’;

38.6.3 The information on the major assets being used for core business activities, sales, purchases, supply channels and generating added value; and the information on the functions of the activities, and the risks born by the group and group participants, and large transactions that effected on the restructuring carried out in the particular fiscal year;

38.6.4 The intangible assets owned or possessed by the group and group participants, their ownership structure and the transfer pricing policy in place with regard to the intangible assets;

38.6.5 The financial transactions between the group and group participants and the transfer pricing policy they follow in connection to such transactions;

38.6.6 The information on the financial and tax policy the group and group participants or particular taxpayer follow; the information on the one or bilateral advance pricing agreements concluded with the tax administrations of other countries;

38.6.7 The information of related parties similar to those referred to in Articles 38.6.1, 38.6.2, 38.6.3, 38.6.4, 38.6.5 and 38.6.6 of this Law and that are required for the procedure stipulated in Article 38.9 of this Law.

38.7 The person to issue country by country report and the detailed reporting relations shall be regulated in accordance with Article 27 of the Law on Corporate Income Tax.

38.8 The following taxpayers shall file the reports stipulated in Articles 38.1.2 and 38.1.3 of this Law together with the end-of-the-year tax return to the relevant tax administration:

38.8.1 the taxpayer that earned sales income of MNT 6 (six) or more billion in the previous tax year;

38.8.2 the taxpayer whose business activities are reflected in the consolidated financial statements of the group and that earned sales income of MNT 6 (six) or more billion in the previous tax year according to the consolidated financial statements of the group;

38.8.3 taxpayers with the foreign investment.

38.9 The template of the forms for each transfer pricing report referred to in Article 38.1 of this Law, instructions on filling in the forms, and the procedures on the detailed reporting relations shall be approved by the head of the state administrative body in charge of tax affairs

in consistency with the internationally accepted standards and reference documents.

Article 39 Transfer price adjustments

39.1 If the taxpayer has failed to file a transfer pricing report or under-assessed and under-reported their taxes, the Tax administration shall make the main transfer pricing adjustments, re-assess the taxes and charge liabilities stipulated by the legislation.

39.2. In addition to the main adjustments specified in Article 39.1 of this law, the Tax administration shall make secondary adjustments by deeming the difference in the price that resulted from adjustments as dividends for personal income tax and corporate income tax purposes.

Article 40 Methodology for transfer price adjustments

40.1.1. The following methods shall be used for transfer pricing adjustment:

40.1.1 Comparable uncontrolled prices method;

40.1.2 Resale price method;

40.1.3 Cost-plus method;

40.1.4 Transactional net margin method;

40.1.5 Transactional profit-split method;

40.1.6 Other methods that are consistent with the general transfer pricing principles stipulated in the Article 37 of this Law.

40.2 The Tax administration, when making the transfer pricing adjustments referred to in the Article 39 of this Law shall select and use the method from those stipulated in Article 40.1 of this Law, that is considered most appropriate, and set such price based on the principles of determining the real price taking into account the following conditions:

40.2.1 The specifics of the controlled transaction;

40.2.2 Conditions stipulated in Article 37.3 of this Law;

40.2.3 The objective information that is comparable to the independent transaction;

40.2.4 Level of comparability of the controlled and uncontrolled transactions

40.3 In selecting the method for making adjustments to the controlled transaction, the methods referred to in Article 40.1 of this Law shall be used alone or in combination by a comparison of the advantages and disadvantages of such methods.

40.4 The procedures on the selection and use of the most appropriate method for transfer pricing adjustment shall be approved by the Cabinet member in charge of finance and budget affairs.

40.5 The Tax administration for the purpose of transfer price adjustments may use the

OECD guidelines on transfer pricing that is not regulated by the tax legislation and the procedures as specified in Article 40.4 of this Law, as long as it does not conflict with this Law and the legislative acts issued in conformity with this Law.

40.6 Where the taxpayer executed a controlled transaction with a person of the non-informant country, or failed to fulfill his/her/its obligations referred to in Article 39.1 of this Law, or misreported on transfer pricing, the Tax administration shall take the following measures:

40.6.1 make re-assessment based on comparison to the open data of other comparable taxpayers, or the selective data from integrated tax registration and information database;

40.6.2 For the purpose of making comparison the Tax administration may obtain from the taxpayer the transaction price without disclosing it, and in this case the Tax administration shall ensure the confidentiality of the taxpayer's information.

40.7. The tax administration shall include in list of non-informant country or region referred in Article 40.6 of this Law, the countries and regions that do not exchange information with Mongolia for tax purposes and those with risky tax system, and the list shall be published by the state administrative body in charge of tax affairs through their official website within the 10th of January each year and with any updates within 10 business days.

CHAPTER NINE CONDUCTING TAX AUDIT

Article 41 TAX AUDIT

41.1. The Tax administration shall conduct audits to check whether taxpayers have fully determined their tax liabilities and paid them on time.

41.2. The Tax administration shall conduct comprehensive and limited issue tax audit, based on general and special guidelines and under the assignment, in conformity with the international standards and legislation.

41.3. The simplified tax audit can be conducted based on the taxpayer's risks.

41.4. The tax administration shall conduct the audit on fulfilment of the taxpayers' obligations under the law, based on the risk assessment or the taxpayer's request.

41.5. Taxpayers shall be notified at least ten (10) business days in advance on tax audit to be conducted.

41.6. The head of the state administrative body in charge of tax affairs may establish the jurisdiction of tax audit taking into account the amount of income channeled by the taxpayers to the state and local budgets, as well as taking into account the type of tax, and the field of business activities.

41.7. The Article 41.5 of this Law shall not apply to the following activities that the Tax administration conducts for the purpose of overseeing the implementation of tax legislation:

- 41.7.1. Oversight on the implementation of the Law on Excise taxes¹¹;
- 41.7.2. Oversight on whether the taxpayer is connected to the integrated tax registration and information database
- 41.7.3. Oversight on activities to create, print, provide, send and store e-receipts;
- 41.8. The Tax administration shall organize tax audit, make appointments and approve guidelines, taking into consideration professional skills and work experience of state tax inspectors with a view to preventing conflicts of interests.
- 41.9. The tax audit shall be undertaken by two (2) or more state tax inspectors.
- 41.10. The Tax administration shall exercise the following powers for the purpose of carrying out tax audits:
 - 41.10.1. To summon the taxpayers and the counterparty on the reasonable grounds, and obtain explanations with respect to their activities;
 - 41.10.2. To conduct general operation specified in the Article 6 of this Law;
 - 41.10.3. To obtain explanations and references pertaining to tax returns, accounting reports, accounts records, other financial documents, and information in the integrated tax registration and information database.
- 41.11. The Tax administration and state tax inspectors are prohibited to the following operations when conducting audits:
 - 41.11.1. To conduct audits on grounds other than those stated in Article 41.4 of this Law;
 - 41.11.2. A state tax inspector to participate as an expert in tax-related criminal or administrative proceedings as well as proceedings to investigate a violation.
- 41.12. Taxpayers shall have the following rights and obligations in relation to tax audits:
 - 41.12.1. To protect their rights and legitimate interests personally and/or through their authorized representative or technical adviser; to be present during a tax audit, and provide evidences and justification;
 - 41.12.2. To obtain or provide an explanation on tax assessments and payments, and the progress and outcome of audits;
 - 41.12.3. To provide the Tax administration with the financial and other documents necessary for the tax audit, electronically or in paper as required, and to undergo the tax audit.
- 41.13. The procedures on tax audit activities shall be approved by the head of the state administrative body in charge of tax affairs who shall also ensure the implementation of it.

¹¹ Law Excise Tax Stamp; “State Information”, Edition No. 45, 2000

Article 42 Tax re-assessment report

- 42.1. A state tax inspector shall issue a tax re-assessment report or a report card on the grounds specified in Articles 16.2, 16.3, 36.1, 37.1 and 41.1 of this Law; and the re-assessment report shall comprise of sections on notes and resolution; and the report card shall consist of notes section.
- 42.2. The re-assessment report shall either increase or decrease the taxpayer's tax liability; and any difference resulting from reduced tax liability shall be included in the calculation of the tax outstanding balance for the tax year covered by the report.
- 42.3. The tax re-assessment report and the report card shall have unified registration and numbering, and shall be valid together with the annexes thereto.
- 42.4. The tax re-assessment report and report card shall take effect once signed by the state tax inspectors who conducted the audit, and reviewed, validated and signed by the head of the unit in charge of.
- 42.5. The Tax administration and the state tax inspectors shall not present tax re-assessment report to the taxpayer before final approval in an official form.
- 42.6. The tax re-assessment report and the report card shall be handed over within seven (7) business days of its date of effectiveness, and a note about such delivery shall be made.
- 42.7. If the tax re-assessment report and report card cannot be handed over to the taxpayer, or to its authorized representative within the timeframe prescribed in Article 42.6 of this Law, or the taxpayer or its authorized representative has not received them in person, the relevant tax administration shall send them by mail to the address on the taxpayer's file within seven (7) days of the lapsing of such period.
- 42.8. The tax re-assessment report and report card shall be deemed as delivered in timeframe stipulated in Article 43 of the General Administration Law¹² after the date of sending them in accordance with Article 41.7 of this Law.

Article 43 Filing a complaint on tax re-assessment report

- 43.1. If the taxpayer does not accept the tax re-assessment report in whole or partially, a complaint can be filed to the Dispute Resolution Council specified in Article 46.1 of this Law within thirty (30) days after receiving it.
- 43.2. The taxpayer's failure to receive the tax re-assessment report within the timeframe specified in this Law shall not constitute grounds for not counting the time filing a complaint under the court or administrative procedures in accordance with the procedures set out by the law.
- 43.3. Filing of a complaint by a taxpayer under Article 43.1 of this Law shall not constitute grounds for cessation of payment of taxes, due losses and penalties imposed.
- 43.4. The Tax administration shall oversee and ensure the implementation of the tax re-assessment reports and the penalty cards issued by the state tax inspectors.

¹² General Administration Law; "State Information", Edition No.28,

Article 44 Resolving violations discovered during the tax audits

44.1. Where a violation stipulated in the Law on Violations¹³ has been discovered during the tax audit, such violation shall be resolved according to the Law on Violations Proceedings¹⁴.

Article 45 Audit for validation of value added tax assessment and its payment

45.1 The taxpayer's request to validate the value added tax assessment and its payment shall be received by the relevant tax office and transfer it to the large taxpayers' office at the state administrative body in charge of tax affairs upon review, validation and conclusion of proposal.

45.2 The large taxpayers' office of the state administrative body in charge of tax affairs shall receive the proposal referred to in Article 45.1 of this Law, review the value added tax assessment and its payment and issue a validation report.

45.3 If the taxpayer does not accept the decision referred to in Article 45.2 of this Law, the taxpayer shall file complaint to the Dispute resolution council stipulated in Article 46.1 of this Law.

CHAPTER TEN DISPUTE RESOLUTION COUNCIL

Article 46 Dispute resolution council

46.1. A tax dispute resolution council (hereinafter referred to as the "dispute resolution council") with duties to investigate complaints filed by taxpayers in connection with the tax reports referred to in Article 6.1.26 of this Law, and requests referred to in Article 94.2 of the General Administration Law shall function at the Tax administration.

46.2. The dispute resolution council shall consist of the head and members.

46.3. A complaint filed by a taxpayer under the Article 46.1 of this Law shall be resolved by the dispute resolution council at the state administrative body in charge of tax affairs or at the dispute resolution council the tax administration of aimag or the capital city.

46.4. A dispute resolution council shall have 9 or 11 members. The Government shall approve the procedures on activities of the dispute resolution councils.

46.5. A dispute resolution council shall be set up with the following structure and members upon consultation with the management of the respective organizations:

46.5.1. A dispute resolution council at the aimag or the capital city tax administration shall include representatives from the local administrative bodies, the Tax administration and non-governmental organizations representing the taxpayers;

46.5.2. A dispute resolution council at the state administrative body in charge of tax

¹³ Law on Violations; "State Information", Edition No.24, 2017.

¹⁴ Law on Violations Proceedings; "State Information", Edition No.24, 2017

affairs shall include representatives from the central state administrative bodies in charge of tax and legal matters, respectively, the representatives from the Tax administration and professional non-governmental organizations.

- 46.6. Members of a dispute resolution council shall be an accountant, finance specialist, economist or a lawyer and have work experience of more than 3 years.
- 46.7. For the purpose of investigating the taxpayers' complaints an independent expert shall work at the dispute resolution council with a function to conduct analysis on tax affairs and issue opinions/conclusions and recommendations; and such expert shall be a person with state tax inspector's title appointed by the head of the relevant tax department.
- 46.8. The secretary of the dispute resolution council shall be a state tax inspector appointed by the head of the relevant tax department as proposed by the chairman of dispute resolution council.
- 46.9. The chairman and the members of the dispute resolution councils at the aimag or capital city tax administration shall be appointed and released by the head of the state administrative body in charge of tax affairs, the chairman and the members of the dispute resolution council at the state administrative body in charge of tax affairs shall be appointed by the Cabinet member in charge of finance and budget affairs, respectively.

Article 47 Filing a complaint to the dispute resolution council, and its resolution

- 47.1. A taxpayer, an authorized representative of the taxpayer, or a tax consultant has a right to file a complaint to the respective Dispute Resolution Council within the timeframe prescribed in Articles 43.1 and 72.4 of this Law after receiving the tax re-assessment report.
- 47.2. The complaint shall meet the requirements specified in the Article 10 of the Law on Settlement of complaints and grievances from the citizens to the government organizations and officials¹⁵.
- 47.3. When filing a complaint on re-assessment report, the taxpayer shall pay 10 percent of the unaccepted amount in the re-assessment report in advance, and such amount payable shall not exceed MNT 100 million.
- 47.4. Reimbursement of the advance payment of tax in accordance with Article 47.3 of this Law to the taxpayer based on the final decision of the Dispute Settlement Council and The Court on settlement of the complaint and claim filed with regard to the tax re-assessment report shall be resolved as specified in Article 49 of this Law.
- 47.5. The complaint referred to in Article 47.1 of this Law shall be settled by the Dispute resolution council of the following jurisdictions:
 - 47.5.1. A complaint of a taxpayer that belongs to the tax administration of a aimag or the capital city shall be resolved by the dispute resolution council at that tax

¹⁵ Law on settlement of citizens' complaints on public organizations and officials; "State Information", Edition No.07, 1995.

administration of the respective aimag or the Capital City; and

47.5.2. A complaint of a taxpayer that belongs to the large taxpayers' unit shall be resolved by the dispute resolution council at the state administrative body in charge of tax affairs.

47.6 A dispute resolution council shall review the relevant tax re-assessment report, the complaint filed, request and other documents and information, determine the jurisdiction within three (3) days, and transfer any complaint that does not fall within that jurisdiction to the appropriate dispute resolution council in accordance with Article 47.4 of this Law.

47.7. The quorum of the dispute resolution council meeting shall be two-thirds of all members.

47.8. A dispute resolution council shall discuss the complaint at the council meeting, and resolve it by majority votes of the members attending the meeting.

47.9. A dispute resolution council shall investigate a complaint referred to in Article 46.1 of this Law within the scope of the taxpayer complaint only, and make a decision.

47.10. A dispute resolution council shall make a decision either to change, invalidate, leave or suspend the amount of tax re-assessed by the tax report; and the decision shall be in the form of a Resolution.

47.11. If either one of the following conditions occur while the dispute resolution council considers the complaint, the re-assessment report shall be sent back to the highest level tax administration for a review of the re-assessment for a period of up-to three months; and re-assessment report complained upon may be suspended once:

47.11.1. if the number and accounting error in the tax re-assessment report would increase the total amount of the re-assessment, penalties and due loss;

47.11.2. if the conditions of the complaint need to be further clarified, issues have been under-resolved and items subject to additional clarification are issues beyond the scope of the mandate of the dispute resolution council.

47.12. Where the Tax administration is to issue a new re-assessment, the previous re-assessment report shall be abolished and where the new re-assessment is not issued on time specified in Article 47.11 of this Law, the dispute resolution council shall resolve the issue by reconsidering it.

47.13. The secretary of a dispute resolution council shall maintain the detailed records of matters discussed by the council and the grounds of its decisions, and disclose the council decisions via its website by ensuring confidentiality of private information of individuals, legal entities such as the name of the taxpayer, state tax inspector, and the expert.

47.14. A dispute resolution council shall have a right to send to the tax administration the recommendations for the purpose of eliminating the causes and conditions of disputes, and prevention from the violation of the tax legislation.

47.15 A dispute resolution council shall resolve a compliant within thirty (30) days after filing of the taxpayer's complaint, and deliver the decision to the parties to the dispute.

- 47.16. A dispute resolution council may extend the deadline for issuing a decision as stipulated in Article 47.15 of this Law once by up to thirty (30) days.
- 47.17. Where the taxpayer filing a complaint to a dispute resolution council fails to provide evidences as required by the expert state tax inspector within the timeframe prescribed in Articles 47.15 and 47.16 of this Law, the dispute shall be resolved based on the evidences provided.
- 47.18. A decision made by a dispute resolution council can be changed only by a court ruling.
- 47.19. Where a taxpayer does not accept a dispute resolution council's decision, the taxpayer shall have a right to appeal to the court within thirty (30) days after the delivery of the council's decision.
- 47.20. Where the dispute resolution council cannot resolve the taxpayer's complaint due to the reasons similar to those specified in Article 65.1.3 of the Law on settlement of the administrative cases at the court¹⁶, the dispute resolution council may suspend the discussion of the tax act.

Note: "calculation errors" shall be understood as the mistakes in quantitative expressions in the written act or it has an obvious calculation mistakes in arithmetic term, or digits' comma and etc.

CHAPTER TEN TAX ASSESSMENT, PAYMENT AND TAX DEBT

Article 48 Record of the tax assessment and payment

- 48.1 The Tax administration shall record the assessment and payment of taxes, penalties and due losses by each taxpayer.
- 48.2. The Tax administration shall record each taxpayer's tax payable, tax payment, tax credits or exemptions and the tax debts based on the tax returns, penalty sheets, and tax reports.
- 48.3. In the event of reduced tax liability as a result of a tax audit, the Tax administration shall make respective changes in the integrated tax registration and information database.
- 48.4. The procedures on recording the tax income, offsetting different taxes from the revenue account shall be approved by the Cabinet member in charge of finance and budget affairs.

Article 49. Tax refunds and off-setting

- 49.1. The Tax administration shall resolve taxes that have been overpaid by the taxpayers in

¹⁶ Law on Administrative Case Proceedings; "State Information", Edition No.09, 2016

the following order:

- 49.1.1. To refund.
- 49.1.2. To off-set to other taxes payable during the period; and
- 49.1.3. To off-set to taxes payable in the following period if the taxpayer agrees.
- 49.2. Where the taxpayer has a tax debt, irrespective of the order referred to in Article 49.1 of this Law, the overpayment shall be off-set to pay the tax debt in the first instance.
- 49.3 The tax offsetting shall follow the order as specified in Article 52.1 of this Law.
- 49.4 The relations pertaining to refund of overpaid tax may be regulated in detail by the Law on particular tax type.
- 49.5. Where the overpaid taxes have been offset, the tax administration shall notify the taxpayer about that.
- 49.6. Refunds stipulated in Article 49.1.1 of this Law shall be a part of the budget.
- 49.7. The Tax administration shall have designated current accounts for tax credits, and refunds of the overpaid taxes in accordance with the law; and the procedures on maintaining such accounts and relations in connection with them shall be approved by the Cabinet member in charge of finance and budget affairs.

Article 50 Tax debt

- 50.1. The taxes, due losses and penalties that have not been paid within the timeframe prescribed below become tax debt (hereinafter referred to as “Tax debt”):
 - 50.1.1. For taxes determined by a taxpayer’s tax returns, the day when the taxes shall have been paid and reported as stipulated in the tax legislation;
 - 50.1.2. For taxes determined by revised returns through returns processing and at the taxpayer’s request, the day when the revised tax returns were received;
 - 50.1.3. For taxes, due losses and penalties established by the tax re-assessment report or penalty sheets, within fifteen (15) business days after delivery of such decision;
 - 50.1.4. For taxes not subject to filing tax returns in accordance with the tax legislation, the day when the taxes shall have been paid as stipulated in the tax legislation.
- 50.2. Where the tax re-assessment report has been finalized by a dispute resolution council or a court ruling, the amount of arrears stipulated in Article 50.1.3 of this Law shall be changed to reflect that decision.

Article 51 Tax bill

- 50.1. The Tax administration shall send a tax bill for payment of tax debt stipulated in Article 49 of this Law (hereinafter referred to as “tax bill”) to a taxpayer, which shall reflect the following:

- 51.1.1. The taxpayer's full name;
 - 51.1.2. The taxpayers' identification number;
 - 51.1.3. The date of delivery of the tax bill;
 - 51.1.4. The taxable item and grounds for tax arrears payment;
 - 51.1.5. The amount of tax debt and penalties, the deadline to pay the tax debt;
 - 51.1.6. The place to pay the tax debt, account name and account number
 - 51.1.7. The requirement to pay the tax debt within ten (10) business days after delivery of the claim to the taxpayer
 - 51.1.8. Any other notice considered necessary by the tax administration.
- 51.2. The Tax administration shall send a tax bill to the taxpayer within 30 (thirty) business days after the tax debt arose.

Article 52 Order/sequence of the tax debt settlement

- 52.1. Tax debt shall be settled in the following order:
- 52.1.1. Principal tax debt;
 - 52.1.2. Due losses;
 - 52.1.3. Penalty.

Article 53 Grace period for paying taxes

- 53.1. Where it becomes clear that a taxpayer is unable to pay tax debt due to one of the following circumstances, the respective tax administration may grant a grace period, extending the payment due date by up to one (1) year at the taxpayer's written request:
- 53.1.1. Affected by the disaster and flood, earthquake and fire referred to in Article 4.1.1 of the Law protection from the disasters¹⁷;
 - 53.1.2. The taxpayer has paid for medical expenses larger than the previous year's taxable income due to the reasons referred to in Articles 6.1.41.a and 6.1.41.b of this Law;
 - 53.1.1.3. The taxpayer terminated his/her/its business activities;
 - 53.1.1.4. The taxpayer's business activity suffered from substantial losses for three years in row and its solvency has deteriorated;
- 53.2. Where a taxpayer is unable to pay tax debt within the grace period prescribed in Article 53.1 of this Law due to a reasonable excuse, the relevant Tax administration may extend the grace period again based on a request of the taxpayer. The extension to be

¹⁷ Law on Disaster Protection; "State Information", Edition No.07, 2017

granted shall not exceed two (2) years, in total, including the initial grace period.

- 53.3. The following principles shall apply in granting a grace period for paying the tax debt:
- 53.3.1. For the tax debt covered by the grace period no collateral shall be required for the tax debt amounted to less than MNT 10 million, or the grace period is up to 3 months; and in other cases, the amount of the required collateral shall be not less than the amount including the due losses falling under the extended period.
- 53.3.2. The items for collateral shall be the immovable property, treasury bills; and the activities on taking collateral shall be adhered to the Civil code, and the Law on Immovable Property¹⁸
- 53.3.3. Instead of collateral stipulated in Article 53.3.1. of this Law the guaranties of other persons can be used.
- 53.3.4. The taxpayer's written request shall specify the status of the assets or property, financial capability, and based on this such request shall include a schedule for tax debt payment during the grace period.
- 53.4. Activities on tax debt collection referred to in this Law shall not be implemented during the grace period where a grace period has been granted for paying tax debt.
- 53.5. In the case, where a grace period for payment of tax debts has been granted in accordance with Articles 53.1 and 53.2 of this Law, the amount of due losses calculated during the grace period shall be discounted by 20 (twenty) percent.
- 53.6. Where conditions occurred to consider the taxpayer as risky during the extension period as specified in Articles 53.1 and 53.2 of this Law, or the taxpayer failed to pay the tax debt according to the schedule, or did not allow changing the collateral; and the subsequent changes in the conditions have been considered as inappropriate for granting extension of the grace period, the head of the tax administration shall cancel the grace period and recover the tax debt from the collateral.
- 53.7. In the case, where a grace period has been cancelled in accordance with the Article 53.6. of this Law, the tax debts shall be recovered from the taxpayer's property and securities in the first instance; and where such assets are insufficient to pay the debt, the tax debt shall be recovered from the guarantor.
- 53.8. When recovering the tax debts from the guarantor, a letter of notification shall be sent as specified in Articles 58.1 and 58.2 of this Law. In the case, where a guarantor fails to settle the tax debt within the timeframe prescribed in such notification, a tax bill shall be issued according to the Article 51 of this Law. In the event of the guarantor's failure to pay the tax debt within the timeframe prescribed in the bill, the tax debt collection operations shall commence.
- 53.9. The tax debtor shall be notified on the decision of the head of the Tax administration regarding approval or cancellation of the grace period for tax debt payment within 10 business days.

¹⁸ Law on immovable property pledge; "State Information", Edition No.28, 2009

53.10 The procedures on grace period for tax debt payment, the content and template of the forms related to these activities shall be approved by the state administrative body in charge of tax affairs.

Article 54 Early collection of risky tax debts

54.1. Where any of the following circumstances arises and it becomes clear that the taxpayer is not able to pay the tax debt, the tax administration shall collect the debt earlier where the tax liabilities have been determined:

54.1.1. An enforcement activity referred to in Article 6.1.4 of this Law has started in relation to the taxpayer's assets;

54.1.2. A decision has been made to put the taxpayer into liquidation;

54.1.3. The taxpayer no longer has a residential address in Mongolia;

54.1.4. It becomes obvious that the taxpayer evaded or attempted to evade tax payment through illegal actions, received or attempted to receive tax refunds, run away or attempted to run away from tax collection activities by transferring assets or property through fraudulent acts or intentionally going bankrupt.

54.2. A tax pre-claim shall be delivered for payment of tax debt within 3 (three) business days as stated in Article 54.1 of this Law.

CHAPTER ELEVEN TAX DEBT COLLECTION

Article 55 Tax debt collection

55.1. The Tax administration shall commence the operations on collecting tax debt in the following circumstances:

55.1.1. The taxpayer or the secondary person obliged to pay taxes failed to pay the tax debt in full within the timeframe prescribed in the tax bill;

55.1.2. The taxpayer failed to pay the tax debt in full within the timeframe prescribed in Article 53 of this Law and the tax pre-invoice referred to in Article 54.2 of this Law;

55.1.3 The heir failed to pay the tax debt in full within the timeframe prescribed in the tax bill;

55.1.4 The circumstances set forth in Article 54.1 of this Law occurred to the taxpayer who received the invoice after the tax payment deadline

55.2 The Tax administration shall carry out debt collection operations in the following order of steps:

55.2.1. delivering the tax bill to the taxpayer

55.2.2. recovering the tax debt in an undisputed manner

55.2.3. collecting the cash

- 55.2.4. seizure of the assets and receivables
- 55.2.5. sequestration of the seized assets
- 55.2.6. monetizing the seized and sequestrated assets
- 55.2.7. allocating the income

55.3. The operations stipulated in Article 55.2 of this Law may be carried out in overlapped manner in order to ensure full collection of tax debts.

Article 56 Principle of priority of taxes

56.1. The tax shall be recovered before any receivables other than those specified in Articles 56.2, 56.3, 56.4, 56.5, 56.6 and 56.7 of this Law.

56.2 In the case, where the enforcement measures referred to in Article 6.1.4 of this Law have been taken toward the taxpayer's assets, and the assets have been monetized, and where the Tax administration has requested recovery of the tax debts from such assets, the tax debts shall be collected after the expenses of such activities irrespective of the orders of debts registered with the court decision execution agency.

56.3 In the case, where the taxpayer's assets have been monetized according to the tax debt collection operations, the direct cost of collection of tax debt from such monetized assets shall be collected in the first instance, before taxes and other receivables irrespective of the provisions 56.4, 56.5.3, 56.6 and 56.7 of this Law.

56.4. In the case, where the items subject to excise tax and taxes on gasoline and diesel fuel have been monetized according to the enforcement activities, the excise taxes, the gasoline and diesel fuel taxes shall be recovered in first instance before other taxes and receivables, irrespective of the provisions 56.5-56.7 of this Law.

56.5. The tax debts of the taxpayer who have been registered with 2 (two) or more Tax administration offices whose assets are subject to seizure under the tax debt collection operations shall be collected according to the following principles:

56.5.1. In the case, where the assets have been seized for the purpose of particular tax debt recovery, such tax debt shall be collected in first instance, before other tax debts that have been requested to be offset from the subjects of seizure;

56.5.2 In the case, where there are several requests for offsetting the tax debts, such debt shall be collected according to the order of such requests made;

56.5.3 In the case, where the taxpayer has been granted the grace period and put the collateral, the collateralized tax debt shall be collected first.

56.6 In the case, where the tax debt is to be recovered from the assets with the preferential security interest of the third party to demand the taxpayer's collateral or mortgage collateral, the tax debt shall be collected after such receivables.

56.7 In the case of a collateral that cannot be registered or the priority claim right although not registered, the preferential right prescribed in Article 56.6 of this Law shall be exercised given it is proved by evidence to the authority realizing the enforcement operations.

56.8 In the case, where the person referred to in Article 56.7 of this Law failed to provide documentation or evidences of the preferential right, the preferential right cannot be exercised.

56.9 In the case of remedy for the damages caused to the life and health of others, such damages shall be compensated first, irrespective of what is specified in this Law, before taxes and receivables.

Article 57. Secondary persons with tax payment obligations

57.1. In the case, where it is determined that the taxpayer's assets are not sufficient to recover the tax debts and the taxpayer has transferred his/her/its assets to others at no charge or at too low price; or created a beneficial status to others by cancelling their receivables within the period of one year before the date of tax arrears, the successor shall be the secondary person with an obligation to pay taxes at the amount of the transferred asset and the amount of canceled receivable.

Article 58. General procedures on collection of tax arrears from the secondary person with tax payment obligations

58.1. The secondary person who has the obligation to pay the tax arrears of a taxpayer shall be delivered a notification with the following contents for the purposes of recovering tax arrears:

58.1.1. Full name of the taxpayer with tax arrears

58.1.2. Date of the tax debt, tax types, the amount of tax debt and the deadline to pay the tax debt

58.1.3. The place to pay the tax debt, account name and account number

58.2. The deadline to pay tax arrears specified in Article 58.1.2 of this Law shall be 20 days after delivery of the notification.

58.3. If the secondary person with tax payment obligation fails to pay the taxes within the time specified in 58.1.2 of this Law, the tax administration shall deliver a tax bill in the case except preliminary collection of taxes at risk.

58.4. Articles 53 and 54 of this Law shall equally apply to the secondary persons with tax payment obligations.

58.5. Unless the asset's value is likely to decline, collection of tax arrears from the assets of the secondary persons with tax payment obligations cannot be undertaken before commencement of monetizing the seized assets of the taxpayer.

58.6. In the case, where tax arrears of a taxpayer were recovered from the secondary person with tax paying obligations, he/she/it has a right to claim from the taxpayer with tax arrears.

58.7. The head of the state administrative body in charge of tax affairs shall approve the procedures on recovery of tax arrears from the secondary persons obligated to pay taxes

Article 59 Establishing a tax debtor's asset status

59.1. For the purposes of conducting the tax debt collection operations, a state tax inspector shall establish the status of the tax debtor's assets by using the following methods:

59.1.1. To conduct inquiries regarding the status of the assets;

59.1.2. To establish the status of the assets based on the data of the Integrated tax registration and information database;

59.1.3. To conduct common operations of Tax administration specified in Section 5 of this Law;

59.1.4. To establish the asset ownership, possessions and its use based on the third-party information and references.

59.2. Inquiries may be conducted in relation to the following persons in accordance with Article 59.1.1 of this Law, and check their asset-related documents as required:

59.2.1. A tax debtor;

59.2.2. A third party holding a tax debtor's assets, or a third party about whom there are reasonable grounds for believing that the assets are in his/her/its possession;

59.2.3. A person that has a relationship with the tax debtor related to receivables or payables, or a person about whom there are reasonable grounds for believing that he/she/it has taken the tax debtor's assets;

59.2.4. A legal entity in which a tax debtor has a share or equity participation.

59.3. When conducting common operations specified in Article 59.1.3 of this Law the procedures specified in Article 19.4 of this Law shall be complied with.

59.4. Information and references concerning the assets referred to in Article 59.1.4 of this Law shall be obtained from the state administrative body in charge of state registration and other relevant organizations.

59.5. The state tax inspectors, where it is required for tax debt collection, may inspect a tax debtor's place of residence and a location where an asset might be concealed.

59.6. A state tax inspector during inspection may require a tax debtor and a third party to open the doors, safes, or other warehouse and containers, and in the event the taxpayer refuses to do the actions, may take necessary measures to gain access to those.

Article 60. Procedures for property seizure

60.1. Seizure the assets of a taxpayer with tax arrears shall have a meaning that is stipulated

in Article 49.1 of the Law on Court Decision Execution¹⁹ and the principle of seizure of assets with no security interest in first instance shall be applied.

- 60.2 In the case, where the assets with no security interest referred to in Article 60.1 of this Law are insufficient to recover the tax arrears, the assets with the security interest may be seized.
- 60.3 In the case, where the assets with the security interests of the third party have been seized, based on the request of the third party sent to the Tax administration, the tax debtor's seized assets can be exchanged for the assets that can cover the tax debt, liquid assets or assets with no third-party security interest.
- 60.4 The Tax administration shall collect the tax arrears with the minimum cost, and seize the highly liquid assets in first instance for the purpose of tax debt collection.
- 60.5 No assets except for those required for tax debt collection shall be seized.
- 60.6 In the case, where it has been established that value of the assets to be seized is not sufficient to cover the aggregate amount of cost of seizure and the tax debt collection, amount to be paid to the third party that has a right over the collateral that is to be seized prior to the tax debt collection, such assets shall not be seized.
- 60.7 In the case, where the Tax administration has seized the tax debtor's assets, it shall issue an act on seizure. In the case, where the seized assets are movable property, securities, bank account, receivables, intangible assets over which there is a right to demand, the copy of the act and notification on seizure shall be delivered to the tax debtor.
- 60.8 In the case, where the taxpayer with tax arrears has fully paid the tax arrears or exercised the grace period stipulated in Article 53 of this Law, the Tax administration shall invalidate the assets seizure act.
- 60.9 The procedures on seizure, sequestration, maintaining and protection of assets and relations pertaining to these shall be approved by the Cabinet member in charge of finance and budget affairs based on the standards of what is specified in Articles 49, 50, 51, 52, 53, 54 and 56 of the Law on Court Decision Execution unless otherwise stipulated by the Law.

Note: "intangible assets over which there is a right to demand" means the investment in banks, non-bank financial institutions, savings and credit cooperatives, the orders to brokers and dealers on selling and purchasing shares.

Article 61 Assets and income that are prohibited for seizure

- 61.1 The seizure of the following assets shall be prohibited:
- 61.1.1. Clothing and items to be used by the tax debtor and his/her family members on a daily basis;
- 61.1.2. Only one home where the tax debtor permanently resides, as well as firewood

¹⁹ Law on Court Decision Execution; "State Information", Edition No.24, 2017

and coal being used in the cold season by the tax debtor;

61.1.3. Tools, materials, equipment, livestock and fodder for them that are necessary for activities which are the source of livelihood of the farmers, herders and handcrafts makers;

61.1.4. Aids, allowances and donations provided due to disasters, natural hazards, accidents and emergency situations

61.1.5 Pensions and benefits provided in accordance with the Law on Pensions and Benefits²⁰ provided from the Social Insurance Fund;

61.1.6 donor compensation;

61.1.7 Social welfare pensions and allowances, and the benefits from the social welfare services and social support services.

61.2. Easily perishable food products and old goods that have been worn out shall not be seized.

61.3. Where the movable property and securities of the tax debtor owned by a third party other than a family member or related person, and the third party refused to transfer these assets, such assets shall not be seized

Article 62. Seizure of movable properties and securities, sequestration of cash and recovery of tax arrears

64.1. When seizure the movable properties and securities, the state tax inspectors shall take such property under the Tax administration's possession. The seizure shall be effective once the Tax administration takes possession of the property.

62.2. In the case, where a state tax inspector identified cash while determining the status of assets of the tax debtor, cash of the amount not more than the tax debt shall be sequestrated and paid to the tax revenue account immediately. Tax debt of the amount paid shall be considered to have been collected.

62.3. In the case, where a state tax inspector seized the securities, the Tax administration may sell such securities and collect the tax debt from the proceeds. Tax debt of the amount of such proceeds shall be considered to have been collected.

62.4. In the case, where a tax debtor's assets are insufficient to recover the tax debts, the Tax administration shall sequestrate the movable property and securities that have been transferred to the third party for possession.

62.5 When carrying out the action referred to in Article 62.4 of this Law, the Tax administration shall obligate the third party in writing to transfer the asset within 5 (five) business days, and notify the tax debtor.

62.6 In the case, where the third party failed to transfer the assets in accordance with Article

²⁰ Law on pensions and benefits granted from the Social Insurance Fund; "State Information", Edition No.08, 1994.

62.5 of this Law, the state tax inspector may seize the movable property and securities.

- 62.7. In the case, where the third party specified in Article 62.4 of this Law has a lease right, or rent right free of charge, or a possession right based on a right to use the movable property or a right to generate profit or income under the contract concluded with the tax debtor, the third party may choose either to terminate the contract, or to continue using the movable property and generate profit or income without terminating the contract that shall be limited to three (3) months.
- 62.8. The Tax administration, when necessary, may have the seized movable property or securities stored by the tax debtor or the third party that has a right for possession of such property. In the case, where the depository irrespective of what is stated in Article 62.1 of this Law expressed that the assets have been seized by placing a seize, or informing the public on this or seized using other methods of establishing a seizure, the seizure shall be considered effective.
- 62.9. In the case, where the assets seized under Article 62.8 of this Law have been stored, and it is considered that there shall be no problem with debt collection, the use of such assets or generation of profit or income can be allowed.
- 62.10. The state tax inspector shall issue an act on seizure of the securities, and deliver it to the legal entity that is undertaking the trading, registration of the securities, payment settlements, and storing them.

Note: “take under possession” means the action of the Tax administration on issuing a note on seizure of the tax debtor’s asset without changing its ownership and possession, and with the limited rights to administer, possess, and right to use such asset.

Article 63 Recovery of the tax debt in an undisputed manner

- 63.1 The following procedures shall be adhered to in seizure of the taxpayer’s bank account in an undisputed manner and recovery of tax arrears:
- 63.1.1 The state tax inspector shall send a letter of notification approved by the head of the Tax administration to the liaison bank of the tax debtor on seizure the bank account in order to collect the tax debt from the tax debtor’s monetary assets held with the bank;
- 63.1.2 A letter of notification on seizure specified in Article 63.1.1 of this Law shall specify the tax debtor’s name, the taxpayer identification number, the recipient bank’s name and account number, the name of the tax debtor’s liaising bank, address, grounds for tax debt collection, the amount of the tax debt and a demand to stop the debit transactions fully or in part;
- 63.1.3 The bank that received a letter of notification on seizure shall transfer the tax debt payment in full or in part from the account referred to in the notification and from one or more accounts of the tax debtor
- 63.1.4 In the case, where the monetary assets held with the bank are insufficient to cover the tax debt, the other expense transactions, except for the payments of payables from the tax debtor’s account according to the court ruling shall be stopped in full or in part; and the bank shall transfer the tax debt from such account to the account specified in the letter of notification on seizure.

Article 64. Seizure of receivables and recovery of tax arrears

- 64.1. The seizure of the receivables shall be implemented by delivery of the letter of notification on seizure to the third party with the payables to the tax debtor. The seizure of the receivables shall commence with delivery of the letter of notification on seizure of the receivables to the third party.
- 64.2 Although the seizure shall be for the total amount of receivables, where the tax debt is less than the amount of receivables a partial seizure can take place.
- 64.3 The seizure of the permanent income similar to wages and salary shall continue until the tax debt is fully collected from the future income after seizure has taken place.
- 64.4 The state tax inspector while seizure the receivables can confiscate the relevant documents as necessary.
- 64.5 The state tax inspector shall have a right to recover the tax debt from the seized receivables.
- 64.6 The following procedures shall apply to seizure of salary and wages (including employment income similar to salary, wages, awards and rewards):
- 64.6.1. The state tax inspector, for the purpose of recovery of tax debt from the tax debtor's salary and wages, shall deliver the letter of notification on seizure to the individuals and legal entities that have an obligation to pay such income;
- 64.6.2. The letter of notification on seizure shall specify the tax debtor's name, address, the recipient bank's name and account number, the name and address of private individuals and legal entities that pays salary and wages to the taxpayer, the amount of tax debts, payment schedule and the date of delivery of the letter of notification on seizure, respectively.
- 64.6.3. The private individuals and the legal entities, upon receiving the letter of notification of seizure, are to withhold the tax arrears in accordance with the schedule of payment and transfer it to the account specified in the letter of notification within three (3) business days after the withholding;
- 64.6.4. To transfer the tax debt payments before other receivables including those to be paid under the court ruling;
- 64.6.5. In the case, where the tax debtor has been dismissed or released from work, the legal entity shall send the information on the amounts withheld toward the tax debt payments and the tax debtor's movements to the Tax administration within seven (7) business days of the dismissal or release;
- 64.6.6. When collecting the tax debt from a tax debtor's wages or salary, the Article 63.2 of the Law on Labor²¹ shall be complied with.
- 64.7 During the period of seizure, it shall be prohibited for the tax debtor to make

²¹ Law on labor, "State Information", Edition No.25, 1999

amendments to or terminate contracts entered with a third party.

Article 65. Seizure of the immovable properties, aircrafts, road vehicles and construction equipment and recovery of tax arrears

65.1. The seizure of immovable properties, its validity term, the relations arising from use of seized property and generation of profit and income from such seized properties shall be implemented as follows:

65.1.1 In seizure the immovable properties a letter of notification shall be delivered to the tax debtor and the seizure shall commence with the delivery of the letter of notification to the tax debtor.

65.1.2 The Tax administration shall register the seized immovable property with the registration authority and where the registration has taken place before delivery of the letter of notification, the seizure shall commence with such registration irrespective of what is specified in Article 65.1.1 of this Law.

65.1.3 In the case, where it becomes clear that the taxpayer despite the opportunities of use and generate profit and income from the immovable property intends to undertake the action that might lead to a sharp fall of a value of such immovable property, the Tax administration may restrict the use and generation of profit and income from the immovable property. This provision shall equally apply to the third party that has a right to use and generate profit and income from the immovable property.

65.2 The seizure of the aircrafts, its validity term, and temporary break in use of aircrafts shall be implemented as follows:

65.2.1 When seizure the aircraft, the provisions 65.1.1 and 65.1.2 of this Law shall be adhered to;

65.2.2 The use of aircrafts except for those that are ready for flights shall be temporarily stopped upon the Tax administration's decision.

65.2.3 When collecting the tax debts, the measures on safeguarding and storage of the seized aircrafts shall be taken as required.

65.2.4 In the case, where the measures referred to in Article 64.2.3 of this Law have been taken before delivery of the letter of notification on seizure, the operation on seizure shall commence during the undertaking of such measures.

65.2.5 In the case, where there are reasonable excuses, the seized aircrafts, or those aircrafts the use of which have been stopped as specified in Article 65.2.2 of this Law may be allowed to operate according to the decision of the head of the Tax administration.

65.3 The operation on seizure of the road vehicles and construction equipment, its validity term, and temporary break in use of aircrafts shall be implemented as follows:

65.3.1 When seizure the road vehicles and construction equipment registered with the state registration, the Articles 65.1.1, 65.1.2 of this Law shall be adhered to;

65.3.2 When seizure the road vehicles and construction equipment, the Articles 65.2.3 and 65.2.4 of this Law shall be adhered to;

65.3.3 The seizure of the road vehicles and construction equipment shall be undertaken according to the Tax administration's decision, and in this case the tax debtor can transfer such assets to the Tax administration's possession;

65.3.4 In the case, where the road vehicles and construction equipment have been transferred to the Tax administration's possession as specified in Article 65.3.3 of this Law, the provisions referred to in Article 62.1, 62.4, 62.5, 62.6, 62.7 and 62.8-д of this Law shall be adhered to;

65.3.5 The Tax administration may have the tax debtor and the third party store the road vehicles and construction equipment transferred to the possession of the Tax administration in accordance with the Article 65.3.3 of this Law and in this case the Tax administration shall make it clear that such road vehicles and construction equipment are under its possession by placing a seal on them and other methods to inform the public on it.

65.3.6 Where there is a reasonable excuse, the Tax administration may allow the use of the road vehicles and construction equipment transferred to its possession in accordance with Articles 65.3.3 and 65.3.5 of this Law or those that have been stored.

Note: "safeguarding and storage of the aircrafts" means the placing such aircrafts ensuring they cannot undertake any flights, or confiscation of the documents on registration of the aircrafts or other documents required for performing flights.

Article 66 Seizure of the intangible assets

66.1 The seizure of the intangible assets that are not in use by the third party shall be implemented as follows:

66.1.1 When seizure the patent rights, copyrights and other assets that are in not in use by the third parties, the letter of notification shall be delivered to the tax debtor, and the operation on seizure shall commence with the delivery of such letter of notification to the tax debtor;

66.1.2 In the case, where of seizure of the assets that require registration for transferring the rights over, such assets based on the decision of the head of the Tax administration shall register be registered with the relevant authority.

66.1.3 In the case, where the conditions stipulated in Article 54 of this Law occur, the seizure shall enter into effect as the seizure operations referred to in Article 66.1.2 of this Law is registered irrespective of what is specified in Article 66.1.1 of this Law.

66.1.4 The seizure of the assets for assets, for which a registration of the restriction of the rights for administering such assets is required, shall commence upon the registration irrespective of what is specified in Articles 66.1.1 and 66.1.3 of this Law.

66.2 In the case, where the intangible assets are in use by the third parties, the operation on seizure shall be undertaken as follows:

66.2.1 In seizure the printing rights, shares and other assets that are in use by the third

party a letter of notification shall be delivered to such third party and seizure shall commence with delivery of the letter of notification to the third party;

66.2.2 In the case, where the seizure of the assets referred to in Article 66.2.1 of this Law requires registrations in order to transfer such assets, the Articles 66.1.2 and 66.1.3 of this Law shall apply.

Article 67 Requesting to withhold payments with the purpose of tax debt collection

67.1 In the case, where the monetization of the taxpayer's assets as part of the enforcement operations has been commenced, the Tax administration shall deliver a request to withholding the tax debt to the body that performs such operation. Once the request for withholding is delivered, the Tax administration shall notify the taxpayer and the pledgee on it.

67.2 In the case, where it is established that for the collection of the tax debts, the taxpayer owns or possesses other assets that can be easily monetized and/or those that are not affecting the rights of the third party, and that it is possible to collect the tax debt from such assets, the Tax administration shall not submit the request on withholding.

Article 68 Operations on monetizing the seized assets

68.1 Where the taxpayer filed a complaint over the re-assessment report, monetizing of the seized asset of the taxpayer other than those specified in Article 63 of this Law shall not be commenced until the final decision is issued

68.2. Tax Administration shall collect the tax arrears created due to non-payment of taxable income within the time specified by the law, the re-assessment that has not been complained over within the period specified in the law or the tax debt subject to payment according to the resolution of the Dispute Resolution Council and the Court on complaint over re-assessment, from seized asset or the pledge item specified in Articles 53.6, 53.7 and 53.8 of this Law through auctions organized in accordance with the relevant provisions of the Civil Code and the procedures of the Law on Execution of Court Decisions or through monetizing the assets by direct contracting under the procedures of this Law

68.3. The Tax administration shall set the auction price of the assets specified in Article 68.2 of this Law according to the procedures of the Law on Court Decision Execution.

68.4 The taxpayer and the state tax inspector or the tax administration employee shall not be authorized to directly or indirectly buy the asset to be monetized.

68.5 The monetization through a direct contract shall be undertaken in the following circumstances:

68.5.1. The asset is unsuitable for auctioning, or it is perishable;

68.5.2. It is fully possible to sell the asset at the market price quoted on the same day;

68.5.3. There were no participants in the auction, or the offered purchase price was less than the initial price, or the buyer has cancelled the decision to purchase due to the failure to make the payment by the due date although the auction was organized twice.

68.6 In the case, where the proceeds from the sale of the property through the auction or

direct contract have been insufficient to settle the tax debt, the taxpayer shall not be relieved from the obligation to pay the balance of the tax debt.

- 68.7 The general procedures on monetizing the assets through organizing auctions and direct contracts shall be approved by the Cabinet member in charge of finance and budget affairs.

Article 69 Allocation of the proceeds from monetization

- 69.1. The following principles shall be adhered to in allocation of the proceeds from monetization:

69.1.1 The amount of proceeds from the sale of the seized assets and the monetary assets received from the third party as a result of seizure the securities, receivables or the intangible assets (hereinafter referred to as “the transferred monetary assets”), shall be allocated by the Tax administration to the seized taxes, the taxes for which the request for withholding was issued, collaterals related to the seized assets, rights over mortgage and according to the preferential rights for priority over the pledged receivables;

69.1.2 The seized monetary assets and the monetary assets received under the requests for withholding shall be transferred to the taxes related to such seizure or requests for withholding respectively.

69.1.3 Any funds remaining after the allocation of the proceeds referred to in Articles 69.1.1 and 69.1.2 of this Law, shall be returned to the tax debtor.

69.1.4 In the case, where the transferred monetary assets are insufficient to cover the aggregate amount of taxes and other receivables referred to in Article 69.1.1 of this Law, the principle of priority of taxes as specified in this Law, the sequence and amounts stipulated in the Civil code and other laws shall be adhered to in allocation of available funds;

69.1.5. The proceeds referred to in the Article 69.1.1 or 69.1.2 of this Law shall be allocated to taxes, due losses and penalties according to the sequence of tax debt collection stipulated in this Law.

- 69.2. The Tax administration shall review the requests from the persons with receivables as follows:

69.2.1 The persons with receivables referred to in Article 69.1.1 of this Law shall deliver the request to the Tax administration before the decision on sale of the assets is made;

69.2.2 The Tax administration shall receive and review the request for receivables referred to in Article 69.2.1 of this Law and where the persons with the registered rights over the pledged receivables and over the mortgage loans, as well as preferential rights for priority; and with the preferential rights for priority over the un-registerable collateral and unregistered ones that are known, have not submitted requests, the head of the Tax administration shall determine the amount of such receivables;

69.2.3 In the case of the receivables pledged through securitization of the seized assets, the mortgage lending rights, and preferential priority rights for the seized assets referred

to in Article 69.1.1 of this Law, the proceeds shall not be allocated to the persons with receivables where the persons with the receivables other than those referred to in Article 69.2.2 of this Law failed to submit a request related to the amount of the receivables before the decision to sell is made.

69.3 The issuance of the act on calculation of the allocations, and return of the transferred monetary assets shall be undertaken as follows:

69.3.1 When the Tax administration makes the allocations as specified in Article 69.1 of this Law, it shall issue an act reflecting the receivables to be allocated in accordance with the legislation, the amount determined by the tax administration as provided in Article 69.2.2 of this Law, the timing of transferring the monetary assets referred to in Article 69.3.2 of this Law and other required information; and shall send the copy of the act on calculation of allocations within 3 (three) days after transferring the monetary assets to the persons that submitted the requests on receivables, to the persons with the receivables that have been determined according to the provisions 69.2.2 of this Law, and tax debtor.

69.3.2 The timing of the return of the transferred assets to the persons shall be considered as a following day after 7 (seven) business days of delivery of the copy of the act on calculation of allocations.

69.3.3 The Tax administration shall return the transferred monetary assets based on the timing of the act on calculation of allocations.

69.3.4. The complaint regarding the act on calculation of allocations shall be filed before the return of the transferred monetary assets takes place.

Article 70 Transfer of the operations on tax debt collection

70.1. In the case, where the assets to be seized and the assets seized by the Tax administration are located outside of the jurisdiction of the particular tax administration, the tax debt recovery operations can be transferred to the relevant tax administration where the assets are located.

70.2. When the Tax administration is monetizing the seized assets the operations on tax debt recovery may be transferred to other tax administrations as required.

70.3 In the case, where the operations have been transferred as specified in Articles 70.1 and 70.2 of this Law, the Tax administration that transferred such operation shall notify the tax debtor to that effect.

Article 71 Implementation of measures on restriction or suspension of the rights as specified in other legislation

71.1. Before conducting the operations on tax debt collection as stipulated in this Law, the Tax administration may take measures to notify the taxpayer as a warning to him/her/it on restriction of the movements of the transport means, depending on the amount of tax debt.

71.2. In the case, where the following circumstances occur at the same time the Tax administration, shall have a right to request the authorize state organizations for banning the border crossings of the tax debtors that are foreign citizens or the stateless

individuals until they pay the tax debts in full:

71.2.1 The tax debtor has neither assets nor receivables to cover his/her/its tax debts;

71.2.2 The amount of the tax debts is equal to MNT 20 mln or more.

71.3 The procedures on implementation of the measures specified in Article 71.1 of this Law shall be approved jointly by the Cabinet members in charge of finance and budget affairs, and the legal affairs respectively.

Article 72. Monetary assets unreasonably and excessively charged by the Tax administration

72.1. The taxes, penalties and due losses to be returned in full or in part due to invalidated or altered tax re-assessment reports shall be validated with the act on tax refund

72.2 The overpaid taxes shall be refunded within thirty (30) business days after its validation with the act stipulated in Article 72.1 of this Law.

72.3 The monetary assets referred to in Article 72.1 of this Law may be resolved in accordance with the procedures set out in Articles 49.1.2 and 49.1.3 of this Law if the taxpayer agrees, and this shall not serve as a ground for not charging due losses on the overpaid amount under the Article 73 of this Law.

72.4 In the case, where the taxpayer does not agree with the amount of refund specified in Article 72.1 of this Law, the taxpayer may file a complaint to the dispute resolution council within 30 (thirty) days after being handed over the act on refund.

Article 73. Due losses

73.1. The due losses shall be imposed on taxes not paid by the taxpayers within the timeframe prescribed by the law, or on taxes unreasonably and excessively collected by the Tax administration, respectively; and the Cabinet member in charge of finance and budget affairs shall establish the amount of due losses to be charged for the particular year within January of the particular tax year based on the following principles:

73.1.1. The amount of due losses to be charged on taxes not paid by the taxpayers on time shall to be twenty (20) percent more than the weighted annual average interest rate of the commercial banks loans as quoted by the Bank of Mongolia;

73.1.2. The amount of due losses to be charged on taxes unreasonably and excessively collected by the Tax administration shall be the weighted annual average interest rate of the commercial banks loans as quoted by the Bank of Mongolia.

73.2. The time period for charging due losses shall be determined as follows:

73.2.1. By the number of days, starting from the due date of the tax payment as specified in the tax legislation until the day the tax is paid; and

73.2.2. By the number of days, starting from the day the monetary assets referred to in Article 73.1 of this Law have been collected by the Tax administration

unreasonably and excessively, until the day when the decision to refund them was made.

73.3. The due losses shall not be charged on the tax due losses and penalties.

CHAPTER THIRTEEN

SYSTEM OF THE TAX ADMINISTRATION OF MONGOLIA

Article 74. The Tax administration of Mongolia

74.1. The state administrative body in charge of tax affairs shall be the state administrative body with the functions on implementation of the tax legislation nationwide.

74.2. The Tax administration of Mongolia, shall comprise of the state administrative body in charge of tax affairs, the aimag, capital city, districts and soums tax departments, divisions and units, as well as the state tax inspectors and tax collectors.

74.3. The state administrative body in charge of tax affairs may have the subsidiary units in charge of relations with the large taxpayers, press and media, information technology, training and tax services.

74.4. The Tax administration shall conduct internal audits for the purpose of assessing and evaluating its activities, and overseeing the implementation of the tax and other legislation.

74.5. The Tax administration shall have a logo or emblem; its design and procedures for its use shall be approved by the head of the state administrative body in charge of tax affairs.

Article 75. Functions of the Tax administration

75.1. The Tax administration shall perform the following primary functions:

75.1.1. To organize the activities on ensuring tax compliance, provide the taxpayers with the information and advice, and organize training and public awareness activities;

75.1.2. To oversee the implementation of the tax legislation;

75.1.3. To generate the budget revenue.

75.2. The Tax administration shall respect the legitimate rights and interests of the taxpayers, and provide them with information and assistance with respect to assessment, payment and reporting of taxes in accordance with the legislation.

75.3. The lower level tax administration shall have an obligation to implement the guidelines and guidance delivered to the taxpayers in accordance with the Article 78 of this Law, and can obtain the appropriate clarifications regarding the implementation of such guidelines and guidance from the person who has issued such guidelines and guidance as required.

75.4. The taxpayers shall a right to obtain assistance and advices from the tax practitioners allowed by the Law, with regard to performing their duties imposed by the legislation and

exercising their rights.

75.5 The relations arising from rendering the services by the tax practitioners shall be regulated by the Law on tax practitioners' services²².

75.6 The Tax administration for the purposes of the public awareness of the tax legislation shall organize the training on the tax legislation, guidelines and methodologies.

75.7 The Tax administration shall place on its webpage the tax legislation, organize the public awareness activities and provide with information and articles through media.

75.8 The Tax administration shall organize the activities on improvement of the public tax education, and cooperate with the relevant organizations in this regard.

Article 76 Operational principles, rights and duties of the Tax Administration, and prohibitions

76.1. The Tax Administration shall adhere to the following principles in its operations:

76.1.1. Rule of law;

76.1.2. Not be influenced by others;

76.1.3. Respect the rights and legitimate interests of the taxpayers, enabling them to exercise their rights, and render trust in them;

76.1.4. The lower level organizations to be under the direct subordination to higher level organizations.

76.2. Individuals, legal entities and the officials shall be prohibited from showing pressure to the Tax administration and the state tax inspectors by interfering in exercising of their full powers specified in the legislation.

76.3. The Tax administration and the state tax inspectors shall file a complaint with the relevant organizations against the person violating the provision 76.2 of this Law, appeal to the court for recovery of damages occurred.

76.4. Any person shall be prohibited from making decisions that fall under the full powers of the Tax administration and the state tax inspectors in cases other than those stipulated in the legislation.

76.5. Any person shall be prohibited from assuming duties for others on matters pertaining to the tax assessment, tax credits and tax exemptions in cases other than those stipulated in the legislation.

76.6. The Tax administration when exercising its full powers shall operate without being influenced by others and shall strictly adhere to the Laws and the legal documents adopted in conformity with them and where the Tax Authority fails to perform its duties, the taxpayers shall be entitled to demand it to perform its obligations imposed

²² Law on Tax Practitioners' Services; "State Information", Edition No. 03, 2013

by the Law.

- 76.7. The Tax administration and the state tax inspectors, while exercising their full powers, shall adhere to the code of ethics applicable to them, and respect the rights and legitimate interests of taxpayers, and render trust in them.
- 76.8. The Tax administration and the state tax inspectors and the collectors shall not interfere in the activities of taxpayers for any matter, except for those pertaining to the audit of tax assessment, and the payment status, determining the tax liability, and overseeing the payments of taxes and tax collection as specified by Law.
- 76.9. The state tax inspectors and the collectors are prohibited from contacting the taxpayers for personal reasons, and providing advice in any form, assisting in maintaining the accounting records, producing tax returns, conducting audits, or to assist with or demand tax evasion.

Article 77. Management of the Tax administration and its full powers

- 77.1. The Tax administration shall be managed in a unified and centralized manner.
- 77.2. The state administrative body in charge of tax affairs shall work under supervision of the central state administrative body in charge of finance and budget affairs; the aimag, capital city tax departments and divisions shall be work under the state administrative body in charge of tax affairs; and the districts tax divisions, and the soums tax divisions and units as well as the state tax inspectors and collectors shall work under the aimag, capital city tax departments and divisions, respectively.
- 77.3. The state administrative body in charge of tax affairs shall provide with the professional, methodological management, and funds for the operations of the Tax administration of all levels, and oversee their operations.
- 77.4. The head of the state administrative body in charge of tax affairs shall be appointed and released by the Government of Mongolia based in accordance with the Article 182.2 of the Law on Government of Mongolia ²³.
- 77.5. The heads of the aimag, capital city, and district tax departments and divisions shall be appointed and released by the head of the state administrative body in charge of tax affairs, upon the consultation with the governor of the relevant level.
- 77.6. The heads of the aimag, capital city and district tax departments and divisions shall be appointed through a competitive selection in accordance with the Law on civil service²⁴ from the citizens with the financial, economic or accounting qualifications.
- 77.7. The head of the state administrative body in charge of tax affairs shall be the general state tax inspector and shall exercise the following full powers in addition to the powers specified in Article 8.3 of the Law on Legal Status of Government Agencies ²⁵:

²³ Law on the Government of Mongolia; “State Information”, Edition No.03, 1993

²⁴ Law on Public Service; “State Information”, Edition No.01, 2018.

²⁵ Law on Legal Status of Government Agencies; “State Information” Edition No. 16, 2004

- 77.7.1. To provide with the organizational management and funds to enable implementation of the full powers of the Tax administration and the state tax inspectors, and to organize the activities for overseeing their activities;
- 77.7.2. To organize the activities on implementation and enforcement of the tax legislation on the entire territory of Mongolia
- 77.7.3. To issue orders, approve and enforce the procedures, guidelines, methodologies, acts, design of the forms/templates to be commonly adhered to, within the scope of the powers granted by this Law and other tax legislation, and issue recommendations;
- 77.7.4. To grant, remove, invalidate or suspend the rights of the state tax inspectors;
- 77.7.5. To participate in drafting the tax legislation, and develop proposals on methods, forms and possible ways of their enforcement by the Tax administration, and submit them to the central state administrative body in charge of finance and budget affairs;
- 77.7.6. To make proposals on the drafts of the international treaties for the avoidance of double taxation on income and assets, and the international agreements on prevention from tax evasion, and submit to the central state administrative body in charge of finance and budget affairs;
- 77.7.7. To review decisions issued by the Tax administration and the state tax inspectors within the scope of the law, and modify or invalidate them where it is considered to be groundless;
- 77.7.8. To appoint, release, transfer, exchange the employees of the Tax administration, and grant awards and incentives, or impose disciplinary sanctions to them;
- 77.7.9. To appoint and release the employees of the state administrative body in charge of tax affairs and the tax departments of aimags, the capital city and districts
- 77.7.10. To implement the Tax administration's internal audits;
- 77.7.11. To organize training for preparing the tax practitioners and granting the rights to them, jointly with authorized bodies, as provide for in the legislation;
- 77.7.12. To organize training for qualifying the state tax inspectors, and granting them the rights of the state tax inspectors;
- 77.7.13. To administer the budget and funds of the Tax administration;
- 77.7.14. To represent the Tax administration abroad and domestically, and at the courts and arbitrages;

- 77.7.15. To develop and approve the code of ethics for tax administration employees.
- 77.8 Tax employee in the soum shall be appointed and released by the head of the tax department of the particular aimag in consultation with the Governor of respective level and he/she shall have a right to impose a disciplinary sanction to the employee.
- 77.9. The head of the state administrative body in charge of tax affairs and at the same the general state tax inspector may delegate some of his/her full powers specified in Article 77.7 of this Law, except for those stipulated in Articles 77.7.3, 77.7.4, 77.7.8, 77.7.13 and 77.7.15 of this Law to the management of the aimag, capital city and districts tax departments by issuing a Decree.
- 77.10. In the absence of the head of the state administrative body in charge of tax affairs, the deputy head shall act for him.

Article 78. Guidance on tax compliance

- 78.1. The head of the state administrative body in charge of tax affairs may issue the following guidance under his/her full powers prescribed in Article 77.7.3 of this Law that has to be complied by the tax administration in its operations:
- 78.1.1. Guidance on implementation of the tax legislation based on the taxpayer's request or upon initiative of the tax administration;
- 78.1.2. Guidance on application of the rulings finalized by the Dispute Resolution Council or the Court at the national level.
- 78.2. The tax administration shall maintain an electronic database of publicly open tax guidance containing information other than those related to confidentiality of the taxpayer, state or other persons. A guidance shall be published on the electronic database within 10 days after its issuance.
- 78.3. The General State Tax Inspector may refuse to accept the request specified in Article 78.1.1 of this Law in the following circumstances:
- 78.3.1. where the taxpayer is undergoing a tax audit or notified of an outstanding tax audit;
- 78.3.2. where the tax administration has previously issued a guidance on the issue reflected in the request;
- 78.3.3. where the request is on an issue that is not related to the functions and mandate of the tax administration;
- 78.3.4. where the taxpayer filed a complaint on the issue to the Dispute Resolution Council or the Court; or the case related to the taxpayer is under an investigation of a

law enforcement agency;

78.3.5. where the request reflects an issue aiming towards tax avoidance or tax evasion;

78.3.6. where the request reflects relations pertaining to an investment agreement, product sharing agreement or stabilization agreement;

78.3.7. where the request reflects relations pertaining to identification of the related parties, transfer pricing adjustments and transfer pricing reports;

78.3.8. where it does not meet the requirements set in conformity with the procedures stipulated in Article 78.7 of this Law.

78.4. In the case, where the guidance does not conform with the law or does not meet the requirements set in this Law, the General State Tax Inspector and the Cabinet member in charge of finance and budget affairs may fully or partially abolish the guidance.

78.5. In the case, where an amendment was made to the tax legislation on the issue ruled by the guidance, the guidance shall be deemed invalid from the date of enactment of the legislation amendment.

78.6. The guidance shall not be used as basis for validation of specific transactions of the taxpayer, amounts reflected in the tax returns or tax assessment.

78.7. Requirements for issuance of the guidance reflected in this Section, the Form of the request, the form of the guidance and the procedures on abolishment and publication of the guidance shall be approved by the member of the Cabinet in charge of finance and budget affairs.

Article 79. Documents to be issued by the Tax administration and the state tax inspectors

79.1. The Tax administration when exercising its full powers in relation to the tax collection, overseeing and conducting tax audits shall produce and validate its decisions by issuing notifications, demand letters, an act on seizure an asset, cards on seizure, the tax re-assessment reports, value added tax assessment an payment validation report, the report cards, notes, tax refund report, tax invoices/bills and pre-invoices, letters of notification, demand letters, requests for withholding, report on calculation of allocations, notices on summonses, notifications on seizure an asset, as well as recommendations and other documents that shall be produced by the Tax administration.

79.2. The documents referred to in Article 79.1 of this Law shall include the name and signature of the relevant official issuing it, and the decision made, the grounds for such decision, the deadline to comply with it, as well as the date of delivery of such documents.

- 79.3. Documents referred to in Article 79.1 of this Law shall be considered delivered to a taxpayer upon physical delivery, or delivery by mail to their residential or work address, or upon electronic sending; and the residential address of a taxpayer shall be defined by the most recent address registered with the relevant registration body.
- 79.4. The documents referred to in Article 79.1 above shall be produced based on the following grounds and procedures:
- 79.4.1. When summoning the taxpayers and other persons, a notification shall be issued that shall include the names and signatures of the taxpayer and the state tax inspector; the time for arrival at the tax administration, and the dates of issuance and delivery of such notification;
- 79.4.2. For the purpose of eliminating causes and conditions that have led to the violation of the tax legislation, the notice of demand shall be issued and signed by the head of the relevant audit unit and the state tax inspector that has conducted the audit; and such notice shall include notes regarding the violation, the deadline for elimination of causes and conditions that have led to the violation and for providing a response, as well as the reference number and a date of issuance of such notice;
- 79.4.3. For the tax re-assessment and imposing a sanction on the taxpayer in accordance with the legislation, calculating and charging the due losses, the tax re-assessment report shall be issued, signed by the head of the relevant unit and the state tax inspector that have conducted the audit; and such report shall include notes regarding the violation, the grounds of the decision, and the reference number and a date of issuance of the confirmation;
- 79.4.4. In the case, where it is established during the tax audit that the tax legislation has not been violated, a report card shall be produced and signed by the head of the relevant unit and the state tax inspector that has conducted the audit as well as the taxpayer, and reflect the reference number and a date of issuance;
- 79.4.5. When the Tax administration is conducting inspection of premises and warehouses, and undertaking the inventory audits and review of the workload and usage of business time, seizure the assets, conducting interviews and delivery of the tax re-assessment report within the scope of its full powers, it shall produce notes clearly specifying the date of issuance of the note, and the address of the taxpayer, signed by the head of the relevant unit and the state tax inspector that has conducted the audit, and signed by the people who were present when producing the note as required
- 79.4.6. The tax refund report shall be issued for returning to the taxpayer the taxes unreasonably and excessively collected by the Tax administration as well as the due losses; and such report shall be signed by the tax inspector who calculated the amount of refund. The refund report shall include the date of calculation of the amount of taxes and due losses to be returned, the amount of due losses, the overpaid amount and due losses;
- 79.4.7. The Tax administration shall issue a tax invoice/bill and the pre-invoice to recover tax debts; a letter of notification to recover the tax debts from the secondary persons with tax payment obligation; and notification on seizure

of an asset to recover the tax debts in an undisputable manner and from the receivables; and all such documents shall specify the amount of the tax debts, the deadline for payment, the beneficiary bank account to pay the tax debt, and the taxpayer's liaising bank and the account number, the name and address of the taxpayer as well as the individual or legal entity that shall pay tax debts on the taxpayer's behalf, the name and signature of the state tax inspector, and the dates of issuance and delivery of these documents;

- 79.4.8. The Tax administration shall issue a demand letter for the enforcement of the provisions of the Article 30 of this Law, specifying in it the reason and circumstances that have led to issuing the demand letter, the name and signature of the taxpayer or his/her/its authorized representative as well as the state tax inspector issuing the demand letter, and the date of issuance and delivery;
- 79.4.9. When recovering a tax debt from the taxpayer's assets the report on seizure and the seizure card shall be produced. The report on seizure and the seizure card shall reflect the tax reporting period related to the tax debt, the type of tax, the tax payment due date and the amount, the name, type, characteristics and location of the seized assets, and the name and address of the tax debtor;
- 79.4.10 During the enforcement activities the tax administration shall send a request for withholding to the organization that commenced the monetization of the tax debtor's assets. A request for withholding shall specify the name and address of the tax debtor, the tax reporting period for tax withholding, the type of tax, the tax payment due date according to the Law and the amount, the name, type, characteristics and location of the seized/seized assets for which the operations on the monetization have been commenced.
- 79.4.11. For the allocation of the proceeds from the monetization of the assets with the purpose of tax debt recovery a report on calculation of allocation shall be produced; and such act shall reflect the name and address of the tax debtor, the total amount of monetary assets to be allocated, the amount of taxes related to the seizure, the sequence of the allocations, the amount to be allocated, the name and address of the person that submitted the request for receivables, the sequence of the allocations, the amount to be allocated and the timing when the money is to be returned;
- 79.4.12 The recommendations shall be issued for a taxpayer who has violated the tax legislation, with a view to preventing future violations, and the advice on working in compliance with the legislation; and such recommendation shall specify the taxpayer's name and address, the state tax inspector's name and the date of delivery;
- 79.4.13. A summons note shall be produces and issued for the purpose of obtaining verification, copies of the documents, the bank statements and other proofs similar to them that are required for the tax audit, from the entities, private individuals and financial institutions that liaise with the taxpayer, and sent to the taxpayer; and such summon shall specify the taxpayer's name and address, the state tax inspector's name, and the date of delivery.

79.5. The head of the state administrative body in charge of tax affairs shall approve the

templates for the documents to be issued by the state tax inspectors.

- 79.6. The documents stipulated in Article 79.4 of this Law shall be used together with a unique, unified number in accordance with the approved templates, and shall be mandatory registered with the integrated tax registration and information database.
- 79.7. The Tax administration and the state tax inspectors shall not print and use designated letterheads and forms/templates of the documents stipulated in this Article without permission, or use invalid or fraudulent letterheads, or use them for anything other than the intended purposes.
- 79.8. The taxpayers shall be obliged to adhere to the decisions as provided in this Article.

Article 80. Guarantees for state tax inspectors' rights

- 80.1. The salaries and wages of state tax inspectors shall comprise of the salary stipulated in the Article 57.2.1. of the Law on Public Service, performance bonuses and other salary additions specified in the legislation.
- 80.2. The procedures on the awarding the performance bonus to State Tax Inspectors shall be approved the Cabinet member in charge of finance and budget affairs in compliance with the Budget Law ²⁶.
- 80.3. The following titles may be granted to the state tax inspectors:
- 80.3.1. Honorary tax adviser
 - 80.3.2. Accredited tax adviser
 - 80.3.3. Tax adviser.
- 80.4. The State Tax Inspectors shall be provided with the required uniform and equipment necessary for performing their official duties.
- 80.5. The procedures on use of uniform and equipment by the state tax inspectors, and awarding of ranks and titles, and respective salary additions shall be approved by the Cabinet member in charge of finance and budget affairs.

CHAPTER FOURTEEN MISCELLANEOUS PROVISIONS

Article 81. Review and resolution of taxpayer complaints

- 81.1. The taxpayers shall be entitled to file complaints under the administrative procedures with regard to the decisions made by the Tax administration and the state tax inspectors, except for the proceedings on examination and resolution of violations by the Tax administration and the state tax inspectors, in accordance with the jurisdictions as follows:
- 81.1.1. Complaints concerning the decisions of a state tax inspector, except for the tax

²⁶ Integrated Budget Law, "State Information", Edition No.03, 2012.

re-assessment report, shall be filed to the head of the relevant tax administration directly supervising his/her;

81.1.2. Complaints concerning the decisions of the tax administration shall be filed to the head of its higher-level tax administration;

81.1.3. Complaints concerning the tax re-assessment report issued by the state tax inspector shall be filed to the dispute resolution council in accordance with the relevant jurisdiction; and

81.1.4. Complaints concerning the decisions made by a dispute resolution council shall be filed to the court.

81.2. The taxpayers shall be entitled to file their complaints to the court where they disagree with the decisions made under Articles 81.1.1 and 81.1.2 of this Law.

Article 82 Sanctions to be imposed on persons who have reduced the tax liability

82.1. In the case, where the taxpayer for the purposes of not paying taxes, reducing the tax liability or concealing the taxable items has assessed the tax or under-assessed the tax, the state tax inspector shall re-assess tax and impose penalties as follows:

82.1.1. In the event of reducing the tax liability by up to 50 percent, a penalty of 30 percent of the re-assessed taxes payable;

82.1.2. In the event of reducing the tax liability by 50 percent and more, a penalty of 40 percent of the re-assessed taxes payable.

82.2. In the event of repeating the violations set forth in this Article, previously imposed re-assessed taxes as a result of tax audit, a penalty of 50 percent of the re-assessed taxes shall be imposed.

Article 83 Sanctions to be imposed on persons failing to withhold taxes

83.1. In the case, where a withholding tax payer failed to withhold the taxes due, or withheld the taxes but failed to transfer and report on it, such taxpayer shall have an obligation to reimburse such taxes.

83.2. The persons stipulated in Article 83.1 of this Law shall be imposed a fine of 40 percent of the payable tax due.

83.3. In the event of repeating the violations set forth in this Article, previously imposed re-assessed taxes as a result of tax audit, a penalty of 50 percent of the re-assessed taxes shall be imposed.

Article 84 Sanctions to be imposed on persons violating the Law on value added taxes

84.1. In the event of reducing the amount of the taxes payable to the budget, or failure to pay taxes, due to the following action or inactions, the taxes payable shall be reimbursed, and penalties shall be imposed at 40 percent of the payable taxes due:

84.1.1. In the case, where the private individuals or the legal entities have met the requirements for registering as the value added tax withholder under the Law

on value added taxes, but failed to obtain a certificate and manufactured and/or sold goods, performed work and/or rendered services;

84.1.2. In the case, where the private individuals or the legal entities registered as the value added tax withholders failed to charge the value added taxes on goods manufactured and/or sold, works performed and/or services provided;

84.1.3. In the case, where the value added tax withholder charged the value added taxes on their goods manufactured and/or sold, works performed and/or services provided, but failed to pay it to the budget;

84.1.4. In the case, where the private individuals or legal entities that have not registered as a value added tax withholder have manufactured and/or sold goods, performed works and/or provided services and charged the value added taxes on those, but failed to pay it to the budget;

84.1.5. In the event of discrepancies between the value added tax invoices and the payment receipts, or a failure to issue invoices and payment receipts for the purpose of reducing value added taxes payable to the budget or increasing the amount of tax refunds.

84.2 In the event of repeating the violations set forth in this Article, previously imposed reassessed taxes as a result of tax audit, a penalty of 50 percent of the re-assessed taxes shall be imposed.

Article 85 Sanctions to be imposed on the state tax inspectors

85.1. The state tax inspectors and the collectors shall be sanctioned for the following violations according to the principles as specified in the Articles 105, 106 and 107 of the General Administrative Law:

85.1.1 Disclosure of the taxpayers' confidential information protected by tax legislation;

85.1.2 Misuse of his/her rights granted by this Law in excess, or failure to properly fulfill his/her obligations.

85.2 In the case, where the taxpayer suffered a damage due to the state tax inspectors and collectors' violations referred to in Article 85.1 of this Law, the guilty official shall be responsible for the damage caused.

Article 86 Effectiveness date of the Law

86.1. This Law shall come into force on 1 January 2020.

G. ZANDANSHATAR,

SPEAKER OF THE STATE GREAT KHURAL OF MONGOLIA

