



The Tax Code of the Republic of Azerbaijan

(Approved by the Law No.905-IG of the Azerbaijan Republic from 11 July, 2000)

General Part

Chapter 1. General Provisions

Article 1. Relations Regulated by the Tax Code of Azerbaijan Republic

1.1. This Code shall establish the tax system of the Republic of Azerbaijan, general principles of taxation in the Azerbaijan Republic, rules for determining, payment and collection of taxes, the rights and responsibilities of taxpayers and State tax authorities, as well as other parties to taxation procedures, tax control forms and methods, liability for tax law violations and the procedures for lodging complaints against unlawful actions (failure to take actions) committed by tax agencies and officials thereof.

1.2. This Code establishes the general principles of taxation and taxes for Nakhichevan Autonomy Republic and municipalities.

Definitions and rules determined in this Code shall be established for the purposes of tax payment and used only within the scope of taxation and tax control regulated by this Code and other legislative acts established on its basis.

Article 2. Tax Legislation of Azerbaijan Republic

2.1. The Constitution of Azerbaijan Republic, this Code, and those legal standards adopted in compliance herewith, shall comprise the tax legislation of Azerbaijan Republic.

2.2. Any article of law adopted on the basis of this Code or for the purposes of its execution shall not contradict with the provisions of this Code.

2.3. Should tax legislation contradict any legislation in other areas, with the exception of provision stipulated by Article 2.7. of this Code, the provisions of tax legislation shall apply.

2.4. Taxation and tax control issues cannot be included into the legislative acts, other than tax legislation, with the following exceptions:

2.4.1. provisions concerning administrative offences in relation to tax issues, stipulated by the *Code of the Azerbaijan Republic for Administrative Offences*;

2.4.2. provisions concerning tax crimes included in the Criminal Code of the Azerbaijan Republic;

2.4.3. provisions concerning the priority of tax obligations included in the legislation on bankruptcy and insolvency;

2.4.4. provisions on taxes contained in budget legislation;

2.4.5. provisions governing state maintenance allocation and guarantees on taxes;

2.4.6. provisions stipulated by agreements or laws on production sharing, main pipeline and other similar agreements and laws;

2.4.7. provisions stipulated by the legislation on oil and gas operations of export direction and special economic areas.

2.5. Should any international treaty to which the Republic of Azerbaijan is a party provide for regulations that differ from those contained in this Code and legislative acts established on taxes, the provisions of said international treaties shall govern.

2.6. If international treaty with the intention of avoiding double taxation to which Azerbaijan Republic is the party applied by any person, who is not the resident of the state that entered into such treaty for the purpose of obtaining tax privileges, provisions of article 2.5. of this Code shall not be applied for the purposes of tax privileges to the resident of the state that is the party to such treaty.

2.7. If production sharing or main pipeline agreements approved by the legislation before this Code is entered into force or after its enforcement, as well as other laws and agreements of a similar nature, including the legislation on oil and gas, contain provisions that differ from those stipulated by this Code and other legislative acts on taxes then provisions of such agreements and laws shall be applied.

2.8. In the event of required changes to the Tax Code of the Azerbaijan in connection with definition of tax policy, tax administration and tax rates within the next year state budget draft, the drafts of these laws to the proper authority of executive power before May 1, and from the side of the proper authority of executive power shall be submitted to the Milli Mejlis of the Azerbaijan Republic no later than by May 15 of current year.(3, 21)

Article 3. Basis for establishment of taxes and their collection

3.1. Legislation on taxes is based on the universality, equality and fairness of taxation

3.2. Taxes shall have an economic base.

3.3. It is not allowed to establish taxes that will limit everybody's constitutional rights and freedom.

3.4. It is not allowed to establish taxes that will break the single economic system of Azerbaijan Republic (in particular those that will directly or indirectly limit the free movement on the territory of Azerbaijan Republic (of goods and services) and monetary means, or otherwise limiting the legal activities of taxpayers).

3.5. Nobody can be forced to pay the tax of one nature from the profit (income) for more than one time.

3.6. The taxes shall not be of discriminatory nature and shall not be established based on the political, ideological, ethnic, confessional or other existing differences between taxpayers.

It is prohibited to establish different tax rates based on the form of ownership, citizenship of physical persons or origin of capital.

It is allowed to establish different rates of customs duties for commodities imported into the territory of Azerbaijan Republic, dependant on commodity's country of origin in accordance with this Code and customs legislation.

3.7. Taxes in the Azerbaijan Republic shall be established only by this Code; changes or cancellations shall be implemented by making the changes in this Code.

3.8. No person can be obliged to pay taxes, that have indications of taxes established by this Code but not established by it or taxes that were established in the order different to that specified by this Code.

3.9. The tax legislation shall be formulated in the order that will allow everyone to know what taxes, in which order, when and how much he shall pay.

3.10. The tax system shall stimulate the activities of entrepreneurs and investors.

3.11. All contradictions and obscurities in the tax legislation shall be interpreted for taxpayer's advantage.

3.12. Natural and legal persons shall have a free access to regulating legislative acts on taxes.(6)

Article 4. The tax system of Azerbaijan Republic

4.1. The taxes levied in the Republic of Azerbaijan pursuant to this Code shall be as follows:

4.1.1. state taxes;

4.1.2. taxes of autonomy republic;

4.1.3. local (municipal) taxes.

4.2. State taxes are those taxes that are stipulated by this Code and are obligatory for payment on the entire territory of Azerbaijan Republic.

4.3. The taxes of Autonomy Republic are those taxes that are stipulated by the laws of Nakhichevan Autonomy Republic in accordance with this Code and obligatory for payment in the Nakhichevan Autonomy Republic.

4.4. Local (municipal) taxes are those taxes stipulated by this Code and applicable legislation, applied by the resolution of municipalities and obligatory for payment on the territory of municipalities. Other obligatory payments applied by municipalities shall be stipulated by the appropriate legislation.

Local (municipal) taxes rates shall be established within limits stipulated by tax legislation. In accordance with tax legislation municipalities shall be entitled to make decisions on complete or partial tax release or decrease of tax levels for certain categories of taxes paid by taxpayer in their areas.

4.5. In accordance with this Code special tax regime can be applied on the territory of Azerbaijan Republic.

The special tax regime stipulates the special procedure for tax calculation and payment for the specified period of time.

4.6. It is not allowed to levy taxes that are not stipulated by this code.(6)

Article 5. Forms of taxation

5.0. Amounts of tax shall be collected in following forms:

5.0.1. directly from the source (tax collection before obtaining income or profit);

5.0.2. by declaration (tax collection after obtaining income or profit);

5.0.3. by notice (payment of the tax by taxpayer on the basis of payment notice, issued for the sum, calculated by taxation authority or municipality on the basis of cost of the taxation object and area). (3, 6)

Article 6. State taxes

6.1. Following are state taxes:

6.1.1. tax on the income of physical persons;

6.1.2. tax on the profit of legal entities (with the exception of entities and enterprises that are the property of municipalities);

6.1.3. value added tax;

6.1.4. excise tax;

6.1.5. property tax levied from legal persons;

6.1.6. land use tax levied from legal persons;

6.1.7. road fund taxes;

6.1.8. mineral royalty tax;

6.1.9. *simplified tax*.

6.2. This code establishes maximum rates for all state taxes.

6.3. State tax rates introduced on yearly basis shall not exceed the rates established by this Code and those shall be reconsidered annually during the approval of state budget legislation of the Azerbaijan Republic. (6)

Article 7. Taxes of Autonomy Republic

The taxes of autonomy republic are the state taxes levied in the Nakhichevan Autonomy Republic, listed in article 6.1. of this Code. (14)

Article 8. Local (municipal) taxes

8.1. Following are the local (municipal) taxes:

8.1.1. land use tax levied from natural persons;

8.1.2. property tax levied from natural persons;

8.1.3. mineral royalty tax on construction materials of local importance;

8.1.4. profit tax of enterprises and organizations that are the property of municipalities.

8.2. *Procedures for calculation and payment of local taxes, roles and responsibilities of taxpayers and tax authorities of local municipalities, pro-forma and methods of tax control, liability for violation of tax legislation, complaint procedures for actions or non-actions of municipal tax authorities and their officers are determined under relevant legislation.*(6)

Article 9. Tax calculation and payment currency

On the territory of Azerbaijan Republic taxes are calculated and paid in the currency of Azerbaijan Republic- manats.

Article 10. Parties of relations regulated by tax legislation

10.0. Following are the parties of relations regulated by tax and levy legislation:

10.0.1. natural and legal persons recognized by this Code as taxpayers;

10.0.2. natural and legal persons recognized by this Code as tax agents;

10.0.3. state tax authorities of the Azerbaijan Republic;

10.0.4. customs authorities of the Azerbaijan Republic;

10.0.5. financial authorities of the Azerbaijan Republic, in the link with solution of issues stipulated by this Code;

10.0.6. state power authorities, local self-management bodies, other authorized bodies and officials, other than tax and customs authorities that conduct the collection of financial means from taxpayers for the purposes of tax collection and their bank transfers to the state budget in cases stipulated by this Code.

Article 11. Definition of Tax

Tax — a compulsory, individual and non-refundable payment made to the state or local budget in the form of collection of monetary means from taxpayers with the purpose of providing the financial basis to the state and municipal activities. (3)

Article 12. Main terms of tax institution

12.1. The tax shall be considered as instituted only if taxpayers are determined as well as following elements of taxation:

12.1.1. subject of taxation;

12.1.2. basis for taxation;

12.1.3. tax period;

12.1.4. tax rate;

12.1.5. tax calculation procedure;

12.1.6. tax payment procedure and timing;

12.2. During tax institution privileges can be established on basis stipulated by this Code.

12.3. Subjects of taxation are: income, profit, property, land, minerals, value of sold commodities (works, services) or other subjects of taxation stipulated by this Code. (3)

12.4. Taxation base- the quantitative expression of the part of subject of taxation from which the tax is levied.

Article 13. Main definitions used in this Code

13.1. The definitions of civil, family and other areas of the legislation of Azerbaijan Republic used in this Code shall be interpreted as determined in these areas of legislation, unless otherwise stipulated by this Code.

13.2. Following definitions are applied for the purposes of this Code:

13.2.1. Person- any physical or legal person, *permanent representation, branch or other section of non-resident*;

13.2.2. Legal person- enterprises and entities established with the status of legal person in accordance with the legislation of Azerbaijan Republic or legislation of foreign state.

13.2.3. Natural person- citizen of Azerbaijan Republic, foreigner and person without citizenship.

13.2.4. Taxpayer- any person who shall pay taxes from subjects of taxation determined in accordance with this Code.

13.2.5. Resident:

13.2.5.1. the natural person to whom one of the following requirements can be applied:

- who actually was on the territory of the Republic of Azerbaijan for a total of more than 182 days in a calendar year;
- was in the State service abroad for the Republic of Azerbaijan during the calendar year or within one calendar year;
- if natural person's period of stay on the territory of Azerbaijan Republic and foreign state (in any) does not exceed the period of 182 days in accordance with indention two and three of paragraph 13.2.5.1. of this Code then this physical person shall be deemed as the resident of Azerbaijan Republic based on criteria set in following order:
 - permanent place of residence;
 - place of vital interests;
 - place of normal residence;
 - citizenship of the Azerbaijan Republic.

13.2.5.2. The natural person shall be recognized as non-resident of the Azerbaijan Republic from the last day of his stay on the territory of Azerbaijan Republic during the tax year, until the end of this tax year only if this person is non-resident of Azerbaijan Republic in the following tax year.

13.2.5.3. Any legal person established in accordance with the legislation of Azerbaijan Republic and involved in entrepreneur activities or *with the place of management* on the territory of Azerbaijan Republic. *For the purposes of this Article the legal entity management location shall be deemed the location of main operations, in which the commercial decisions are taken as required*

for management, and at which the daily practical management is performed, independent of location of main control bodies.

13.2.6. Non-resident:

13.2.6.1. persons holding diplomatic or consular status on the territory of Azerbaijan Republic, or family members of such persons;

13.2.6.2. staff members of international organizations that had passed the appropriate state registration on the territory of Azerbaijan Republic or person on the national service of foreign country in the Azerbaijan Republic, as well as their family members;

13.2.6.3. person passing from one foreign country to another through the territory of the Republic of Azerbaijan;

13.2.6.4. articles 13.2.6.1. and 13.2.6.2. of this Code not to be applicable for persons involved in entrepreneur activities on the territory of Azerbaijan Republic.

13.2.6.5. diplomatic representations, consular organizations and other official representations of foreign states that hold the diplomatic privileges and immunity, international organizations and their representations as well as representations of foreign companies and firms not involved in entrepreneur activity;

13.2.6.6. other persons, to whom the definition of resident not to be extended.

13.2.7. Taxpayer's family members:

13.2.7.1. spouses;

13.2.7.2. parents, children and adopted persons;

13.2.7.3. heirs;

13.2.7.4. blood relative (not blood relative) sisters (brothers);

13.2.7.5. nephews and nieces;

13.2.7.6. sisters, brothers and parents of spouses;

13.2.7.7. spouses of sisters and brothers;

13.2.7.8. sisters (brothers) of parents;

13.2.7.9. guardians and wards, when linked to each other as the result of same household management as parents and children.

13.2.8. «Goods» - any tangible or intangible property (assets), including electrical and heat energy, gas and water.

For the purposes of value added tax (VAT) intangible assets, monetary means and land shall not be recognized as goods.

13.2.9. Intangible assets- intellectual property, including trademarks, other aspects of industrial property as well as similar rights recognized as the property of taxpayer in the order established by appropriate legislation.

13.2.10. Sell of goods- concession of the right of ownership on goods to other person; including, but not limited to, sell of goods, their exchange, donation, payment in kind for labour and other in kind payments, as well as the transfer of right of ownership on mortgages to the lender or other person;

13.2.11. *Service (work) - activity that does not involve provision of any commodities and has financial value.*

For VAT purposes the transfer of ownership on monetary means and land to other party as well as provision of contracted employee services is not allowed.

If commodities used during provision of services (implementation of works) are not provided separately or compensation costs not included in the value of services (works) and are not indicated separately in the agreement or payment documents, such goods or commodities shall be considered an integral part of the service (work).

13.2.12. Non-sale incomes- income from holding shares in other enterprises, incomes obtained from sales of enterprise stocks, bonds and other securities, as well as other incomes obtained from operations indirectly linked with production and sales of commodities and services (works), including the amount obtained as penalty or loss compensation, increased exchange variation, amount of creditor and deponent debts on foreign exchange operations in accordance with legislation.

13.2.13. Name of taxpayer, buyer, customer or any person - name of legal entity passed state registration, full name of natural person.

13.2.14. Financial Services:

13.2.14.1. the granting or transferring of credits, *financial leasing operations*, credit guarantees and other pledge guarantees in monetary-credit transactions, including the management of credits and credit guarantees by the grantor;

13.2.14.2. any transaction connected with the management of deposits and accounts of clients, payments, transfers, debt obligations and payment instruments;

13.2.14.3. any transaction connected with the circulation of currency, monies or bank notes that are legal tender (with the exception of those used for numismatic purposes);

13.2.14.4. any transaction connected with the circulation of shares, bonds, certificates, bills, checks or other securities. Services on safekeeping of bills, securities and other valuables are not financial services;

13.2.14.5. any transaction relating to financial derivatives, forward contracts, options and similar arrangements;

13.2.14.6. any service related to the management of investment funds;

13.2.14.7. any insurance or re-insurance transactions.

13.2.15. Dividend — payment in money or other form, made by legal person to its founders (or shareholders) as distribution of net income, profit upon the payment of all costs and taxes by payers of simplified tax.

Income from the distribution of property upon liquidation of a legal entity, as well as payments made with distribution of shares without changes to percentage of shares owned by shareholders and re-call of stocks (shares) within their nominal price, shall not be considered a dividend.

13.2.16. Income from an Azerbaijani Source -

13.2.16.1. income derived from employment in the Republic of Azerbaijan;

13.2.16.2. income derived from sale by manufacturer of goods produced in Azerbaijan Republic;

13.2.16.3. income derived from producing goods, performing work or rendering services in the Republic of Azerbaijan;

13.2.16.4. income derived from an entrepreneurial activity attributable to a permanent establishment located on the territory of the Republic of Azerbaijan, to include income from the sale of similar goods (works, services), that can be considered as goods (works, services) sold by said permanent establishments as well as income from activity that can be considered as activity implemented by such permanent establishment or comparable activities;

13.2.16.5. income derived from an entrepreneurial activity on the territory of Azerbaijan Republic:

- from writing off bad debts of taxpayer by creditors;
- from selling fixed assets defined as income pursuant to Article 114.7 of this Code;
- from compensation of costs or decrease of reserves pursuant to Article 141 of this Code;

13.2.16.6. income in the form of dividends received from a resident legal entity and from the realization or cession of an equity share in said legal entity to another person;

13.2.16.7. income in the form of interest received from residents;

13.2.16.8. pension paid by a resident;

13.2.16.9. income in the form of interest received from a person with a permanent establishment or property located in the territory of the Republic of Azerbaijan - if the indebtedness of said person relates to said permanent establishment or property;

13.2.16.10. income in the form of royalties paid in connection with location or use of property located on the territory of the Republic of Azerbaijan, or income from the sale of property stipulated in paragraph 13.2.23 of this Article, which is located or used in the Republic of Azerbaijan;

13.2.16.11. income from the lease of movable property utilized in the Republic of Azerbaijan;

13.2.16.12. income from real property in the Republic of Azerbaijan, including from the transfer of participating shares in said property;

13.2.16.13. income from the transfer of stocks or participating shares of an enterprise whose assets, exceeding 50 percent, directly or indirectly, from the value of real property in the Republic of Azerbaijan;

13.2.16.14. other income arising from the transfer of property that is not connected with resident's entrepreneurial activity;

13.2.16.15. income from management, finance services - if such income is paid by a permanent establishment of resident or non-resident legal person located in the Republic of Azerbaijan, or if said income has been generated by virtue of a contract signed with said enterprise or permanent establishment;

13.2.16.16. income paid as insurance payment under agreements on the insurance or re-insurance of risks;

13.2.16.17. income from telecommunication and transportation services during international communication and shipments between the Republic of Azerbaijan and other states;

13.2.16.18. other income arising by virtue of activity in the Republic of Azerbaijan, which is not stipulated in above paragraphs. When determining the source of income according to this paragraph, the place where the income is paid shall not be taken into account, as well as either it paid directly or indirectly.

13.2.17. Fixed Assets - tangible assets with a service life of more than one year, *the value of which exceeds 100 manats* that are subject to amortization in accordance with Article 114 of this Code.

13.2.18. Interests - any charge relating to a debt obligation, including payments for credits (loans) and deposits (accounts).

13.2.19. Net Profit - profit less profit tax;

13.2.20. Participant - shareholder, partner or other participant in an enterprise's profit.

13.2.21. Property - any moving or real property to include *non-tangible assets, turnover funds and other objects of ownership rights*.

13.2.22. Residual value of property - the original value of fixed assets less the amount of amortization calculated on this fixed assets.

13.2.23. Royalty - payments for use of copyrights or rights on the use of works of literature, art and science; software and films, *and other non-tangible assets*, any information of patenting, trademarks, design or model, plan, secret formula or process, industrial, commercial and scientific expertise, use of industrial, commercial or scientific equipment or transfer of rights to use such products.

13.2.24. Cash register — electronic equipment or computer systems used for registration of payments for goods (works, services) provided, with fiscal memory and appropriately registered by tax authorities.

13.2.25. Forward contract- agreement, confirming the obligation to purchase (sell) securities, goods or monetary means in future at specified time and indicated terms at the price indicated at the time of when such forward contract was signed.

13.2.26. Option- the document confirming the right of person to purchase (sell) securities, goods or monetary means in future at specified time and indicated terms at the price fixed at the time of making such option or the time of such purchase by the agreement of parties.

13.2.27. Non-commercial activity- it is a conduct of legal activity the purpose of which is not generation of profit and that stipulates the use of income received in non-commercial purposes only, including the purposes of its charter. Otherwise such activity shall be considered as commercial.

13.2.28. Export of Goods - removal of goods from the territory of the Republic of Azerbaijan, which are considered export goods according to customs legislation.

13.2.29. Re-export of Goods - export of goods that are considered re-export goods in accordance with customs legislation by the person importing said goods, provided that such goods are in the same condition as were when imported.

13.2.30. Import of Goods - importation of goods into the territory of the Republic of Azerbaijan, which are considered import goods according to customs legislation.

13.2.31. Re-import of Goods - import of goods that are considered re-import goods in accordance with legislation by the person exporting these goods, provided that such goods are in the same condition as were when imported.

13.2.32. Transit through the Territory of the Republic of Azerbaijan - transportation of goods through the territory of the Republic of Azerbaijan between two frontier posts of the Republic of Azerbaijan in accordance with procedures established by customs legislation.

International transportation - cargo and passenger transportation between the Azerbaijan Republic (through the border of the Azerbaijan Republic) and post located in the other state.

13.2.33. Employment- performance of duties by physical person in accordance with agreement (contract) for compensation payment regulated by labor code. Any physical person engaged in employment shall be termed «the employee» in this Code. A person who pays for the service rendered by such physical person as an employee shall be termed «the employer» and said payment shall be termed «the salary».

13.2.34. Charity shall be defined as that activity natural person and/or charity organization performs, which consists of rendering assistance, to include the transfer of monies, without compensation, to physical persons in need of material or other assistance (aid), or to organizations and charitable organizations that directly provide such assistance (aid), including charity organizations. Scientific, educational activities performed in the public interest shall be considered charity except where otherwise stipulated in this Code. Assistance (aid) given shall not be construed as charity if:

13.2.34.1. the recipient of said assistance (aid) assumes any obligation to the provider, which is of a property or non-property nature (with the exception of obligations to utilize the funds or property received as targeted);

13.2.34.2. the recipient and provider of said assistance (aid) are deemed to be interrelated;

13.2.34.3. said assistance (aid) is rendered to any physical person or legal entity with the intent of helping that person or entity participate in an election campaign.

13.2.35. Charity organization- non-commercial organization conducting charity activities.

13.2.36. Entrepreneurial (commercial) activity - any activity of entrepreneur, performed independently, with the purpose of profit obtaining from use of the property, supply of goods, fulfilment of works or services.

13.2.37. Budget organization- non-commercial organization activity of which is financed in part or in full with funds from the treasury on a budgetary estimate and which does not have a payments account.

13.2.38. Enterprise- for the purposes of this Code enterprises are the structures involved in entrepreneurial activities and established for such activities. This is to include:

13.2.38.1. legal entities established pursuant to Republic of Azerbaijan law;

13.2.38.2. legal persons established in accordance with the legislation of foreign state (corporations, companies, firms and other similar structures), their branches and representative offices;

13.2.38.3. branches, sub-elements or other separate units of legal persons, outlined Article 13.2.39.1 of this Code, which have their own balance sheet, separate ledgers or other accounts.

13.2.39. VAT deposit account— single treasury account, on which the operations are performed associated with receipt, registration and movements of VAT and its payment to state budget.

13.2.40. Commercial Legal Entity — structure defined as such by the Civil Code of the Azerbaijan Republic.

13.2.41. Non-commercial legal entity — structure defined as such by the Civil Code of the Azerbaijan Republic.(3, 6, 9, 11, 15,19, 21)

Article 14. Market value

14.1. Market value - the price of the good (work, service) based on interrelation of demand and supply.

14.2. Unless otherwise stipulated by this article, for the purposes of taxation the price of goods (works, services) fixed for operation (deal) shall be used. Unless otherwise proved this price shall be used as market value.

14.3. The calculation of taxes with consideration of market value can be used:

14.3.1. during barter (swap of goods), import-export operations;

14.3.2. during implementation of deals between interrelated persons;

14.3.3. at price deviation for more than 30 percent (either side) within 30 days from the pricing level applied by taxpayers on analogue or similar goods (works, services).

14.3.4. in case of insurance of property of enterprise more than it's residual value.

14.4. The market value shall be determined until the good (work, service) is sold, but not later than 30 days from the moment the good (work, service) is sold at the price established on the closest date (before or after) at appropriate deals on identical (analogue) goods (works, services). The market value of securities shall be determined based on stock exchange rate for identical securities of the same emitter on closest previous date from the moment these securities were sold, only if such rates were announced in accordance with procedure above.

14.5. During the determination of market value, the deal between interrelated persons, as defined in Article 18 of this Code, shall be considered only if their relations did not have any impacts on the result of such deal.

14.6. If provisions of Articles 14.4. and 14.5 of this Code are not applicable, the market value of good (work, service) shall be determined in accordance *with requirements of this Article*. The regular costs on production and/or marketing (purchase price and residual value) of good (work, service), transportation, storing, insurance and other similar costs shall be considered as well as added values and discounts practiced during deals between non-interrelated persons, that will consider the factor of demand and supply. Specified costs shall be considered also when the good loses its quality or other consumer characteristics or expiration (close expiration) date as well as other similar cases.

14.6.1. Following factors are taken into consideration in determination of the market prices of goods (works, services), which can influence the prices:

14.6.1.1. volume (volume of goods batch) of delivered goods (implemented works and rendered services);

14.6.1.2. obligation execution term, payment provisions;

14.6.1.3. change of demand for goods (works, services) and supply (including seasonal fluctuations of consumer demand);

14.6.1.4. country of origin of goods, place of purchasing or procurement;

14.6.1.5. delivery terms for goods (works, services);

14.6.1.6. the quality level of goods and other consumption indicators;

14.6.1.7. in relation with implemented marketing policy introduction on market of new, non-analogue goods (works, services), or introduction of goods (works, services) to new markets, provision of samples of goods with the purpose of acquiring of consumers;

14.6.1.8. in determination of market prices on execution of works, provision of services, including in the area of repair, construction, installation works, transportation, leasing, education, medical services and other areas, taken into consideration the area of work execution, and provision of services, their qualitative indicators and other circumstances, which can affect the price.

14.6.2. In determination of prices in connection with quality of goods (works, services) below market price, quality levels are confirmed by competent person.

14.6.3. If on relevant goods (works, services) market with similar or same kinds of goods (works, services) no operations are conducted, and it is not possible to collect the information on market prices of these goods (works, services) from official or open sources, following evaluation methods can be applied:

14.6.3.1. On the basis of subsequent (secondary) selling price

Market prices of goods (works, services) are determined on the basis of subsequent (secondary) selling price of these goods (works, services). The market price is determined with deduction of applied raise from subsequent selling price.

14.6.3.2. On the basis of value accumulation method

Market prices are calculated with accumulation of costs and profits, motivated by the party providing goods (works, services).

14.6.3.3. If market prices of goods (works, services) cannot be determined by one of the methods established in this Article, market prices are determined by contractor expert.

14.6.4. Determined market prices are used only for the purposes of taxation and goods (works, services) are considered by actual selling price in accordance with procedures stipulated under the legislation.

14.6.5. If the purchasing price of purchased goods (works, services) exceeds the market price for more than 30 percent and its value contains costs deducted from income, the value of these goods (works, services) is assigned for costs deducted from the income on market values, and taxes are re-calculated in following cases:

14.6.5.1. in cases, if unreasonable increase of actual of purchasing price of purchased goods (works, services) is detected;

14.6.5.2. if it is not possible to determine the supplier of goods (works, provider of services).

14.6.6. If the price level applied to provided goods (works, services) of taxpayers, will significantly be below 30 percent level of market values, determined on the basis of this Code, then taxes are calculated on the basis of market prices, and if exceeds it, then on actual provided prices

14.7. The complex of deals, providing the delivery of goods (works, services) by one party and their exchange for other goods are the part goods swapping (works/services swapping) deals. The market value of delivered (purchased) goods (works, services) on the basis of such deals shall be determined in accordance with provisions of this Article.

14.8. The taxpayer holds the right to submit to state tax authority the evidences that market values for goods (works, services) are determined in certain deals in accordance with the procedure that differs from one stated in this article.

14.9. During the determination and recognition of goods (works, services) market value the official sources of information on market values of goods (works, services) and exchange rates, databases of state and local authorities, information submitted by taxpayers to state tax authorities, information of advertisement sources and other appropriate information shall be used.

14.10. During provision and purchasing of goods (works and services) (with exception of exports, prices for which are regulated by the relevant executive authority, for the purposes of taxation are used the prices, established by the relevant executive power authority. (3, 9)

Chapter II. Taxpayer. Tax Agent

Article 15. Taxpayer's rights:

15.1. The taxpayer holds the following rights:

15.1.1. to receive the free of charge written information from on existing taxes and tax regulations, that control the procedures and conditions of tax payments, rights and responsibilities of taxpayers and well as rights of tax authorities and their officials;

15.1.2. to receive from tax authorities clarifications on issues related to the application of tax legislation;

15.1.3. to take advantage of tax privileges in events and in accordance with the procedures specified by tax laws;

15.1.4. to require the timely return or crediting of overpaid or overcharged taxes;

15.1.5. directly or via their representatives to participate in tax relations outlined by legislation;

15.1.6. to receive copies of acts (protocols) made in relation with tax inspection and decisions of tax authorities;

15.1.7. to require tax authorities and their officials to follow the terms of tax legislation on taxpayer;

15.1.8. not to follow unlawful acts (decisions) and requirements of tax authorities and their officials that do not correspondent with the Tax Code and other legal acts on taxes;

15.1.9. to appeal *administratively and(or)* in court in accordance with established procedure the decisions (omission) of tax authorities and their officials;

15.1.10. to require the provision of commercial (tax) confidentiality in accordance with established procedure;

15.1.11. to require in accordance with established procedure the compensation for all losses caused by illegal acts (decisions) of tax authorities or unlawful actions of their officials;

15.1.12. to review the acts and other materials of tax inspections, to express to tax authorities and their officials own opinion on calculation and payment of taxes, as well as on the acts of tax inspections conducted;

15.1.13. In connection with changes to production volume or sales turnover upon last check, conducted by chronometer method, to request tax authorities to conduct new check by chronometer method;

15.1.14. to order the defined model of cash register for registration in established order in tax authorities;

15.1.15. perform cash payment of taxpayer engaged in activities stipulated under Article 16.1.8 of this Code via cash registers.

15.1.16. to take advantage of other rights established by this Code and legislation;

15.2. Rights and legal interests of taxpayers are guaranteed by legislative regulations.

The procedure on protection of rights and interests of the taxpayer shall be determined by this Code and other legislation.

The rights and legal interests of taxpayer shall be provided by the authority of tax bodies and their officials.

The failure to execute or insufficient execution of duties on protection of rights and legal interests of the taxpayer shall involve the responsibility established by the legislation.

15.3. the taxpayer can participate in tax relations directly or through his authorized representative, unless otherwise stipulated by this Code.(6, 16, 20, 21)

Article 16. Taxpayer's responsibilities

16.1. The taxpayer is responsible:

16.1.1. to pay for taxes legally established;

16.1.2. to receive the taxpayer's identification number (TIN) from tax authorities;

16.1.3. to keep the record of all incomes (costs) and articles of taxation;

16.1.4. to submit the tax report to tax authorities in events and in accordance with procedures established by the legislation and in events when *audit* is required, to submit the conclusion by auditor;

16.1.5. to follow lawful requirements of tax bodies to remedy indicated violations of tax legislation as well as not to cause any obstructions to the lawful activities of tax authority officials;

16.1.6. to submit to tax authorities and their officials necessary information and documents in events and in accordance with procedures established by this Code;

16.1.7. for the period stipulated by the legislation to provide the safekeeping of accounting books and other documents necessary for tax calculation and payment, as well as documents that confirm incomes obtained (for legal persons also costs incurred) and paid (withheld) taxes;

16.1.8. perform cash settlements with use of cash register, with exception of following operations:

16.1.8.1. sells of newspapers and magazines (in the event if these exceed 50 percent of total sells turnover);

16.1.8.2. sells of securities;

16.1.8.3. sells of lottery tickets;

16.1.8.4. passenger and cargo transportation (by railroad, air, water and automobile transport) (with exception of taxis with less than six seats, on which shall be installed taximeters in accordance with legislation);

16.1.8.5. sells in bazaars, fairs and on carrying of agricultural products;

16.1.8.6. operations of glassware and scratch metal acceptance points;

16.1.8.7. telecommunications services (with exception of Internet-club operations);

16.1.8.8. advertisement services;

16.1.8.9. utility and housing facilities;

16.1.8.10. leasing of resident and non-resident facilities;

16.1.8.11. hotel, camping, motel and dormitory services;

16.1.8.12. operations of the power, gas, water, heated water and central heating suppliers, elevator and security services;

16.1.8.13. sewage and sanitary-cleaning services;

16.1.8.14. excursion and tourist, sanatorium-resort and spa services;

16.1.8.15. fitness and sports services;

16.1.8.16. medical services;

16.1.8.17. attorney and other legal services;

16.1.8.18. educational operations of educational institutions and training course activities;

16.1.8.19. motor parking activities;

16.1.8.20. cloth dry-cleaning, painting and laundry;

16.1.8.21. apartments repair and construction;

16.1.8.22. ceremonial services at non-stationary points and related leasing;

16.1.8.23. pawn-shop services;

16.1.8.24. binding services;

16.1.8.25. mobile retail sales from counters, automobiles and trailers on markets and other trading points;

16.1.8.26. banking activities, as well as insurance and insurance mediation services;

16.1.8.27. following activities implemented, provided that number of employees does not exceed 2 people:

16.1.8.27.1. furniture repair and manufacturing;

16.1.8.27.2. photo-, audit-video services;

16.1.8.27.3. repair and private production of footwear, clothing, knit and leather products;

16.1.8.27.4. repair of clocks, TV-sets, refrigerators and other household appliances;

16.1.8.27.5. technical and other services to technical means;

16.1.8.27.6. barber services;

16.1.8.27.7. repair and production of jewellery and metallic items;

16.1.8.27.8. activities of arts studios and restoration facilities.

16.1.9. in implementation of cash payments provide the receipt, cheque, bank statements and other strict reporting forms to the buyer and provide the reflection of information specified under legislation, in these cheques, bank statements or strict reporting forms;

16.1.10. in the event of damages or other disorders incurred to cash register during the operations, tax authorities shall be informed immediately and use of cash register shall be seized temporarily and ensure registration of cash payments within such period of time in an order stipulated by the respective executive authority;

16.1.11. introduction of relevant notes to information sections of duplicate certificates, received from tax authorities for opening of accounts for the purposes of entrepreneur activities in non-resident banking institutions and other non-resident credit organizations, and their submission to tax authority before the term of operations performance on these accounts;

16.1.12. other responsibilities established by this Code and legislation.

16.2. If the taxpayer was not involved in entrepreneur activities within the reporting period or did not implement any taxable operations, he shall submit the note to the tax authority instead of tax report.

16.3. If the taxpayer has temporarily stopped the entrepreneur activity or other taxable operations within the tax year, he shall submit to the tax authority the note dated no later than the date of stoppage of entrepreneur activity. The note shall include the time of stoppage of entrepreneur activities or other taxable operations».

16.4. In accordance with Articles 16.2 and 16.3 of this Code, if the taxpayers submitting the note, have the property and (or) land, tax reports on property and/or land shall be submitted to the tax authority in accordance with procedures and terms, established by this Code.

16.5. Notes stipulated under Articles 16.2 and 16.3 of this Code, shall lose their force from the date appearance of obligation for submission of tax reports. (6, 9, 15, 21, 23)

Article 17. Tax agent

17.1. Tax agent- person who in accordance with this Code is authorized to calculate taxes, withhold them from the taxpayer and make the payment to the budget.

17.2. The tax agent shall have the same rights as a taxpayer unless otherwise is stipulated by legislation.

17.3. The tax agent is responsible:

17.3.1. correctly and timely calculate, withhold from the taxpayer and transfer appropriate taxes;

17.3.2. to keep the record of taxes paid by the taxpayer, withheld and transferred appropriately, including those which are personal for each taxpayer;

17.3.3. to submit to state tax authorities documents necessary to control the correctness of tax calculation, withholding and payment;

17.3.4. within 30 days to inform the tax authorities with which registered in writing on impossibility to withhold the tax from the taxpayer and the amount of taxpayer's debts;

17.3.5. to perform other duties set by this Code.

17.4. For failure to execute or insufficient execution of his duties the tax agent shall hold the responsibility in accordance with procedure stipulated by this Code and other legislation.

17.5. For failure to execute or insufficient execution of his duties by tax agent, due to the fault of person under whose management this tax agent is, the responsibility in accordance with this Code and other legislation shall be laid on person the tax agent reports to.

Article 18. Interrelated persons

18.1. Interrelated persons for the purposes of taxation are natural and/or legal persons, relations between which might have direct effect on economic results of their activities or the activities of persons they represent.

18.2. For the purposes of this Article persons shall be considered as interrelated:

18.2.1. if one person directly or indirectly has a share in other person's property and his share or vote is not less than 20 percent;

18.2.2. if one person reports to another person due to his ranking or one person is under the direct or indirect control of other person;

18.2.3. if persons are under the direct or indirect control of the third person;

18.2.4. if persons have a direct or indirect control over the third person;

18.2.5. family members indicated in article 13.2.7. of this Code.

Article 19. Permanent establishment.

19.1. The permanent establishment of legal or natural non-resident person in the Azerbaijan Republic is the place in which such persons themselves or via their authorized representatives fully or partially conduct their entrepreneurial activities in the Azerbaijan Republic for the cumulative period of not less than 90 days within any 12 months.

19.2. The permanent establishment shall include, but not to be limited to following:

19.2.1. the place of management;

19.2.1. subdivision;

19.2.3. office;

19.2.4. branch or agency;

19.2.5. construction and repair sites, installation and assembly facilities, as well as supervisory activities associated therewith;

19.2.6. platforms, sites, drilling equipment or vessels used for the exploration and production of natural resources, as well as supervisory activities associated therewith;

19.2.7. any fixed base (location) where a non-resident physical person carries out entrepreneurial activity;

19.2.8. premises used for the provision of consulting services;

19.2.9. any places of employment in which other types of entrepreneurial activity conducted on the territory of Azerbaijan Republic;

19.2.10. persons executing functions of the permanent establishment for non-resident enterprises or non-resident natural person in the Azerbaijan Republic, or people acting on their behalf, authorized to make agreements on their behalf and usually conducting such responsibilities;

19.2.11. places of goods' manufacturing and sale, execution of works and services;

19.3. Different from provisions of article 19.2. of this Code, following shall not be considered as activities performed by permanent establishment:

19.3.1. storing and demonstration of goods and products belonging to non-resident enterprise;

19.3.2. storing stocks of goods or products belonging to a non-resident enterprise for eventual processing and subsequent export from the Republic of Azerbaijan by a third party;

19.3.3. purchase of goods or manufacturing of products by non-resident enterprise for its own needs;

19.3.4. implementation by non-resident enterprise of any preparatory or support activity for its own needs;

19.3.5. the joint execution of any types of activities specified in articles 19.3.1-19.3.4. of this Code.

19.4. For the purposes of this Article any place in Azerbaijan Republic where legal or natural non-resident person conducts activities for the cumulative period of not less than 90 days within any 12 months shall not be recognized as permanent establishment; in this event the income from Azerbaijanian source in accordance with articles 125 and 169 shall be taxed at the source of payment.

Chapter III. State Tax Authorities (Agencies)

Article 20. State Tax Authorities and their purpose

20.1. State Tax Authorities in the Azerbaijan Republic are the appropriate body of executive power and tax bodies under its direct management.

Within their level of competence tax authorities are holding the authority of law enforcement agencies.

20.2. State authorities are conducting their activities independent from local authorities of executive power.

Decisions made by tax authorities within their level of competence shall be obliging for all legal and natural persons.

20.3. Tax authorities shall be relieved from the payment of state fee for court applications proceedings.

20.4. *The tax authorities shall exercise control over timely payment of taxes, with the exception of local taxes (municipal taxes), as well as road tax, VAT and excise tax, deduction of which is the responsibility of customs authorities.*

20.5. When it is stipulated by this Code, authorities of tax bodies on road fund tax and in the area of import and export operations shall be conducted by customs in events and in accordance with procedures established by the legislation.

20.6. Authorities indicated in article 20.5. of this Code shall act within their level of competence on the basis of this Code, Customs Code, other laws of the Azerbaijan Republic and legislative acts approved in accordance with thereof. (6, 11, 14)

Article 21. Legal bases for the activity of State Tax Authorities

The Constitution of the Azerbaijan Republic, this Code and other legal normative acts of the Azerbaijan Republic shall be the legal bases for the activity of the State tax authorities.

Article 22. Social Protection of State Tax Employees and Material Incentives and Development Fund of State Tax Authorities

22.1. Social protection of State tax employees shall be guaranteed by the State, they shall be insured, on a compulsory basis, at the expense of the state budget. The procedure and conditions of compulsory insurance shall be established by the legislation.

Where a serious bodily injury is caused to a State tax employee, which prevents him from engaging in his professional activity, such employee shall receive from the budget the difference between official salary and pension.

Damage caused to the property of a State tax employee and his family members in relation with his professional duty shall be fully compensated from the state budget, the relevant amount further being collected from the person in fault.

22.2. For the purposes of social security of employees of tax authorities at the account of 5 percent (not to exceed 30 percent of funds allocated from the state budget for support of tax authorities) from the amount of financial sanctions, applied by tax authorities and paid to state budget, the non-budgetary fund of these authorities shall be established. (11, 16, 21)

Article 23. Rights of State Tax Authorities

23.1. State tax authorities shall have the following rights:

23.1.1. to perform the operative tax control, desktop and on site tax inspections in cases and in accordance with procedures established under this Code;

23.1.2. with respect to legal and physical persons, to examine all financial documents, accounting books, reports, estimates, cash, securities, and other assets on hand, returns, declarations and other documents relating to the calculation and payment of taxes, as well as receive from officials and other employees of organizations and individuals information and oral and written explanations on questions arising in the course of such examination;

23.1.3. to examine, in accordance with the law in force, all production, storage, commercial and other premises (*on the territories*), maintained by organizations and individuals with the purpose of generating income or keeping taxable objects and conduct observation of such premises through chronometrical methods, to obtain documents and objects *in cases, stipulated by the present Code, to conduct inventory of property, owned or used by it (except for residential areas), in accordance with the procedure established by respective executive power body;*

23.1.4. to require the taxpayers to remedy the cases of violation of tax legislation and *also, in cases when taxpayer shall be checked by auditor - auditor conclusion;*

23.1.5. to review as stipulated in legislation the cases on violation of tax laws, to add interests for underpaid taxes of legal and natural persons, to apply financial sanctions and administrative penalties to such persons;

23.1.6. to provide in accordance with procedure established by the legislation, payment to the state budget, interests, financial sanctions and administrative penalties that are not paid in due time;

23.1.7. to issue to banks and other credit organizations the instruction, which shall be an executive (payment) document, to arrange for execution of administrative penalties for collection of arrears and tax interests, applied financial sanctions, calculated in accordance with legislation, to the state budget from the settlement, foreign currency and other accounts of taxpayers;

23.1.8. to file claim in the court of law on arresting the payment, current and other accounts of the taxpayer in cases and in accordance with procedure established by the legislation, to take measures on taxpayer's property inventory in accordance with this Code;

23.1.9. to question citizens on tax issues in cases and in accordance with procedures established by the Law of Azerbaijan Republic on «Investigation activity»;

23.1.10. to enter and conduct the inspection of premises (with the exception of living premises), facilities and lands in cases and in accordance with the Law of Azerbaijan Republic on «Investigation activity»;

23.1.11. to make test purchases of commodities lands in cases and in accordance with the Law of Azerbaijan Republic on «Investigation activity»;

23.1.12. to conduct interrogation in accordance with procedures established by the Criminal Code of the Azerbaijan Republic;

23.1.13. if unmarked excise commodities are found to provide the inventory of such commodities and pass them to the taxpayer for responsible storing *or his consent, in locations determined by executive representatives of tax authorities*;

23.1.14. to invite specialists, experts, translators and witnesses in accordance with procedures established in this Code;

23.1.15. *in accordance with legislation to organise sales of commodities without excise marks or marked by forged excise marks confiscated by the court decision.*

23.1.16. to use other rights stipulated by this Code and other legislative acts of the Azerbaijan Republic in accordance with objectives of state authorities.

23.2. Superior tax authorities hold the right to cancel unlawful acts and decisions of subordinate tax authorities and their officials. (3, 6, 9, 14, 15)

Article 24. Responsibilities of State Tax Authorities

24.0. State tax authorities shall:

24.0.1. ensure that taxes are correctly calculated and paid in full and on time, to follow completely the tax legislation;

24.0.2. to follow and observe the statutory rights of taxpayers;

24.0.3. to provide the taxpayers with free information either via mass media or individually on tax legislation and amendments to it, to explain the procedure for fulfilment of report applications, to give explanations on calculation and payment of taxes, to explain to taxpayers their rights and responsibilities;

24.0.4. to keep the record of calculated and paid taxes and provide the information to relevant state executive authorities;

24.0.5. collect, analyze and assess information on the violation of tax legislation, and take measures and, if necessary, submit proposals to appropriate state bodies, for eliminating causes and circumstances contributing to tax violation;

24.0.6. register taxpayers, *their affiliates, representations, or other divisions (objects), as well as cash registers;*

24.0.7. *perform state registration and maintain state register of commercial legal entities and provide to relevant executive authorities the related information within procedures and terms stipulated under legislation.*

24.0.8. in accordance with provisions of this Code and legislation, preserve the confidentiality of information concerning taxpayers, including the tax and commercial confidentiality;

24.0.9. to provide taxpayers with acts on the results of tax inspections, and, in cases established by legislation, copies of decisions of tax authorities;

24.0.10. to take measures established by legislation on crediting or return of overpaid amounts to the taxpayer, as well as return of taxes, financial sanctions, interests and administrative penalties erroneously levied from the taxpayers;

24.0.11. to control the activities of subordinate tax authorities;

24.0.12. to hold other responsibilities established by this Code, other legislative acts of the Azerbaijan Republic in accordance with objectives of tax authorities. (16, 21)

Article 25. Rights and responsibilities of state customs authorities in the area of taxation

State Customs Authorities shall hold the rights and take responsibilities in the area of taxation during the movement of goods through the customs boundary of the Azerbaijan Republic in accordance with this Code, Customs code and other legislation of the Azerbaijan Republic.

Article 26. Relations between Tax Agencies and other Governmental Bodies

26.1. Tax agencies shall exercise their duties shall interact with central and local executive bodies and law enforcement, financial and other State authorities;

26.2. State governmental bodies shall be obliged to assist State tax authorities in application of their duties and in some cases provide, upon request, necessary information.

26.3. Customs bodies shall be obliged to furnish, on a regular basis, information at their disposal to appropriate body of executive power, stipulated by article 20.1 of this Code.

Article 27. State Tax Officials

27.1. Officials of tax authorities are at the state service.

27.2. Officials of tax authorities are appointed and removed from their position in accordance with procedure established by the appropriate body of executive power.

27.3. Officials of tax authorities shall not have the right to be involved in any entrepreneurial activity or any other type of paid activity, with the exception of scientific, pedagogical and creative activity.

Article 28. Special Ranks of Officials of State Tax Authorities

28.1. The officials of tax authorities are given the special ranks in accordance with their position, qualifications and duration of services.

28.2. The procedure for giving and removing of special ranking as well as other issues related with special ranking shall be established by legislation.

28.3. The officials of State Tax Authorities shall have the right to wear the special uniform and decorations in accordance with their special ranks. The sample of mentioned uniform and decorations shall be approved by relevant authority of executive power.

Article 29. Conflict of interests

29.0 State tax employees shall be prohibited from the conduct of their official duties when:

29.01. there is kinship between a official of tax authority and taxpayer;

29.02. official of tax authority or his family members have direct or indirect financial interest in taxpayer (taxpayer's activity).

Article 30. Commercial (tax) confidentiality

30.1. Tax authorities and their officials in the course of performing official duties (for the period of their work in tax authorities or after they were dismissed from their duties) shall maintain secrecy regarding all information on taxpayers.

30.2. Any information received by tax authority and its officials from taxpayer shall be considered as commercial (tax) secret *and information about private life* with the exception of following:

- 30.2.1. disclosed by the taxpayer's consent;
- 30.2.2. on taxpayer's tax identification;
- 30.2.3. on statutory fund (statutory capital) of enterprise;
- 30.2.4. on tax violation and responsibility for such violations;
- 30.2.5. *tax payments arrears;*
- 30.2.6. *information in the state register of legal entities.*

30.3. Commercial (tax) confidentiality shall not be disclosed by tax authorities and their officials, with exception of cases stipulated by legislation.

The disclosure of commercial (tax) confidentiality shall include, but shall not be limited to, mainly use or transfer to another person of commercial (tax) confidential information of the taxpayer that became open to the tax authority official, invited expert or specialist during application of their duties in tax inspection.

30.4. Information received by tax authorities that contain sensitive commercial (tax) information shall be under the special access and storing regime.

The access to information comprising the commercial (tax) confidentiality shall be available to officials by the lists approved by relevant body of executive power.

30.5. The loss of information comprising the commercial (tax) confidentiality or disclosure of such information stipulates the legal responsibility by the legislation.

30.6. Tax authorities and their officials indicated in article 30.1 of this Code, may in the order established by the legislation provide to other agencies information on taxpayer only in following cases:

- 30.6.1. to tax authorities and their officials for the purpose of carrying out their duties;
- 30.6.2. relevant body of executive power for the purpose of prevention and investigation of tax law violations with criminal case;
- 30.6.3. courts in the course of proceedings for establishing taxpayer's tax liability or responsibility for tax violations or offences, as well as other criminal liability;
- 30.6.4. relevant government authorities of other states in accordance with international treaties to which the Azerbaijan Republic is the party;
- 30.6.5. State social security and medical insurance funds — to the extent necessary for the implementation of laws concerning social security;

30.6.6. customs authorities — for the purpose of administering customs legislation.

30.7. Government authorities and their officials shall return the documents that contain commercial (tax) confidentiality to the tax authorities that provided them with such documents.

30.8. Information concerning taxpayer may not be disclosed to another person without taxpayer's written consent. (3, 15, 21)

Article 31. Responsibilities of tax authority officials

31.0. Officials of tax authorities shall:

31.0.1. Follow this Code and other legislation of the Azerbaijan Republic;

31.0.2. within their level of competence apply the rights and responsibilities of tax authorities;

31.0.3. be attentive to taxpayers, their representatives and other participants of tax relations.

Chapter IV. Tax control

Article 32. Tax control - forms of tax control

32.1. The tax control is provided by tax authority for the purposes of complete and timely collection of taxes. The tax control is a single system of control over the registration of taxpayers and taxable bases as well as compliance with tax legislation.

32.2. The tax control is provide by relevant executive authorities in cases and in accordance with procedures stipulated by this Code and the Customs Code of the Azerbaijan Republic. *Control over calculation in accordance with legislation, complete and timely payment of local taxes (municipal taxes) is conducted by municipal tax authorities*

32.3. The tax control is provided by tax and customs authorities and their official within their level of competence in accordance with this Code, Customs Code of the Azerbaijan Republic and other legislative acts.

32.4. Tax authorities perform the tax control via registration of taxpayers and taxable bases, review of registration and accounting data, interview of taxpayers and other persons, inspection of premises used for the generation of income and other instruments established by this Code.(6)

Article 33. Registration of taxpayers

33.1. For the purposes of tax control implementation, taxpayer legal entities shall be registered with tax authorities at place of registration (legal address, indicated in the state registration documents), and individual entrepreneurs and residents - natural persons,

which shall submit declaration in accordance with provisions of the Code hereof - at place of residence, at the place of received income from the Azeri source, if taxable income contains Azeri source and non-residents, who are not subject at the place of income payment.

During state registration the commercial legal entities, as well as representations and affiliates of foreign commercial legal entities shall be assigned with taxpayer's identification number in accordance with provisions of legislation this shall be deemed as their tax registration. The state registration certificate issued for the purposes of this Code shall be deemed a certificate, which verifies the tax registration of the taxpayer.

33.2. Taxpayer which include branches, representations and/or establishments, carrying out the activity outside the territory of tax authority as per place of the taxpayer registration shall be registered as taxpayers at the place of their own location as well as the locations of their branches, representations and/or establishments.

Taxpayer registration at the location of its affiliate, representative office or other economic enterprise (facility) shall be performed in accordance with procedures established by this Code, with note issued to the taxpayer.

Branches, structural and other separated units specified in Article 13.2.39.3 of this Code, which are engaged in entrepreneur activities of legal entities, as well as branches and permanent representations of non-residents, established in accordance with legislation of the Azerbaijan Republic, are registered separately and issued the TIN.

Units, located out of location of budget and non-commercial entities of the Azerbaijan Republic and established for the purposes of implementation of their functions, may be registered separately and may be issued the TIN.

33.3. The registration of legal person as taxpayer with the tax authority or the natural person who performs its entrepreneurial activity without the establishment of legal person (individual entrepreneurs) shall be conducted independently from presence of circumstances established by this Code for the obligation on tax payments.

Diplomatic and consular representations of foreign states, operating on the territory of the Azerbaijan Republic, as well as representations of international entities can be registered by state authority in accordance with this Article.

33.4. The application on registration with tax authorities shall be submitted by taxpayers to the tax authority at the place of their residence. The application to the tax authority shall be submitted within 30 days from the date of state registration of legal person, and for conduct of entrepreneurial activity in the Azerbaijan Republic - within 30 days from the date of creation of branch or permanent establishment.

The relevant authority of executive power that provides the state registration along with registration documents shall issue to persons indicated in paragraph 1 of this Article the note indicating the date when these documents have been issued.

The registration of permanent establishment shall be in accordance with procedure established for legal persons in the Azerbaijan Republic.

Natural persons engaged in entrepreneur activities without formation of legal entity, shall submit the application to the tax authority until the day of start of entrepreneur activity.

Natural persons, who have the income, not subject to withholding tax (withholding tax payment is not possible), or who have the royalty income, or natural resident-persons, who have incomes from the sources outside of the territory of the Azerbaijan Republic, shall submit the application to the tax authority no later than on the date of occurrence of the right to obtain the income.

33.5. In cases stipulated by article 33.3. of this Code the tax authority shall within 5 days inform the individual entrepreneur on its registration.

33.6. Shall taxpayer have any difficulties related to determining the place for registration the decision shall be made by tax authority based on the data submitted by the taxpayer.

33.7. *Large enterprises and entities with special tax regime, defined by relevant executive authority, can be registered on centralized basis in following order:*

33.7.1. Centralized registration of large taxpayers and enterprises with special tax regime shall be conducted by tax authorities defined by Централизованный учет крупныrelevant executive bodies.

33.7.2. The assignment of identification numbers to large taxpayers and enterprises with special tax regime shall be implemented in accordance with this Code.

33.7.3. Persons registered by tax authority at the place of location, upon their enlistment as large taxpayers or enterprises with special tax regime, shall be subject to centralized registration on previous identification numbers.

33.7.4. Tax registration of branches, representations or other economic subjects (facilities) centrally registered as large taxpayers and enterprises with special tax regime shall be implemented in the order established by this Code.

33.7.5. Legal entities, registered by tax authority at the place of location, within 15 days from the start of activities under special tax regime shall apply for tax registration by the relevant tax authority, engaged in centralized registration of taxpayers.

33.7.6. Centralized registration of enterprises engaged in special tax regime activities, or removal from centralized registration shall be implemented within the period of 15 days from the date of application to the relevant tax authority, conducting their centralized registration, with statement of start of activities in special tax regime or stoppage of such activities.

33.7.7. The tax authority, identified by the relevant executive body, shall annually, before May 15, make the decisions on exclusion of registration from the place of

location or centralized re-registration of enterprises enlisted as large taxpayers, as well as any decision from their exclusion from centralized registration.

33.7.8. Centralized registration of enterprises enlisted as large taxpayers shall be implemented on the January of the following year, when the decision was made to perform centralized registration.

33.7.9. Relevant executive authority shall annually before June 15 submit to the relevant executive authority information on large taxpayers and enterprises with special tax regime, which were excluded from registration or re-registered centrally, in accordance with the form agreed with relevant executive authority.

33.8. Regulations of registration of divisions of the foreign state resident, operating in the Azerbaijan Republic without the establishment of permanent representation on the basis of international treaties with participation of the Azerbaijan Republic concerning avoidance of double taxation, and also legal entity according to the article 13.2.5.3 of the present Code considered as the resident as per place of administration, shall be envisaged as follows:

33.8.1. Units not having permanent representations in the Azerbaijan Republic, within 30 days from the start of activities in the Azerbaijan Republic, and foreign legal entities, recognized as residents, shall submit applications to tax authorities at their location within 30 days from the date of recognition as residents in accordance with Tax Code of the Azerbaijan or provision of international treaties to evade double taxation to which the Azerbaijan Republic is a signatory.

33.8.2. Application for registration of units, which do not form the permanent representation in the Azerbaijan Republic, as well as foreign entities, recognized as residents at the place of operations, shall be signed by foreign legal entity or its authorized representative.

33.8.3. For registration in tax authorities of units, which do not form the permanent representation in the Azerbaijan Republic, as well as foreign entities, recognized as residents at the place of operations no additional documents are required in addition to those stipulated under Article 33.8 of this Code.

33.8.4. To application submitted for registration of the unit, which is the resident of foreign state, not forming permanent representation in the Azerbaijan Republic following shall be attached:

33.8.4.1. documents of registration in the county, in which the foreign legal persons was registered (incorporated) and extract from commercial registry;

33.8.4.2. decision of the competent authority of the resident of foreign state on establishment of unit, which is not forming permanent representation in the Azerbaijan Republic;

33.8.4.3. foundation documents;

33.8.4.4. residency document approved by the tax authority;

33.8.4.5. *document, verifying legal address in the Azerbaijan Republic (leasing agreement, confirming the right of ownership or other documents);*

33.8.4.6. *copy of the document, verifying the identity of the head (founder) of the unit;*

33.8.4.7. *information on income sources in accordance with the form established by the relevant executive authority for units, which do not form permanent representation in the Azerbaijan Republic.*

33.8.5. *To application on registration submitted by foreign legal entity recognized as resident at the place of operation, following shall be attached:*

33.8.5.1. *documents of registration in the county, in which the foreign legal persons was registered (incorporated) and extract from commercial registry;*

33.8.5.2. *foundation documents;*

33.8.5.3. *document, verifying legal address in the Azerbaijan Republic (leasing agreement, confirming the right of ownership or other documents);*

33.8.5.4. *copy of the document, verifying the identity of the head (founder) of the unit;*

33.8.5.5. *information on structures, which are under direct or indirect control in the Azerbaijan Republic and other countries, as well as information on income sources in accordance with the form established by relevant executive authority.*

33.8.6. *Documents stipulated under articles 33.8.4.1—33.8.4.4, 33.8.5.1 and 33.8.5.2, shall be legalized by the relevant executive authority or representation of the Azerbaijan Republic in foreign states (consulates of other states, representing interests of the Azerbaijan Republic).*

33.8.7. *Documents specified in Articles 33.8.4 and 33.8.5, attached to the application along with translation into Azerbaijani, verified by notary office.*

33.8.8. *Removal from tax registration and annulling the TIN of the unit of the resident of foreign state, operating in the Azerbaijan Republic without formation of permanent representation shall be conducted following cases:*

33.8.8.1. *in liquidation of the entity, which is the resident of foreign state, or the unit, which does not form the permanent representation;*

33.8.8.2. *if the operations of the unit, which does not establish permanent representation, forms permanent representation.*

33.8.9. *Removal of the tax registration and annulling of the TIN of foreign legal entity, recognized the resident at the place of operation, shall be performed in following cases:*

33.8.9.1. *during liquidation of the foreign legal entity, recognized as resident at the place of operation, in the state, in which it was registered (incorporated);*

33.8.9.2. *during change of the residency of the foreign legal entity, recognized as resident at operation location.*

33.9. *The registration of payers of local (municipal) taxes shall be conducted by municipal tax authority. (3, 6, 9, 21)*

Article 34. Procedure for registration, re-registration and cancellation of registration

34.1. *The taxpayer (except for commercial legal entities and also representations and branches of the foreign commercial legal entities) shall submit the application to register with tax authority.*

During the submission of application on registration taxpayers- legal persons, their branches and establishments (except for commercial legal entities and also representations and branches of the foreign commercial legal entities) along with application shall submit the copies and information on location (address) and charter (statues), documents, verifying the appointment of the director and address of the legal entity, as well as document verifying the identity of the director confirmed in accordance with established procedures.

Legal entities subject to taxation (except for commercial legal entities and also representations and branches of the foreign commercial legal entities) shall be registered upon the assignment of TIN to their superior organizations.

The application is fulfilled by the taxpayer of its authorized representative. The taxpayer (its management) shall bear responsibility for accuracy of information in their application.

During the submission of application for the registration the taxpayer- individual entrepreneur along with application shall submit the copy of document that confirms his personality and information on his address.

During the registration of taxpayers who are natural persons following shall be included in their personal details: last name, first name, middle name, date and place of birth, sex, address, the details of document that confirms the personality, information on citizenship.

The application for registration shall be confirmed by relevant executive authority.

34.2. *The tax authority shall register the taxpayer within 2 days from the date when application on registration was submitted along with other documents specified in this article and at the same time to issue the relevant certificate to the taxpayer. The Certificate, which is the main verification of the registration of taxpayer, shall be issued to the taxpayer only once and retained by him. If the Certificate is lost or became useless, new copy of certificate shall*

be issued by the application of the taxpayer. In this there is a record made on the issued copy, that it is the new copy of the certificate.

The form of taxpayer's registration certificate shall be approved by the *relevant authority of executive power.*

34.3. In the case of change of the place of residence of the taxpayer he shall submit the application to the tax authority within 40 days from the date of such change. The re-registration (cancellation of registration with one tax authority and registration with other) of the taxpayer shall be performed by the tax authority with which the taxpayer was registered, within 15 days from the submission of application by taxpayer on change of his residence.

In the event of any change in information in the application form, submitted by the taxpayer for registration in the tax authority, or in foundation documents, he shall be submit within 15 days from the date of such change information to tax authority.

34.4. In the case of liquidation or re-organization of the legal person, the decision by legal person on liquidation of its branch or permanent establishment, seizure of activity through establishment, the seizure of activity by individual entrepreneur, the cancellation of registration shall be performed on the basis of taxpayer's application with consideration of time limits established in Article 34.3. of this Code.

34.5. Registration, re-registration and cancellation of registration shall be performed free of charge.

34.6. Each taxpayer shall be given a taxpayer's identification number (TIN) for all types of taxes including payments connected with movement of commodities through customs borders of the Azerbaijan Republic. This number shall be universal on the entire territory of the Azerbaijan Republic.

The tax authority shall indicate the taxpayer's identification number in all notices sent to the taxpayer.

34.7. Taxpayers shall indicate TIN in accounting, statistical reports, tax calculations, contracts, invoices, receipts, cashier checks, letters, as well as in customs, bank and other payment documents.

34.7.1. If TIN is not indicated in any payments, bank and customs documents of the taxpayer, acceptance of these documents for execution by relevant bank entities, tax and customs authorities is not allowed.

34.7.2. Changes in registration data of taxpayers shall be implemented on the basis of applications, submitted by them under the form, approved by relevant executive authority.

34.7.3. Removal from registration of the natural person, who is the taxpayer, is possible in following cases:

34.7.3.1. removal from activities;

34.7.3.2. if found by the court to be missing or incapable in accordance with procedures defined under legislation;

34.7.3.3. death.

34.7.4. In the event of removal of the taxpayer from the registration, the certificate of its registration shall be submitted to the tax authority. The tax authority informs the bank office on recognition of the duplicate of certificate as invalid.

34.8. Relevant executive authority on the basis of registration data shall maintain the uniform state registry of taxpayers in accordance with this Code.

34.8.1. Taxpayers, when included in the uniform state registry, shall use the data of registration application submitted to the tax authority. Uniform state registry is maintained in paper and (or) electronic format.

34.8.2. Maintenance of the uniform state registry of the taxpayers contains the following:

34.8.2.1. maintenance of the taxpayers registry log in chronological order;

34.8.2.2. maintenance of the liquidated taxpayers registry log;

34.8.2.3. maintenance of amendments in relation to changes in the registry data of registered taxpayers;

34.8.2.4. issuance of relevant information to registered taxpayers.

34.8.3. The relevant executive authority provides the maintenance of the databank of the uniform state registry of taxpayers, its safeguard and security, provides extracts from the uniform state registry of the taxpayers as a response to official enquiries in the order, established under this Code.

34.9. Unless otherwise stipulated by legislation, information on taxpayer from the moment of its registration shall be confidential tax information.

34.10. Organizations- tax agents, not registered as taxpayers, shall be registered with tax authorities at the place of residence in accordance with procedure stipulated by this article. (6, 9, 11, 21)

Article 35. Obligations of banks connected with registration of taxpayers

35.1. Legal entities, as well as representations and affiliates of foreign non-commercial legal entities, which are state registered by tax authorities, shall submit to tax authority the application for opening of bank account along with application for state registration or at any time upon registration, and other taxpayers- upon obtaining of certificate of registration. The tax authority on the basis of this application issues to the taxpayer no later than within 2 days the duplicate certificate. The number of duplicate certificates issued to the

taxpayer is not limited and each of them is numbers. The application form submitted by the taxpayer for obtaining of duplicate certificate, and form of duplicate certificate is approved by relevant executive authority. Certificate-duplicate for the purpose of opening bank account shall be given within the term established by this article, in case if a taxpayer has no debt on taxes, interests and financial sanctions to the budget.

Upon issuance to taxpayer of the duplicate certificate as per paragraph one of this Article, the tax authority shall within 1 day submit to the relevant executive authority via electronic and/or paper carriers the information in the form set by the relevant executive authority.

35.2. Banks open (except for cases of opening of the accounts which are not connected with business activity for the non-resident) bank accounts for legal entities, their branches and representative offices, individual entrepreneurs only upon submission of the certificate duplicate, issued by the tax authority.

35.3. If the duplicate certificate was not used for opening an account within 10 days from the date of issuance it shall be deemed as invalid.

35.4. The duplicate certificate comprised of two parts. One part is remained in the bank, in which the taxpayer has opened an account, and part, called the «notification», banking authority, upon making of relevant markings shall send to issuing tax authority.

Upon obtaining from the banking institution of notification, specified in this Article, the tax authority shall insert the data in the notification into tax registration database and within 1 day shall submit this information to relevant executive authority via electronic and/or paper carriers.

35.5. Duplicate certificate allow opening of accounts only in the bank (branch of bank) specified on them.

35.6. If within 10 days «notification» of the duplicate certificate is not returned by the banking entity, the tax authority shall clarify the reason of it with the taxpayer and relevant banking entity. If duplicate certificate is not used within 10 days, the issued duplicate certificate shall be re-called and on the basis of official information from the bank that account was not opened, the relevant record is made in the registration data of the taxpayer on considering it invalid. (9, 11, 14, 21)

Article 36. Tax inspections

36.1. Inspections conducted by tax authorities can be on-site and off-site inspections.

36.2. During tax inspections tax authorities and their officials shall clarify all circumstances that can be important for making of right decision including the circumstances in taxpayer's favour.

36.3. On site tax inspection shall cover the period of no more than 3 calendar years in taxpayer activities for taxes on profit, income, property, road and land. On other taxes- the taxpayer activities for the period of no more than 3 years, including the year of inspection.

If during the performance of tax inspection tax authorities have documented evidences in the necessity of receiving the information on the taxpayer which is connected with other persons and is relevant to the inspection, tax authorities may require such persons to provide documents related with inspected taxpayer's activity. For such actions the motivated decision of tax authority is necessary.

36.4. It is not allowed to tax authorities to have on-site inspections on the same taxes, paid or to be paid by the taxpayer for already checked tax period with exception of cases when such inspection is conducted in connection with liquidation of legal taxpayer person *or application of physical entity, carrying out business activity without establishment of the legal entity concerning termination of entrepreneur activity*, and in cases stipulated by Article 38.3. of this Code.

36.5. Taxpayers who disagree with the results of tax inspection may ask for the *out of turn* inspection. In such case the additional tax inspection shall not be conducted by the officials of tax authority who had conducted the previous inspection.

36.6. Taxpayers hold the right to apply to courts for the reasons of inspections conducted by tax authorities.(3, 6, 21)

Article 37. Off-site tax inspection

37.1. An off-site tax inspection shall be carried out without site visits on the basis of documents in the possession of the tax authorities, provided by taxpayer as well as other documents that reflect the calculation and payment of taxes, and documents on taxpayer's activity.

37.2. Off-site tax inspection shall be conducted within 30 days from the date when documents providing basis for tax calculation and payment are provided by the taxpayer.

37.3. If unmatched or mistaken information is found in documents submitted to tax authorities for implementation of desktop inspection, tax authority shall be entitled to enquire the taxpayer to submit additional information, documents and explanations.

37.4. If incorrect tax calculation in tax declaration is found during desktop inspection (increased of decreased amount of tax) notification shall be sent by tax authorities to the taxpayer within 5-day period in accordance with form established by the relevant state executive authority. The notification shall include reasons of calculation and taxpayer's right to appeal in accordance with Article 62 of this Code.

If tax declaration required for implementation of desktop inspection was not submitted for good reasons within timeframe stipulated by this Code, taxes are calculated in accordance with Article 67 of this Code.

37.5. Until application from the taxpayer is submitted in accordance with Article 15.1.13 of this Code on implementation of new chronometer inspection, the results of last chronometer inspection can be taken as basis for calculation of taxes.

37.6. If during the off-site tax inspection the tax authority does not follow the rules established in articles 37.3. and 37.4. of this Code, the taxpayer holds the right to remedy mistakes within 30 days (including the incorrect calculation of taxes, reduction of tax amounts and other) that were allowed during the inspection *and can be established during desktop inspection*, and within this time period the taxpayer does not hold any responsibility (with exception of payment of interests) for violations of tax legislation. (6, 9, 21)

Article 38. On-site tax inspection

38.1. On-site tax inspection shall be conducted on the basis of decision by the tax authority.

The on-site tax inspection can be planned or not planned.

The tax authority shall inform the taxpayer in writing about the planned tax inspection not later than 15 days before the date of the inspection.

38.2. The notification sent to the taxpayer shall include the information on reasons and date of the inspection as well as rights and responsibilities of the taxpayer and tax authorities.

Planned on-site tax inspection shall be conducted not more than one time in a year and shall not continue for more than *30 days*. In exceptional cases by the resolution of supervising tax authority the timing for tax inspection can be extended for the period of up to *90 days*.

On the basis of justified decision of the higher tax authority the term of preparation of the report on results of on-site tax inspection may be extended for the period not more than *30 days* in the following cases:

- *when receiving the documents from the foreign state, required for objective and full conducting of on-site tax inspection, including the reply to inquiry of tax authority;*
- *when inspecting the articles taken as samples, conducting of expertise in the course of on-site tax inspection or making the special conclusion with use of various spheres of knowledge;*
- *when persons, sending the replies fail to forward the replies to inquiries in due time, made by tax authorities in connection with on-site tax inspection.*

38.3. Not planned tax inspection shall be conducted in following cases:

38.3.1. *If tax return documents, necessary for tax calculation and payment are not submitted in time or not submitted at all upon the warning of tax authority;*

38.3.2. *if incorrect information is found in the report made on the results of tax inspection.*

38.3.3. *When exceedingly paid amount of VAT, interest and financial sanction is assigned for the payment of other taxes, interests and financial sanctions or assigned as payments on future liabilities. In such case the out of turn tax inspection can be conducted only on taxable VAT operations of the taxpayer;*

38.3.4. when application is submitted by the taxpayer to return exceedingly paid amounts of tax, interests and financial sanctions;

38.3.5. when tax authority obtained information from known source on hiding (decreasing) of incomes or object of taxation by the taxpayer;

38.3.6. when in accordance with criminal legislation there is a decision of the court or law-enforcement agency on implementation of tax inspection;

38.3.7. in case of failure to provide the documents, specified in article 42.4 of this Code, in due period stipulated by this article or provision of doubtful or distorted information;

38.3.8. in the event of application for liquidation, reorganization of the taxpayer legal entity or seizure of business operations of the natural person, operating without formation of legal entity.

38.4. The on-site tax inspection shall be conducted at taxpayer's business day and business hours.

38.5. In the course of on-site tax inspection the inventory shall be performed according to justified decision of the respective executive power body in the following cases:

38.5.1. if in the course of last tax inspection the obvious non-keeping of accounting records by the taxpayer was found ;

38.5.2. if in the course of last tax inspection, the obvious non-keeping of accounting records by the taxpayer required according to legislation was found and when arisen inaccuracies were not corrected after notification of the tax authority, and the report was not prepared according to stipulated regulations;

38.5.3. if in the course of on-site tax inspection of the taxpayer there were found non-marked goods, liable to marking by excise marks;

38.6. Regulations of inventory performance in the course of on-site inspection will be stipulated by the respective executive power body. (3, 6, 9, 14, 16, 21)

Article 39. Documenting the results of on-site tax inspection

39.1. An inspection report shall be prepared on the results of an inspection, such report being signed by a responsible official of the tax agency and the manager (person in charge) of the taxpayer. The taxpayer may include his comments in the report, refuse to sign the report and these shall be registered in the report.

39.2. Inspection report shall include all violations of tax legislation and specific articles of this Code as well as other legislative acts determined during the inspection and proved by documents or absence of any violations.

39.3. The form of tax inspection report and requirements for its filling shall be determined by the relevant executive authority.

39.4 One copy of the Tax inspection act shall be transferred or sent to the taxpayer (his authorized representative) in the manner allowing confirming the date of submission no later than within 5 days from the date of act.

39.5. The taxpayer holds the right, if he is not in agreement with the report of tax inspection or any part thereof, within 30 days from the date of receipt of tax inspection report to submit to relevant tax authority in writing the reasons for the refusal to sign such report or his comments for the report or any of its parts. The taxpayer holds the right to enclose to his written comments (objections) the copies of documents that confirm the reasonability of such objections or motives for not signing the inspection report and pass them to the tax authority.

39.6. No later than in 15 days upon the expiration of time specified in article 39.5. of this Code the head of tax authority (his deputy) shall review the documents provided by the taxpayer or collected from the taxpayer in accordance with procedures stipulated by this Code, the tax inspection report, issues of non-compliance with tax legislation and remedial activity on violation determined as well as application of relevant sanctions (penalties).

39.7. If taxpayer provides written explanations or objections on the tax inspection report the materials of inspection shall be reviewed in the presence of taxpayer's officials or individual entrepreneur and/or their representatives.

The tax authority shall inform the taxpayer on the venue and time of the tax inspection materials revision. If taxpayer, regardless of the advance notification did not show up without excuse, then materials of inspection, including the objections by the taxpayer, explanations, other documents and materials shall be reviewed in his absence.(6)

Article 40. The access of officials of tax authorities to the areas and premises for the performance of on-site tax inspection

40.1. The access of tax authority officials performing the on-site tax inspection on the territory or premises (with exception of living premises) used by the taxpayer for the performance of entrepreneurial activity shall be provided via submission by such officials of their office identification documents, decision of the head of tax authority (his deputy) on performance of on-site inspection or the court order.

40.2. The tax authority officials who perform the inspection shall not be entitled to enter living accommodations (premises) without the consent of natural persons who live there.

40.3. Should any obstruction be caused to the official of tax authority on getting the access to the territory or premises (with exception of living accommodations/premises) specified in article 40.1 of this Code the report shall be made which shall be signed by officials conducting the survey and the taxpayer. *On the basis of this act the tax authority shall be entitled to define the payable tax amounts in accordance with the procedures stipulated under Article 67 of this Code.*

Should the taxpayer refuse to sign the report the relevant note shall be included thereof. The copy of the report shall be submitted to the taxpayer.

40.4. Unlawful obstructions to the access of tax authority officials who perform the on-site tax inspection to the territory of premises (with exception of living buildings (areas)) used by the taxpayer for entrepreneurial activity shall be considered as violation of tax legislation and involves the responsibility established by legislation.(9)

Article 41. Revision

41.1. The tax authority official, who performs the on-site tax inspection for the purposes on findings of all circumstances necessary for the integrity and fairness of inspection, holds the right to revise the territories, premises as well as documents of the taxpayer inspected.

41.2. The revision of territories, premises, documents and belongings without performance of on-site tax inspection is not allowed except for the following cases:

41.2.1. if documents or belongings were received by the tax official during the previous inspection, or;

41.2.2. there is a consent of the owner of documents or belongings.

41.3. The revision shall be performed in the presence of witnesses.

41.1. During the revision the person inspected and/or his representatives as well as experts may participate at the revision site.

41.5. Protocol shall be made upon the completion of the revision.

Article 42. Document inquiry

42.1. The tax authority official, who performs the on-site tax inspection shall be entitled in accordance with the procedure established by this Code to require from the taxpayer to provide documents necessary.

The person, who was required to provide documents, shall submit such documents to the tax authority within a period of five days.

42.2. Should the taxpayer fail to provide the tax inspection official with documents required within timeframes specified in article 42.1. of this Code or inform the tax official on the absence of such documents that act shall be made who will be signed by the tax authority officials performing the inspection and the taxpayer. Should the taxpayer refuse to sign this act the relevant note shall be made thereof. The copy of this document shall be submitted to the taxpayer. If it is not possible to receive required documents or their copies during the on-site inspection from other sources, on the basis of above act the tax authority shall be entitled to determine the amounts of taxes that shall be paid *in accordance with the procedure stipulated under Article 67 of this Code.*

42.3. The refusal of the taxpayer to provide the documents required by the tax officials performing the on-site inspection within timeframes stipulated in article 42.1. of this Code shall involve the responsibility established by the legislation. If there is a refusal to provide documents in accordance with provisions of this Article, the tax authority official performing the on-site tax inspection shall collect the necessary documents in accordance with article 43 of this Code.

2.4 Documents required for performance of tax control and implementation of enquiries made under international treaties to which the Azerbaijan Republic is a signatory, or their appropriately approved copies on the basis of enquiry of the tax authority shall be submitted by the taxpayer within 20 days period. (15)

Article 43. Withdrawal of documents and belongings for sampling purposes

43.1. The withdrawal of documents and belongings for sampling purposes shall be allowed only during the on-site tax inspection.

43.2. If during the on-site tax inspection revision of documents presented for the purposes of taxation by the taxpayer shall require more time as well as if any violations to the tax legislation are determined in submitted documents or if specified violations are connected with belongings the tax authority official performing the on-site inspection shall have the right to withdraw documents and belongings provided to him in accordance with Article 42 of this Code. The withdrawal of documents and belongings for sampling purposes by the tax authority official performing the on-site tax inspection shall be based on the motivated decision of the head of tax authority (his deputy).

The volume, quantity, timing of withdrawal and procedure for revision shall be established *in accordance with this Article.*

43.2.1. During the on-site inspection items are taken as samples for following purposes:

43.2.1.1. inspections for compliance of the value of goods (works and services), assigned for costs, deducted from income, its physical and quality indicators, origin and other indicators;

43.2.1.2. inspection of compliance of profits obtained from provision of goods (works, services) and registered physical and quality indicators of these goods (works, services), type, origin and other indicators;

43.2.1.3. determination of market values of these goods (works, services);

43.2.1.4. evidences of violation of tax legislation, including storage, sell and imports of excise goods, not marked by excise labels or marked by forged excise labels;

43.2.1.5. other cases required for taking of items as samples for evidencing the violations of tax legislation.

43.2.2. *In cases and under purposes stipulated by Article 43.2 of this Code, the tax authority representatives conducting the inspection, shall inform in writing the head of the tax authority or his deputy on taking of sample items at the same day.*

43.2.3. *The information of the officer of tax authority, implementing on-site tax inspection, motivating the inventory of items for sampling, shall be reviewed by the head (deputy) of the tax authority and only after this decision on inventory of items for sampling can be taken.*

43.2.4. *The form of decision on taking of items for sampling during the on-site tax inspection shall be approved by the relevant executive authority.*

43.2.5. *Items, confiscated as samples during on-site tax inspection, dependent of their properties shall be packed by the tax offices and if required they shall be locked by the inspector.*

43.2.6. *Size, volume of inventory of items for sampling during implementation of on-site tax inspection as well as other conditions in connection with inventories shall be defined by codes and standards, existing on the territory of the Azerbaijan Republic.*

43.2.7. *Items confiscated as samples can be taken for the period of no more than 30 days, considering the time required for studies of these items.*

43.2.8. *Storage of items taken as samples and their preservation, their study by organizations established and performing in accordance with legislation at the expense of the tax authority.*

43.2.9. *In cases when items confiscated as samples did not lost their consumer properties, they shall be returned to the taxpayer. But if products confiscated as samples have lost the consumer properties they shall be compensated by the tax authority.*

43.3. *Copies of documents verified by the taxpayer to be taken.*

43.4. It is not allowed to withdraw documents at night time (from 20:00 P.M. to 8:00 A.M.).

43.5. It is not allowed to withdraw the documents and belongings that are not necessary for tax calculation during the on-site inspection.

43.6. The withdraw of documents and belongings as samples shall be done in the presence of persons and/or their representatives from whom documents and belongings are being withdrawn and witnesses. When necessary, expert can be invited to participate during the withdrawal of documents and belongings.

43.7. The tax authority official before withdrawal of documents shall present the motivated decision of the head tax authority (his deputy) on withdraw, as well explains to participating persons their rights and responsibilities.

43.8. The protocol shall be made on withdraw of documents and belongings for sampling purposes with consideration of requirements of article 48 of this Code.

43.9. The copy of the protocol on withdrawal of documents and belongings for sampling purposes shall be issued to the person from whom the documents and belongings were withdrawn for sampling purposes. It shall be mentioned in the protocol and confirmed by the signature of person from whom documents and belongings were withdrawn.

43.10. In cases, when the taxpayer during the on-site tax inspection does not provide documents and items for sampling, the refusal acts is made in accordance with the form, approved by relevant executive authority, which is signed by the tax officer, other persons participating in inspection (witnesses, experts, specialists) as well as the taxpayer or his representative.

43.11. Should the taxpayer fail to provide documents and belongings for sampling purposes in accordance with procedure established in this Code the withdrawn shall be made by the court order based on the motivated appeal of the tax authority performing the on-site tax inspection. (6, 9)

Article 44. Expert analysis

44.1. When necessary expert may be invited to participate in on-site tax inspection.

The expert analysis shall be appointed if necessary skills are required, to clarify issues.

44.2. Issues laid upon the expert and his conclusions shall not exceed the expert's special skills.

Expert shall be invited on contractual basis. The contract may stipulate rights and responsibilities of parties, issues laid upon the expert, expert's responsibility for erroneous or false conclusion and other issues stipulated by civil legislation.

44.3. The expert analysis shall be appointed by the decision of tax authority performing the tax inspection.

The decision shall include the reasons for the appointment of expert analysis, last name, name and middle name of the expert or name of organization that conducts the expert analysis, issues laid upon the expert and materials to be provided to the expert.

44.4. The expert holds the right to review inspection materials provided to him and apply for the provision of additional materials.

44.5. The expert may refuse to provide the expert conclusion if materials provided to him are not sufficient and if he does not hold special skills to conduct the expert analysis.

44.6. The authorized representative of the tax authority who made the decision on appointment of the expert analysis shall advice about such decision the taxpayer who is going to be checked and explain to him his rights stipulated in article 44.7. of this Code.

44.7. During the appointment and conduct of expert analysis the inspected person holds the right:

44.7.1. to cancel the appointment of certain expert;

44.7.2. apply for the appointment of experts from the persons he indicates;

44.7.3. to provide additional issues to get expert opinion of the expert on such issues;

44.7.4. to participate directly or via authorized representative during the expert analysis by providing the advance notice to the tax authority official performing the tax inspection;

44.7.5. to review the expert conclusion.

44.8. The expert shall provide conclusion on his behalf and sign this conclusion. In the conclusion the expert describes surveys that he had conducted, his opinion and answers to the questions that were laid. If during the expert analysis the expert will determine circumstances that were not laid upon him he shall have the right to include his opinion on such circumstances into his expert conclusion.

44.9. *Copy of conclusion* or his notification on the impossibility to provide such conclusion shall be issued to the person inspected who holds the right to give his explanations and state his objections, as well as to ask to raise additional issues to the expert and appointment of additional analysis.

44.10. The additional expertise shall be appointed in the case if the expert conclusion is not clear enough or complete and this expert analysis shall be assigned to the same or other expert.

The expert analysis shall be repeated if the conclusion of expert is not reasonable and there are some suspicions for its accuracy. The analysis in such case shall be assigned to another expert.

The additional and repeated expert analysis shall be assigned in the order established by this article.

44.11. Should claim of the inspected party on rights stipulated under Articles 44.7 and 44.9 of this Code be declined, head (deputy) of the tax authority shall make the motivated decision indicating reasons for declining the claim and submits the copy of decision to inspected party. (6)

Article 45. Invitation of specialist to provide assistance in tax inspection

45.1. The specialist can be invited by the decision of the head of tax authority (his deputy) when the performance of on-site tax inspection will require special knowledge and experience in areas that are not linked with the area of expertise of the tax authority.

45.2. The specialist shall have special knowledge and experience and shall not have any interests in the results of case. The conclusion of specialist that does not comply with these requirements shall not be used by tax authority.

45.3. Specialist shall be invited on contractual basis. The contract may stipulate rights and responsibilities of parties, issues laid upon the specialist, specialist's responsibility for erroneous or false conclusion and other issues stipulated by civil legislation.

45.4. Specialist invited in accordance with article 45.1. of this Code shall provide the conclusion on issues laid upon him. The specialist conclusion shall be made in writing, signed by him and attached to the on-site tax inspection report.

45.5. If taxpayer does not agree with the conclusion of specialist attached to the inspection report he may make relevant comments in the report.

45.6. The compensation for losses caused to the tax authority or the taxpayer as the result of wrong or false conclusion shall be considered in accordance with civil legislation.

Article 46. Participation of translator

46.1. When necessary the translator may be invited for on-site tax inspection. The invitation of translator shall be done based on the decision of the head of tax authority (his deputy).

46.2. Translator shall be the person who does not have any interest in the outcome of the case and knows languages he needs to translate from and into. This provision shall also be true for person who understands the deaf and dumb signs of physical persons.

46.3. Translator shall be invited on contractual basis. The contract may stipulate rights and responsibilities of parties, translator's responsibility for erroneous or false conclusion and other issues stipulated by civil legislation.

Article 47. Participation of witnesses

47.1. During the on-site tax inspection witnesses may be invited in cases stipulated by this Code.

47.2. The number of witnesses invited shall not be less than two people.

47.3. Only physical persons who do not have any interests in the outcome of case shall be invited as witnesses.

47.4. Tax authority officials cannot be invited as witnesses.

Witnesses shall confirm in protocol the fact, content and results of actions taken in their presence.

If necessary, witnesses can give their explanations to specified actions.

The same person cannot be invited by tax authorities as a witness for more than once in a tax year.

Article 48. General requirements to the protocol made during the actions on tax inspection

48.1. In cases stipulated by this Code protocols shall be made during the tax inspection. Protocols are made on Azeri language.

48.2. The protocol shall include the following:

48.2.1. name of the protocol;

48.2.2. venue and the date of action;

48.2.2. the time of action start and completion;

48.2.3. position and name of the person who made the protocol;

48.2.4. The name of the person involved in the action or participating during the action, and when necessary- his address, citizenship, information on his knowledge of Azeri language;

48.2.6. the content of action, the order of its execution;

48.2.7. facts and circumstance clarified during the implementation of action;

48.2.8. if samples of goods are withdrawn for sampling purposes in accordance with this Code the protocol shall include the quantity, volume and other specific characteristics of such goods.

48.3. The protocol shall be read by all persons who participated in the action. Specified persons shall have the right to make comments that shall be included in the protocol and attached to the case.

48.4 The protocol shall be signed by the tax authority official who developed it as well as all other persons who participated in the action.

Article 49. Making the decision based on the results of tax inspection materials revision

49.1. Based on the revision of tax inspection materials the head of the tax authority (deputy head) shall make one of the following decisions within 10 days:

49.1.1. on calling the taxpayer to account for violation of tax legislation;

49.1.2. on refusal to call the taxpayer to account for violation of tax legislation;

49.1.3. on additional measures for inspection.

49.2. The decision on calling the taxpayer to account for violation of tax legislation shall contain the circumstances of the taxpayer's violation of tax legislation, documents and other information that confirm the indicated circumstances, explanations of the taxpayer and results of revision of such explanations, with indication of articles of relevant laws that stipulate the applied measures of responsibility for tax legislation violation. The specific violations of tax legislation for which the taxpayer is being called to account shall be explained to the taxpayer.

49.3. On the basis of decision on calling the taxpayer to account for violation of tax legislation *no later than 10 days* the taxpayer shall be sent the request on payment underpaid taxes, interests, amounts of financial sanctions, administrative penalties as well as the remedial of indicated violations.

49.4. The copy of the decision of tax authority and requirement shall be issued to the taxpayer or his representative with registration of the date of receive. When due to the deliberate actions of the taxpayer or his representative the copy of the tax authority decision and/or request cannot be issued, documents shall be deemed issued from the moment from the date they are received by registered mail.

49.5. The failure of tax authority officials to comply with requirements of this article may provide the basis for cancellation of the tax authority's decision by the supervising tax authority or the court.

49.6. On tax violations determined for which the taxpayer to be called to administrative account the authorized tax official, who conducts the inspection shall create a separate protocol on administrative violation. The revision of cases on such violations and application of administrative sanctions to taxpayer's officials and individual entrepreneurs shall be conducted by tax authorities pursuant with the *Code of the Azerbaijan Republic for Administrative Offences*.

49.7. The provisions of this article shall also be applicable to tax agents. (3, 5, 21)

Article 50 Operative tax control

50.1. The operative tax control is the form of tax control implemented in stores used for generation of incomes for legal entities and natural persons engaged in entrepreneur activities, in trading and similar premises (territories) (with exception of residential premises (areas) and transportation means (with exception of personal transportation not used for entrepreneur activities), having the following purposes:

50.1.1. Recognition of taxpayers not registered by tax authorities, in cases and in accordance with procedures defined by this Code or taxpayers who did not receive the «Dot Mark» in accordance with Article 221.4.7 of this Code;

50.1.2. Recognition of facts of sale, storage for sale or transportation from the manufacturing facility of excise goods, not marked by excise labels or marked with forged excise labels.

50.1.3. Compliance of rules on payments with population;

50.1.4. Recognition of facts of acceptance of foreign currency as means of payment and purchase and sale or exchange of currency values at commercial, catering and service establishments with violation of rules established by legislation;

50.1.5. Recognition of persons engaged in activities requiring special permit (license) without such permit (license);

50.1.6. Recognition of attraction of natural persons to work (provision of services) by the employer without making of employment contract in accordance with procedures stipulated under the Labour Code of the Azerbaijan Republic;

50.1.7. Implementation of inspection by time-keeping method in accordance with Article 23.1.3 of this Code.

50.2. Following shall serve as basis for operative tax control:

50.2.1. facts, established during the on-site tax inspection implemented by the tax authority;

50.2.2. information obtained from sources known by tax authorities;

50.2.3. if the taxpayer did not follow the requirements of the tax authority on prevention of violations of tax legislation within the timeframe established by this Code;

50.2.4. If tax authorities had sufficient facts on violation of legislation on issues stipulated under Article 50.1 of this Code by legal entities and natural persons.

50.3. Operative tax control is implemented on the basis of motivated decision of the tax authority. Such decision shall indicate the territory of taxpayer location, as well as issue (issues) covered by the operative tax control, term of operative tax control and officer (officers) of the tax authority performing the operative tax control.

50.4. The operative tax control starts without preliminary notification to the taxpayer and implemented in actual business hours. The officer of the tax authority, implementing operative tax control, upon the start of control shall immediately submit the decision of the tax authority to the taxpayers, as per Article 50.3 of this Code.

50.5. Officers of the tax authority implementing operative tax control within their competence shall implement the access to the territory or premises of the taxpayer (with exception of living premises (areas), inspection of territories and premises (with exception of living premises), as well as review of the documents and items, require the submission of documents, inventory of documents and items for sampling, attraction of experts, specialists, translators and observers as well as enlistment of excise goods, not marked by excise label or marked by forged excise label, in accordance with procedures stipulated by this Code.

50.6. By the results of operative tax control, tax authority officers shall make the act in accordance with the form defined by the relevant executive authority. Documentation of the results of operative tax control and review of the materials of the operative tax control is

implemented in accordance with procedures stipulated under Articles 39 and 49 of this Code.

50.7. Taxpayers performing cash operations on the territory of the Azerbaijan Republic shall perform such payments with use of cash registers in accordance with procedures established by relevant executive authority.

50.8. Cash register receipts shall contain the following information:

- *Taxpayer name;*
- *50.8.2.TIN;*
- *50.8.3.date and time of receipt printing;*
- *name and address of facility location;*
- *50.8.5.name, unit of measurement, quantities of goods or services (works), price per unit and total amount;*
- *50.8.6.quantities and number of receipts printed over the day;*
- *type and manufacturer's number of cash register.(9, 11, 14, 15)*

Article 51. Inadmissibility of causing the unlawful damage during the tax inspection

51.1. During the tax inspection it is inadmissible to cause any unlawful damage to the taxpayer or property owned, used or operated by him.

51.2. Losses caused as a result of unlawful actions of tax authorities of their officials during the tax inspection shall be compensated to the taxpayer at the complete volume, including the missed profit (missed income).

51.3. Tax authorities and their officials shall be responsible for the damage caused to the taxpayers in the result of unlawful actions, in accordance with existing legislation.

51.4. Losses caused to the taxpayer by the lawful actions of tax authority officials with exception of cases stipulated by legislation shall not be compensated. (9)

Article 52. Financial sanctions procedure for violation of tax legislation

52.1. Upon the decision on attraction of the taxpayer to liability for violation of the tax legislation, relevant tax authority, in accordance with procedures established by the Article 65 of this Code, or via the court shall accept from liable party all financial sanctions in accordance with this Code.

52.2. Claims on acceptance of financial sanctions by tax authorities are considered in accordance with Civil Code of Practice of the Azerbaijan Republic.

52.3. The execution of the court decision on payment of financial sanctions is implemented in accordance with procedures stipulated under legislation. (9)

Chapter V. Responsibility for violation of tax legislation

Article 53. General basis of responsibility for violation of tax legislation

53.1. Taxpayers, tax agents and their representatives as well as tax authority officials shall be responsible for violation of tax legislation in accordance with the procedures set by this Code, *Code of the Azerbaijan Republic for Administrative Offences* and other legislation of the Azerbaijan Republic.

For the violation of tax legislation financial sanctions and interests, established by this Code shall be applied to the taxpayers and tax authorities.

53.2. No person can be called to account for the same action (lack of action) involving violation of tax legislation twice.

53.3. Every taxpayer shall be deemed innocent in violation of tax legislation until his guilt is proved *in accordance with procedures of this Code* or the verdict of court entered into force.

The taxpayer is not obliged to prove his innocence in violation of tax legislation.

The obligation for proving the circumstances confirming the fact of the violation of tax legislation by the taxpayer shall be laid on the tax authorities.

Any unproved doubts in taxpayer's guilt for violation of tax legislation shall be interpreted in taxpayer's favour.

The taxpayer shall hold the right to remedy mistakes during consideration of taxable base, calculation and payment of tax.

Provisions of this article shall also be applied to tax agents.

53.4. During revision of circumstances of tax violations, factors like deliberate or mistaken misconduct, the age of the person responsible for application of administrative responsibility, presence of mitigating or burdening circumstance shall be established by this Code and provisions of Administrative Violation Code of the Azerbaijan Republic.

53.5. When violation of tax legislation is connected with transportation of goods through the customs borders of the Azerbaijan Republic it shall be considered in accordance with the procedure established by Customs Code of the Azerbaijan Republic.

53.6. If the person has committed several violations of tax legislation, then financial sanctions will be applied separately as per each violation.

53.7 Drawing of the taxpayer or tax agent to liability for violation of tax legislation does not release them from execution of responsibilities on taxes and legal requirements of executives of tax authorities.

53.8. *Unless otherwise is stipulated under International Treaties to which the Azerbaijan Republic is a signatory, agreements on production sharing, main export pipeline and other similar agreements, approved by the legislation, bringing to administrative account of taxpayer official (officials) due to failure to submit on time without valid reasons of tax reporting associated with such activities in implemented in accordance with the Code on Administrative Violations of the Azerbaijan Republic. (3, 6, 9, 11, 14)*

Article 54. Circumstances that exclude the calling to account for violation of tax legislation

54.0. Person cannot be called to account for violation of tax legislation if one of the following is involved:

54.0.1. the absence of the event of violation related to the tax legislation;

54.0.2. the absence of the fault of the person in the violation related to the tax legislation;

54.0.3. the natural person had conducted the violation related to the tax legislation at the age that do not allow his attraction to account.

54.0.4. expiration of the date for calling to account for violation of tax legislation.

Article 55. Circumstances that exclude the guilt of the person for violation of tax legislation

55.1. Following circumstance shall exclude the guilt of the person for violation of tax legislation:

55.1.1. The violation of tax legislation as the result of natural disaster or other emergency or force majeure circumstances;

55.1.2. The violation of tax legislation by the taxpayer (natural person) who at the moment of misconduct was not conscious (was not controlling his actions) or did not manage his actions due to the ill condition;

55.1.3. Execution by the taxpayer or tax agent of written instructions and explanations provide by the tax authority or other authorized state authority or their officials within their level of competence;

55.1.4. Finding of lawful basis in taxpayer's actions during re-consideration of decisions of tax authorities;

55.1.5. The credit of overpaid amounts, including overpaid amount by tax agents, for any taxes to balance the underpayments on other taxes;

55.1.6. The remedial by the taxpayer of any tax violations connected with the erroneous calculation of taxes and failure to comply with tax liabilities before the tax inspection.

55.2. In presence of circumstances established in article 55.1. of this Code the person shall not hold the responsibility for violation connected with tax legislation with exception of payment of interest in cases stipulated by article 55.1.6. of this Code.

Article 56. The expiration of the date for calling to account for violation of tax legislation and application of financial sanctions

56.1. The person cannot be called to account for violation of tax legislation and not tax liabilities may arise if the period of 3 years had passed from the date of the tax violation.

Article 57. Financial sanctions for late submission of tax returns or declarations

57.1. To the taxpayer, who did not submit in timely manner the tax report or note specified under Article 16.2 of this Code without valid reasons, on the basis of the decision of the head (deputy) of the tax authority the financial sanction is applied at the value of 40 manats.

57.2. Against the taxpayer, who has not provided the information stipulated under Article 89.3 of this Code, within timeframes established without any valid reasons, on the basis of the decision of the head (deputy) of the tax authority shall be applied the financial sanction at the amount of 100 manats. (6, 9, 16, 21)

Article 58. Financial sanctions for decreasing taxes and other tax violations

58.1. If the taxpayer has reduced the amount of tax (including the tax at the sources of payment), specified in the report, compared to the amount, which shall be specified in the report, as well as if he did not submit the report and did evade from transfer of required amount of tax to the state budget, towards him the financial sanction is applied at the rate of 50 percent of the reduced or evaded tax amounts (except for additional tax amount, calculated as a result of cameral tax audit).

58.2. For non-submission of application on tax registration within the period, specified in Article 33.4 of this Code, or information on change of location or residence within the period specified in Article 34.3, as well in the event of non-submission of information on changes in other registration documents (requisites, indicated in the application of taxpayer for registration), as well for transportation of passengers and cargoes with automobile transport means without the «Dot Mark», stipulated under Article 221.4.7 of this Code, the penalty is applied against the taxpayer at the amount of 40 manats.

58.3. Should the taxpayer violate the order of writing off funds from the account stipulated under the Civil Code of the Azerbaijan Republic, from his cash desk, from the date of issuance of the order to the bank or other credit entity on payment to the state budget in accordance with procedures stipulated under Article 65 of this Code, the financial sanctions shall be applied at the size of 50 percent of cost operations.

58.4. In the event that taxpayer's VAT registration was mandatory in accordance with Article 115 hereof, financial sanction amounting to 50 % of the VAT amount to be paid by a taxpayer to the Budget for the whole period when a taxpayer was engaged in a business activity without VAT registration shall apply for the business activity carried out without VAT registration.

58.5. Financial sanction amounting to 100% of the amount of taxes shown on the electronic tax invoice produced to a taxpayer shall apply for submission of tax invoice on VAT, in the event that registration for VAT purposes in accordance with Articles 157 and 158 did not come into effect or was cancelled.

58.6. In payment for the goods (works and services), purchased by the taxpayer on the basis of tax invoice in accordance with Article 175.1.3 of this Code, for non-payment of the VAT, the taxpayers shall be subject to financial sanction at the amount of 50 percent of the amount of unpaid VAT.

58.6. in obedience to the article 175.1.3 of the following Code, financial sanctions are applied for payment of VAT sum later than day of payment of cost of commodities (works and services) by the taxpayers indicated in the article 175.8 of the following Code in the amount of 50 percents from the unpaid VAT sum.

58.7. For violation of rules of carrying out of cash settlements, thus implementing of cash settlements with population without use of cash registers or accountable forms (without installation of cash registers, in case of lack of accountable forms in the form established by the legislation or without cash payment), with use of cash registers, which have not been registered by tax authorities or not complying with technical requirements, without use of accountable forms established under legislation, or with use of accountable forms, which do not comply with forms approved as appropriate, non-issuance of receipts or other accountable forms to be issued to the buyer, bank statements, to be issued to the customer by the bank departments on currency exchange or issuance with indication of amount lower than paid actually, rules of maintenance of registration of cash operations with population in the event of temporary seizure of use of cash register the financial sanctions shall be applied as follows:

58.6.1. if such violation occurred for the first time during the year— the amount of 400 manats;

58.6.2. if such violation occurred for the second time during the year— the amount of 800 manats;

58.6.3. if such violation occurred for the third or more times during the year — the amount of 1200 manats.

58.8. For hiding of raw materials, semi-manufactured goods, finished products and other valuables, as well as funds, at the size of more than 1000 manats or their non-registration, the following financial sanctions shall apply to taxpayer:

58.7.1. for the portion exceeding 1000 manats of total amount of these valuables or funds, hidden or unregistered,— at the rate of 5 percent;

58.7.2. should such event reoccur during the year, for the portion exceeding 1000 manats of total funds of these valuables and funds hidden or unregistered,— at the rate of 10 percent.

58.9. *In the event of introduced changes to indicators of control and measurement devices, damaging of seals on process equipment during the period from application of the seal until its removal, as per Article 194.2 of this Code, found deviation in excise marking of products, incomplete registration, in inventory of excise marks, as well as delivery of finished products outside of production area with violation of Article 191.2 of this Code the financial sanctions shall apply to the taxpayer at the amount of 5000 manats.*

58.10. *For establishing conditions for hiding (reduction) of incomes of natural persons via their involvement by employer to perform any works (services) without execution of the employment contracts, in accordance with Labour Code of the Azerbaijan Republic, financial sanction is applied against the employer at the amount of 1000 manats for each such person.*

58.11. *Against taxpayer the financial sanction shall be applied at the amount of 100 percent of funds paid to his business account in non-resident banks and other non-resident credit entities without obtaining of the duplicate certificate from the tax authority.(3, 6, 9, 11, 14, 16, 21)*

Article 59. Interest on overdue debts and overpaid taxes

59.1. *For failure to pay the tax or current tax payment in period stipulated by the present Code, the interest at rate 0,1 % of the amount of tax or current tax payment shall be withheld from the taxpayer or tax agent for each day of delay.*

59.2. *Interest rates established by article 59.1. of this Code shall be applied in respect of tax payments for the whole period of delay but not more than for 1 year. This interest shall be applied to delayed payments of tax amounts, found during the inspection, from the date of payment of such tax amounts to the taxpayer.*

59.3. *Where taxes are overpaid or the amount of tax not charged correctly, unless otherwise stipulated by this Code, interest shall be paid to the taxpayer at the rate of 0.1 percent of relevant amounts beginning from the date that an application on the refund of the excess amount is placed up to the date that such amount is refunded.*

If overpaid amounts of tax are refunded to the taxpayer within 45 days from the date of application interests shall not be paid to the taxpayer. (3, 9, 11, 16)

Article 60. Financial sanctions applied to banks and other credit organizations managing various types of banking activity

60.1. *Following financial sanctions shall be applied to banks and institutions managing various banking accounts:*

60.1.1. *For opening a current bank account, or other account, for a physical or legal person involved in entrepreneurial activity in accordance with this Code, in the absence of a duplicate certificate issued by the tax authority in accordance with Article 35 of this Code has been issued to such legal person, individual entrepreneur, branch and permanent establishment by the relevant tax authority - the amount of 400 manats for each account set;*

60.1.2. For not executing a request of natural or legal persons involved in entrepreneurial activity for payment of taxes from the resources available in such taxpayer's *running or other accounts in national or foreign currency*, as well as instructions of tax authorities on deductions from taxpayers' accounts, *debts, interests and financial sanctions on taxpayer taxes* in the order of payment stipulated by the Civil Code- the amount of *50 percent of sums of operations conducted with violation of principle of order*;

The sum of financial approvals applied at this time must not exceed 50- percent of sum indicated in these payments orders or orders of a tax authority.

In the case of undoubted deduction of funds from the taxpayer's currency account the bank freezes on the currency account the funds at the value of 105 percent of the amount specified in the instructions at the rates established by the *Central Bank* at the date of payment. The instruction shall be fulfilled upon converting the currency funds of the taxpayer into manats.

60.2. In cases stipulated in article 60.1.2. of this Code upon the submission of relevant instructions to the banks and other credit institutions managing various types of banking activity the interest shall not be charged from taxpayer effective from the date of such instruction.(6, 9, 16, 21)

Article 61. The responsibility of tax authorities and their officials

61.1. Tax authorities and their officials shall hold the responsibility in accordance with provisions of existing legislation for any losses caused to the taxpayers as the result of their unlawful activities (decisions) or lack of action, as well as unlawful activities (decisions) or lack of action of officials and other employees of indicated authorities during execution of their duties.

61.2. Losses caused to the taxpayers as a result of activities (decisions) or lack of action indicated in article 61.1. of this Code shall be compensated on the basis of court verdict.

Unless otherwise is stipulated by this Code, the amounts of overcharged tax sanctions, interests and administrative penalties in the cases of absence of tax debts shall be refunded or credited to future payments within 45 days from the date of submission of relevant application by the taxpayer.

61.3. For any unlawful activities (decisions) or lack of action, as well as not execution or inappropriate execution of their duties, officials and other employees of tax authorities shall be called to account in accordance with existing legislation.

Chapter VI. Appealing of decisions (acts) of tax authorities and actions or lack of action of their officials

Article 62. Procedure for appealing

62.1. Each taxpayer or any liable person shall have the right to object the decisions (acts) of tax authorities, activities of lack of action of their officials.

62.2. Decisions (acts) of tax authorities, activities or lack of action of their officials can be appealed at the supervising tax authority (supervising official) and/or in court.

The submission of appeal to the supervising tax authority (supervising official) does not exclude the right of simultaneous or subsequent submission of similar appeal to the court.

62.3. The appeal to the supervising tax authority (supervising tax official) shall be submitted within 3 months from the date when the taxpayer or any other liable person had determined or was to determine the violation of his rights.

Should the taxpayer or other liable person miss the time period indicated in paragraph 1 of this article for good reasons, this time period can be re-established by supervising tax authority or supervising official of the tax authority.

Article 63. Revision of appeal by the tax authority

63.1. The appeal on the decision (act) of tax authority, activity or lack of action of its officials shall be reviewed by the supervising tax authority or its official within 30 days from the date of receipt *and a written respond should be sent to the person, who submitted the complaint.*

63.2. When taxpayer does not agree with amount of tax calculated that he has to pay he may without stopping the tax payment submit the lodge to the relevant executive authority performing the tax control or the court.

The taxpayer holds the right not to pay financial sanction during the revision of his lodge.

63.3. The appeal by the taxpayer of other liable person to the tax authority (official) shall not stop the execution of action (decision) being appealed, with exception of cases stipulated by paragraph 2 of article 63.2. of this Code.

If the decision (action) being appealed does not comply with legislation of the Azerbaijan Republic, the tax authority (official) who reviews the appeal holds the right to stop completely or partially the execution of such decision (action). The decision on stopping the execution of such action (decision) shall be made by the head of tax authority who took such action or by the supervising tax authority.

63.4. When the amounts of tax, interest or financial sanction are being appealed and as a result of satisfaction such appeal the requirement for the payment of tax, interest or financial sanction was completely or partially removed the taxpayer shall be entitled to:

63.4.1. to receive compensation for erroneously charged amount in accordance with article 61.2 of this Code;

63.4.2. to receive interests from these amounts in accordance with this Code.

Article 64. The revision of court appeals

Lodges (appeals) on decisions (actions) of tax authorities, activities or lack of action of their officials, which are submitted in the court, shall be reviewed in accordance with procedure established by the Civil Process Code of the Azerbaijan Republic.

Chapter VII. General provisions on tax payments

Article 65. The procedure on collection of tax debts

65.1. If the taxpayer did not implement the tax obligation within timeframe specified by this Code, the tax authority shall send to the taxpayer the notification on payment within 5 days of taxes, interests and applied financial sanctions, calculated or re-calculated in accordance with this Code.

65.2. Should the taxpayer fail to pay calculated and re-calculated taxes, interests and applied financial sanctions within the period indicated in the notification, the tax authority shall give an instruction, being the executive (payment) document to the bank or other crediting entity to deduct from taxpayer's current or other accounts in national or foreign currency tax debts and interests, applied financial sanctions to the state budget.

Tax authority provides the write-off from the VAT deposit account to the state budget only VAT tax debts. In the event of absence on the taxpayer's VAT deposit account of funds sufficient for the payment of tax debts on VAT, for the purposes of payment to state budget of VAT debts, the relevant instruction can be issued on other accounts of such person.

65.3. Should the taxpayer have monetary means on current or other accounts in national or foreign currency the instruction of the tax authority shall be fulfilled by the bank or other crediting organization at the date when such instruction is obtained.

65.4. Should the taxpayer not have any monetary means on current or other accounts in national or foreign currency or monetary means are not sufficient to cover tax debts and interests, payment of applied financial sanctions, the instruction of the tax authority shall be kept by the bank or other crediting organization and is fulfilled as monetary means are deposited on taxpayer's account.

65.5. Instruction of tax authorities on payment to the state budget of tax debts and interests, applied financial sanctions shall be implemented by the bank or other crediting organization in accordance with order on payments stipulated by the Civil Code of the Azerbaijan Republic.

65.6. If the instruction of tax authorities on deduction to the state budget of tax debts and interests, applied financial sanctions is directed at taxpayer's currency bank account, the bank or crediting entity shall freeze funds in the account in accordance with procedures stipulated in Article 60.1.2. of this Code, providing the immediate notification to the taxpayer on this. Upon implementation by the taxpayer of conversion operation, bank or crediting entity shall fulfil the instruction of the tax authority.

65.7. *If instruction of the tax authority on payment to the state budget of tax debts and interests is issued to a number of banks or crediting entities, and tax debts and interests are paid to the state budget from any current or other accounts in national or foreign currency of the taxpayer, tax authority shall provide the immediate recall of instructions issued to other banks or crediting entities.*

65.8. *Returning of exceeding funds paid to the state budget from current or other accounts in national or foreign currency of the taxpayer shall be implemented in accordance with procedure established by Article 87 of this Code.(6, 9, 14, 21)*

Article 66. Illegal income

If income, classified as illegal not to be confiscated in accordance with legislation of the Azerbaijan Republic, illegality of such incomes shall not affect its taxation.

Article 67. Procedure for determining the taxable base in certain cases

67.1. *If the taxpayer without valid reason without 5 days from the date of warning of the tax authority upon the timeframe, stipulated under this Code, did not provide reporting data required for calculation of the tax, did not submit the documents required for implementation of on-site inspection, did not allowed the access to the territory or premises (except living premises (areas)), does not maintain the accounting at all or in accordance with established procedures, in the event of destruction (loss) of accounting and reporting documents, as well as if it is impossible to determine tax articles for any other reason, the tax authority shall be entitled to calculate the tax amounts to be paid, using following matching information:*

67.1.1. *tax declarations submitted by the taxpayer to the tax authority for previous reporting periods;*

67.1.2. *official data on taxpayer income, including indirect incomes;*

67.1.3. *official data on taxpayers costs, including costs for purchasing of goods (movable property and real estate), works and services for individual consumption;*

67.1.4. *official data on tangible and intangible assets owned or used by the taxpayer;*

67.1.5. *official data on physical capacity of produced and (or) provided works (works, services) by the taxpayer;*

67.1.6. *official data on import and export operations of the taxpayer;*

67.1.7. *official data on funds located at taxpayer's accounts, including the data on movements of funds on banking accounts;*

67.1.8. *any other information, received by the tax authority from known source.*

67.2. *Determination of the tax, which shall be subject to payment by the taxpayer, is provided on the basis of similar information, information held by tax authorities about the taxpayer, engaged in entrepreneurship, similar activities of the taxpayer with consideration of following indicators:*

67.2.1. *production of analogue on same kinds of products;*

67.2.2. *provision of analogue or same kinds of products, implementation of works and provision of services;*

67.2.3. *territory of the activity.*

67.3. *If taxes are calculated on the basis of similar information and information on same taxpayer, the tax amount is defined by multiplying of the amount of income or costs, deducted from the taxpayer's income, to the rate of the specific weight of the tax within the reporting period in the income or costs deducted from the income taxpayer, engaged in similar activities.*

67.4. *If similar information on the taxpayer cannot be obtained, taxes are calculated on the basis of registration and reporting information of the taxpayer, engaged in similar activities.*

67.5. *If on the basis of similar information it is not possible to calculate the income tax of natural persons, working on contract basis, or if the work of natural persons is not documented, the tax authority calculates the amount of the income tax on the basis of mean monthly wage along the country over previous year.*

67.6. *If in the tax authority for calculation of tax there are several sets of similar information on the taxpayer, the tax is calculated on the basis of similar information, providing basis for calculation of tax at the highest amount.*

67.7. *In calculation of the tax on the basis of similar information overpaid taxes, interests and financial sanctions of the taxpayer are taken into consideration.*

67.8. *For taxpayers submitting to the tax authority the information on absence of entrepreneur activities, property, land and taxable operations in accordance with Article 16.2 of this Code, taxes are not calculated on the basis of similar information.*

67.9. *Upon the submission of declarations on taxes calculated on the basis of similar information, calculated taxes are re-calculated with consideration of declarations.*

67.10. *Taxation on the basis of similar information is performed in accordance with Article 65 of this Code.*

67.11. *If any operation is conducted between mutually connected persons, when determining the taxable income generated by people not connected with each other the tax authority may distribute incomes and costs between such persons.*

67.12. If the person declares the receiving of amount which is not enough to cover his personal needs including the payment of property fees, the tax authority shall determine the income and taxes on the basis of costs incurred for previous periods, including credits and debts.

67.13. In cases when for the purposes of taxation barter operations are considered as sell of goods (works, services) at market prices, relevant operations shall be registered by *electronic* tax invoices.

When the amounts of barter operations in tax invoices are reduced, the tax authority determines the taxable base with consideration of market prices, calculates the amount of tax and applies sanctions stipulated for the violation of tax legislation of the Azerbaijan Republic.(9)

Article 68. Procedure on determining the time period

68.1. The duration of any period established by this Code shall start from the day which follows the day of execution of legal activity of actual event that stimulate the counting of such period.

68.2. Any period shall expire at the end of the last day of the period stipulated by this Code. If any period stipulated by this Code is a non-business day it shall be postponed to the following business day.

Article 69. Exchange of foreign currency into manats

If any taxable operation is implemented in foreign currency the exchange of such currency into manats shall be conducted in accordance with the official exchange rate of the *Central* Bank of Azerbaijan on the date of operation.

Article 70. Correspondence with taxpayers

70.1. If the requirement of tax authority to the taxpayer or the requirement of the taxpayer to the tax authority is not in writing *or in an electronic format* and was not submitted by one party to another party, such requirements shall not have any legal force for neither the tax authority nor taxpayer.

70.2. Any notification or other document sent by a tax agency to a taxpayer shall be signed by the chief of that tax agency (deputy chief) and sealed. The documents shall be considered to be served when they are delivered by registered mail or in person *to the address mentioned as a final address in the documents on official registration of a taxpayer - legal person or in the registration documents of a taxpayer-physical person.*

70.3. Documents on tax calculation or other documents developed in accordance with tax legislation cannot be considered as invalid or having any violations if:

70.3.1. their content complies with tax legislation and;

70.3.2. they indicate the recipient person or the person whose taxes are calculated.(14)

Article 71. Compiling and maintaining records by taxpayers

71.1. Any person shall be obliged to document any operation that:

71.1.1. entails a tax obligation for that person;

71.1.2. entails an obligation to withhold tax for that person; or

71.1.3. entails an obligation for that person to submit information.

71.2. Taxpayers shall be obliged to maintain records indicated in article 71.1. of this Code in accordance with established procedure.

71.3. If a taxpayer's documents have been drawn up in a foreign language, tax authorities may require the translation of such documents into Azerbaijani.

Article 72. Submission and development of tax reports

72.1. For the purposes of this Code, a tax report shall consist of a tax declaration.

72.2. In accordance with the provisions of this Code and other legal normative acts, taxpayers that are required to submit a tax report shall submit such tax report to the relevant State tax authorities, within the term stipulated in this Code, in accordance with the form and in the place determined by the relevant central executive authorities.

Tax reports can be provided by the taxpayer personally or any other form allowing confirmation of submission of the report (including submission or sending in the form of electronic document in accordance with the respective legislation to the post service).

Submission of tax reports in the form of electronic document shall be performed in an order stipulated by the executive authority. Provisions of articles 72.3, 72.4, 72.6.3 and 72.6.4 of this Code shall not be applied to the taxpayers, filed the documents in the form of electronic document.

72.3. A tax report shall be signed by the taxpayer or his/its duly authorized representative.

72.4. *In accordance with legislation* an independent auditor providing a taxpayer with the service of preparing a tax report shall sign and seal the tax report and indicate his Taxpayer's ID. If such report is prepared by more than one person, it shall be signed by the chief person.

72.5. *If data in the reports for previous reporting period is varying from data on initial control documents, with exception of cases stipulated under Article 163 of this Code, taxpayers shall submit corrected report for subject reporting period. If the amount of tax to be paid to the budget in accordance with corrected report exceeds the tax amount to be paid in accordance with the report provided earlier, the additional calculated amount shall be*

paid with interests accrued, and if such amount is less-calculated amounts of tax or interests are decreased. Corrected reports or reports not submitted in timely manner can be furnished by the taxpayer before the date of decision on implementation of on-site tax inspection.

72.6 Stipulating acceptance by a tax authority of a tax report after conducting its office (cameral) inspection or any other actions shall be unallowable and shall entail responsibility as provided by the legislation. Only in the following cases tax report shall not be accepted by a tax authority, if:

72.6.1. Tax ID number of a taxpayer is not mentioned or mentioned incorrectly;

72.6.2. The tax period is not reflected;

72.6.3. the tax report, submitted in the form of paper document is not approved by a taxpayer-legal person with signatures and seal;

72.6.4. the tax report is not signed by a taxpayer-physical person;

72.6.5. if the tax report submitted in the form of electronic document by taxpayers - legal and physical persons is not corresponding to the requirements of respective legislation or regulations.

72.7. In the event that tax report submitted in accordance with this Code or other legislative acts was not accepted in cases mentioned in Articles 72.6.1 -72.6.5 of this Code, the taxpayer shall, within 3 working days from the date of submission of the tax report, be sent a notice of this, as well as of submission of the report to the tax authority after having removed inaccuracies established.(6, 14, 16, 18)

Article 73. Submission of information on payments

A person who pays for any work performed or services rendered, or who makes any other payments shall, if so required by legislation, submit information to State tax authorities on such payments, as well as to the person that receives the income.

Article 74. Extension of the term for submitting tax reports

74.1. If, before the end of the term for submitting reports, a taxpayer places a request for the extension of the term for submitting a profit or income tax report and pays the due tax in full amount, the term for submitting reports shall be deemed to have been extended for up to three months. The extension of the term pursuant to this Article shall not change the term for the payment of tax.

74.2. If the amount of tax as per the report exceeds the amount paid, the relevant difference shall be paid to the budget along with interest calculated from the last day of the tax payment term.

Article 75. Responsibilities of Banks and other credit organizations, managing various types of banking activities for taxpayers

75.0. Banks and institutions managing various banking accounts shall be obliged to:

75.0.1. open a *current or other accounts in national or foreign currency for legal entities and physical persons carrying out business activity without establishment of legal entity*, only upon the presentation of a document proving that a taxpayer's identification number has been issued to such person by the relevant State tax authorities; advise State tax authorities of such accounts opened by a taxpayer; and not carry out operations on accounts unless bank documents reflect the taxpayer's identification number;

75.0.2. execute a request of *legal entities and physical persons carrying out business activity without establishment of legal entity* for payment of taxes from the resources available in such taxpayer's *current or other accounts in national or foreign currency*;

75.0.3. transfer tax amounts to the relevant budget (to another banking institution providing a cash service to the bank or to the budget) on the date that resources are written off from a *current or other accounts in national or foreign currency of legal entities and physical persons carrying out business activity without establishment of legal entity*.(3, 6, 21)

Article 76. Provision of information by banks and other credit organizations managing various banking activities

76.1. *When the tax inspection had revealed the non-keeping of profit and loss records by the taxpayer in an order stipulated by the legislation, liquidation (loss) of accounting or reporting documents and also non-filing of the tax declarations within fixed periods or taxpayer's failure to provide the documents to tax authorities in the course of conducting of tax inspection, failure to provide access to tax authorities to the territories or premises (except for apartments) the tax officials may obtain the information about the bank accounts and operations from any bank who provides financial services to the legal or physical person by written inquiry in order to determine the tax obligations of the taxpayer. (3)*

76.2. The authorized bank, upon receive of notification sent on the basis of provisions of article 76.1. of this Code *in accordance with procedure established by the relevant executive authority* shall within 5 days provide (deliver) information requested in the notification of tax authorities to the legal person *and private entrepreneur. (3)*

76.3. If within 15 days from the dispatch (delivery) of the official notification from respective court to the legal entity *and private entrepreneur*, will not be provided the notice of court on consideration of the application of legal entity *and private entrepreneur* regarding the objection to provide the inquired information, then relevant bank will send the information about accounts or operations of the legal entity *and private entrepreneur*. In all other cases provision of the information on the accounts or operations of the legal entity *and private entrepreneur* is not allowed. (3)

76.4. It is not allowed to disclose (deliver) the information on accounts and operations of the legal person *and private entrepreneur*, received in accordance with provisions of this Article to other authorities or citizens. (6, 3)

Article 77. Tax obligation

77.1. A taxpayer's obligation to pay tax when circumstances stipulated in this Code (*including current tax payments*) arise shall be deemed its tax obligation.

77.2. Bases for the emergence, alteration and annulment of a tax obligation, as well as rules and conditions for the fulfilment of a tax obligation shall be determined exclusively under this Code.

77.3. Taxpayers shall be responsible for relevant tax obligations from the moment that obligations to pay tax arise in accordance with the provisions of tax legislation.

77.4. The tax obligation shall be completed in following cases:

77.4.1. with payment of taxes;

77.4.2. with appearance of circumstance connected completion of tax obligation pursuant to tax legislation;

77.4.3. with death of the taxpayer or his recognition as dead in accordance with civil legislation of the Azerbaijan Republic. The property tax debts of the person who died or recognized as dead shall be compensated from and within the amount of his property.

77.4.4. With liquidation of legal person- upon the calculation of budget payments by the liquidation commission in accordance with this Code. (3, 15)

77.4.5. *in the case of consideration nullified of requirements of debtor-taxpayer liquidated in a right set by the legislation of the Republic of Azerbaijan, rejected by the decision of the court.*

Article 78. Fulfilment of tax obligations

78.1. Fulfilment of tax obligations shall be the payment of payable tax amounts within the established term. The fulfilment of tax liabilities is obligatory regardless of the existence of funds on taxpayer's accounts or any property.

78.2. Fulfilment of tax obligations shall be implemented in the order established by this Code.

78.3. Fulfilment of tax obligations shall be effected directly by the taxpayer, unless otherwise provided for in this Code

78.4. Fulfilment of tax obligations shall not be assigned to other persons.

Article 79. Fulfilment of tax obligations upon the liquidation of an enterprise (organization)

79.1. The tax obligations of a liquidated enterprise (organization) shall be fulfilled by the liquidation commission at the expense of the enterprise's (organization's) monetary resources, including income received from the sale of its property. Unless otherwise provided for in this Article, the liquidation commission shall also fulfill the tax obligations of the enterprise's (organization's) branches, and separate divisions. The obligations of a branch or separate division of the liquidated enterprise (organization) shall be fulfilled directly by that enterprise, or, upon the liquidation of that enterprise, by the liquidation commission of that enterprise.

79.2. If the liquidated enterprise's (organization's) monetary resources, including resources received from the sale (for the purpose of the fulfillment of tax obligations) of its property, are not sufficient for the complete fulfillment of such enterprise's (organization's) tax obligations, the remaining debt on the tax obligations shall be paid by the founders of the enterprise, if, pursuant to the law, regulations or other foundation documents, the enterprise's founders are jointly responsible for its obligations. The payment of debt obligations upon the liquidation of a personal enterprise shall be the responsibility of the owner of its property.

79.3. In the case of enterprise bankruptcy his obligations shall be fulfilled in order established by the legislation.

Article 80. Fulfillment of tax obligations upon the reorganization of an enterprise (organization)

80.1. The tax obligations of a reorganized enterprise (organization) shall be fulfilled by its newly appointed successor (successors) in accordance with this article.

80.2. The fulfillment of a reorganized enterprise's tax obligations (liabilities) shall be vested in its successor (successors), whether or not such successor (successors) is (are) aware of the factors or circumstances in the reorganized enterprise's non-fulfillment or improper fulfillment of its obligations before the reorganization has been completed.

80.3. Reorganization of an enterprise shall not alter the term for payment of such enterprise's (organization's) tax obligations by its successor (successors).

80.4. An enterprise established as a result of a merger of several enterprises (organizations) shall be considered the successor with respect to the tax obligations of each of those enterprises (organizations).

80.5. If an enterprise (organization) is split up into several enterprises (organizations), the organizations (enterprises) established as a result of such split-up shall be considered the successors with respect to the tax obligations of the divided enterprise (organization).

80.6. When there are several enterprises, the share of each successor in the fulfillment of a reorganized enterprise's tax obligations shall be determined according to the procedure established by the relevant central executive authorities.

80.7. An enterprise established as a result of altering an enterprise's organizational-legal status shall be considered the successor with respect to the tax obligations of such reorganized enterprise.

If reorganization, when one or more enterprises (organizations) are split off from an enterprise (organization) is not directed in the non-fulfilment of the reorganized enterprise's tax obligations, the enterprises (organizations) so split off shall not be successors with respect fulfilling the reorganized enterprise's (organization's) tax obligations.

80.8. If one legal person is transformed into another the successor of the reorganized legal person shall be a new legal person.

80.9. If one of number of legal persons are excluded from a legal entity the reorganized legal entity shall not be considered a successor for the purposes of taxation, provided however that this is not directed to non compliance of tax obligations of this reorganized legal person.

Article 81. Fulfillment of the tax obligations of deceased, incompetent or missing physical persons

80.1. The tax obligations of a deceased, incompetent or missing physical person, as well as related interests and sanctions, shall be fulfilled by his heir (heirs) or successor (successors) within the limits of the value of the property and in accordance with such heir's (heirs') or successor's (successors') share in that property as of the day that the inheritance was received.

80.2. Where there is no heir (heirs) or successor (successors), the deceased person's tax liabilities and related interests and sanctions shall be written off (annulled).

80.3. The tax liabilities of a physical person who is deemed, by a court decision, incompetent or missing shall be paid for by the guardian of that person at the expense of the relevant property.

80.4. If the property of a physical person who is duly considered incompetent or missing is not sufficient to pay for all his tax liabilities, as well as interest and fines, such interest and fines shall be debited by the relevant central executive authorities in the manner stipulated in Article 190 of this Code.

81.5. If the status of being incompetent or missing is terminated, by a decision, with respect to a physical person, such person's tax liabilities that were written off before shall be re-established; no interest or fine shall, however, be assessed for the period starting from the date that the person began to be considered incompetent or missing up to the date that the status of being incompetent or missing was terminated.

Article 82. Procedure for calculation and payment of tax by the taxpayer

82.1. Unless otherwise provided for in tax legislation, a taxpayer shall independently calculate the tax amount payable during a tax accounting period on the basis of the taxable base, the tax rate and tax exemptions.

82.2. The calculation of taxes payable in certain cases stipulated in this Code or other normative acts of tax legislation may be vested in a State tax agency or tax agent.

82.3. Taxes shall be calculated in the manner established in this Code or other normative acts of tax legislation with respect to the relevant tax.

82.4. A tax amount which is payable within an established term shall be paid (transferred) by the taxpayer or person who is legally liable in cases established by legislation. (6)

Article 83. Calculation of taxes by tax authorities

83.1. Pursuant to this Code, assessment of a tax shall mean the entry of a tax amount payable by a taxpayer for a specific tax period into the accounting records of the State tax service authorities. Re-assessment of already assessed tax amounts by State tax authorities shall also be deemed the assessment of taxes.

83.2. State tax service authorities shall, pursuant to this Code, have the right to assess the tax liability of each taxpayer according to one or more of the following sources:

83.2.1. data contained in taxpayers' tax declarations or returns;

83.2.2. information on payments pursuant to Article 73 of this Code;

83.2.3. audit materials

83.2.4. any other information known to tax authorities from known source, *including the similar data, stipulated under Article 67 of this Code.*

83.3. *The tax authority shall be entitled to re-calculate taxes, interests and financial sanctions, calculated by results of on-site and desktop inspection, within 3 years upon the end of the reporting period in accordance with Article 85.4 of this Code.*

83.4. In the event that tax legislation does not require tax payment with the submission of a declaration, as well as in cases when the State tax authorities consider a previous tax assessment to be erroneous, the tax authorities shall assess tax and send, within 5 days a tax assessment notification to the taxpayer in accordance with Article 84 of this Code. Tax authorities may, before the end of the claim period stipulated in Article 85 of this Code, assess a tax amount or make adjustments to a previously calculated tax amount.

83.5. In cases when this Code had established the payment of tax with submission of tax return, the development of the return reflecting tax payment application shall be the notification on calculation and payment of such tax.

83.6. When during taxation in accordance with *Articles 5.0.1, 212.4 or 221.4.1.* of this Code the taxpayer did not submit the tax return and the tax authority did not calculate the payable tax amounts on the basis of other data pursuant to procedures of this Code it is considered that the tax authority had calculated the annual tax obligations of the taxpayer at the volume of tax *withheld or paid from taxable base* received by the taxpayer within a year, and provided the notification on tax calculation to the taxpayer.

83.7. If there is concrete information about a taxpayer's intention to evade taxes by violating jurisdiction, transferring fixed assets to another person or taking other steps to prevent the withholding of a tax where taxes are not immediately paid, the State authorities shall be entitled to assess tax before the date that it is usually paid, provided that such action is necessary to ensure withholding of the tax.

83.8. The taxpayer may, on the basis of the following arguments, appeal to a court against the assessment of a tax under the Article 83.7. for following reasons:

83.8.1. that the tax amount exceeds the amount that shall be paid ; or

83.8.2. that there is no reason for an early tax assessment.

83.9. When it is not possible to determine the profit of *taxpayer* such profit shall be calculated in accordance with rules established by relevant authority. (6, 9)

Article 84. Notification of the assessment of a tax

84.0. A taxpayer shall be served a notice about the assessment of a tax. Such a notice shall indicate the following:

84.0.1. the taxpayer's name or the name of the entity;

84.0.2. the Taxpayer's ID;

84.0.3. the date of notification;

84.0.4. the object that the notification relates to and the tax year, or tax years, covered by the notification;

84.0.5. the amount of the estimated tax and interest;

84.0.6. a request for payment of the tax and the payment term;

84.0.7. the place and procedure for payment of the tax;

84.0.8. the factor (factors) on which the tax assessment was based;

84.0.9. the procedure for lodging a complaint.

Article 85. Terms of tax obligations fulfillment and alteration of such terms

85.1. Terms of tax payments shall be established with reference to each tax. Alteration of specified terms of tax payment maybe admitted only in an order stipulated by this Code.

85.2. Payment of taxes in violation of payment terms will be resulted in payment of penalties (percents) by the taxpayer in an order and subject to provisions stipulated by this Code.

85.3. Terms of tax payments shall be defined by the calendar date or expiration of terms, calculated by years, quarters, months, decades, weeks and days and also by the event which should arise or occur, or actions to be performed.

85.4. Tax authorities are entitled to calculate, recalculate taxes, penalties and financial sanctions of the taxpayer within 3 years after termination of taxable reporting period, to impose calculated (recalculated) sums of taxes, penalties and financial sanctions within 5 years after termination of taxable reporting period.

85.5. *A taxpayer has the right, within 3 years after the expiration of the tax report period, to demand calculation of taxes, interests and financial sanctions incorrectly deducted, and, within 5 years, demand re-calculation of the calculated amount and return or replacement of the overpaid taxes, interests and financial sanctions.*

85.6. Terms of fulfillment of tax obligations may be extended for later periods, than specified by this Code, in the following cases:

85.6.1. cause of damage to the taxpayer as a result of natural disaster or any other force-majeure circumstances. In this event the taxpayer shall submit to the relevant tax authority the notes of the event occurred and the amount of damage incurred;

85.6.2. threat of bankruptcy as a result of tax lump-sum payment by him. In this case the taxpayer shall submit the notes on debts and credits on the date of application with indication of the cash money, funds on current or other accounts in national or foreign currency, surnames of debtors and creditors, TIN.

85.7. Alteration of terms of tax payments shall not be resulted in annulment of current obligation and establishment of new tax obligation.

85.8. Terms of fulfillment of tax obligations cannot be extended if criminal proceedings regarding violation of tax legislation are instituted against the taxpayer.

85.9. Extension of the terms of tax obligation fulfillment shall be granted on the basis of justified written application of the taxpayer submitted to tax authority, specifying that such extension will be ensured by the taxpayer by respective guarantee or surety. *Application shall be submitted before the payment period, established by the type (types) of tax for the relevant reporting period. Relevant tax authority shall review the application within 30 days and if required, decision is taken for extension period.*

85.10. In the presence of grounds, stipulated by the article 85.6 of this Code, the terms of fulfillment of tax obligations may be extended for the period 1-9 months within tax year. *A taxpayer shall not be calculated interests for that period.*

85.11. The decision of respective executive power body on extension of fulfillment of tax obligation shall specify the reference to the amount of tax debt, type (type) of taxes, terms of payment to be extended, terms and procedure of payment, and also notes about guarantee or surety.

In the event of staged implementation of tax liability within periods stipulated under Article 85.10 of this Code, the decision of tax authorities on extension of the period for implementation of tax liability shall include the procedure on staged implementation of tax liability

85.12. The decision about extension of terms of tax obligation fulfillment will be effective from the day specified in this decision.

85.13. *Consideration of the invalidity of contract in accordance with procedures stipulated under legislation does not mean the cancellation of the tax obligations of the taxpayer».*

85.14. *The extended period for execution of the tax obligation is cancelled before the expiry in following events:*

85.14.1. *in advance execution tax obligations by the taxpayer;*

85.14.2. *in cases stipulated in Article 85.8 of this Code;*

85.14.3. *non-compliance with provisions of the decision of tax authority on extension of the tax obligation execution period.*

85.15. *In cases stipulated under Article 85.14 of this Code, the tax authority, which has taken the decision on termination of the extended period for tax obligation execution, shall inform the taxpayer about it within 5 days. The taxpayer within 30 days from the date of receiving of information shall make the payment of debts and interest accrued to the amount until the date of payment within 30 days.*

85.16. *The relevant tax authority shall each quarter (periodically) inform the relevant executive authority on the amount of tax obligations, the period of which is extended. (6, 9, 14, 21)*

Article 86. Places where taxes are paid

86.0. Taxes shall be paid at the following places:

86.0.1. the place indicated in the notice; or

86.0.2. *at place of registration of the taxpayer- unless otherwise stipulated by this Code;*

86.0.3. *withholding taxes,— by tax agencies at the location of registration;*

86.0.4. when no place is indicated in the relevant tax legislation, the place of residence of the physical taxpayer, or the place of activity of a legal taxpayer.(6, 21)

Article 87. Refund of overpaid taxes, interests and financial sanctions

87.1. Where tax, interest or financial sanction is paid in excess of the assessed tax amount, such overpayments shall be:

87.1.1. shall be accounted at the balance of other taxes, interests, financial sanctions and administrative penalties;

87.1.2. credited, with the taxpayer's agreement, such excess amount against the taxpayer's future tax liabilities;

87.2. If an excess tax amount, interest or financial sanctions paid by a taxpayer is credited against his/its other tax liabilities, *on their request a taxpayer is issued the extract from the file and revision protocol, as well as once in a quarter within 20 days until the quarter end he is sent the notification. Extract from the personal sheet or verification act shall not be given for the period not covered by tax inspection during preliminary investigation carried out by the respective executive authority on cases related to offences provided by Article 213 and 213-1 of the Criminal Code of the Azerbaijan Republic in accordance with Criminal Procedure Code of the Azerbaijan Republic.*

87.3. Unless otherwise provided for in this Code, refund such excess amount to the taxpayer, upon the taxpayer submitting a written application, within 45 days.

87.4. Rules for the refund of overpaid taxes, interests and financial sanctions shall be established by relevant executive authority.(6, 11, 14)

Article 88. Rules for the payment of tax arrears

88.0. Tax arrears payable to the Budget shall be paid in the following order:

88.0.1. the amount of taxes assessed, subsequently from the date of formation;

88.0.2. the amount of interest assessed;

88.0.3. the amount of financial sanctions assessed. (9)

Article 89. Seizure of property

89.1. In the event that a tax- payer did not fulfil his/her tax obligation within the term provided by this Code, his/ her property may be recorded as a method to ensure the payment of his/her tax burden, interests calculated on the tax burden in connection with the non-fulfilment of the same obligation, and of applicable financial sanctions.

Listing of state property, privatization of which is not allowed under the legislation of the Azerbaijan Republic, as well as property of enterprises and facilities, privatization of which is conducted under the decision of the relevant state executive authority shall be implemented in order established by the relevant state executive authority.

89.2. The seizure of property is the limitation of taxpayer's rights to his property within which he cannot manage the property and any use and ownership over this property is performed under the control of the tax authority.

89.3. *In the event of non-payment by the taxpayer of its debts on taxes, interests and financial sanctions within terms specified in the notifications, as per Article 65.1 of this Code, the tax authority is entitled to demand from the taxpayer the submission to the tax authority of information on assets in the form set by the relevant executive authority. For delayed submission of information the taxpayer shall be liable in accordance with provisions of this Code.*

When the tax authority had enough reasons to think that the taxpayer evades *from execution of obligations on taxes*, the tax authority sends the notification to the taxpayer requesting the immediate payment of *tax obligation*.

When the taxpayer does *not execute tax obligations* as stipulated in paragraph 2 of this article the tax authority on the basis of motivated decision can implement the seizure of taxpayer's property.

The implementation of property seizure at night time (from 20:00 P.M. to 8:00 A.M.) shall not be allowed with exception of certain cases.

89.4. The seizure is implemented on the entire property of a legal person and for natural person it shall exclude the property, which cannot be seized in accordance with legislation of the Azerbaijan Republic.

89.5. *Only property shall be confiscated that is required and sufficient for execution of tax obligation, calculated interests and applied financial sanctions on tax debts due to non-fulfillment of this obligation. The property shall be suitable for sell/marketable and retaining its commodity properties.*

89.6. The seizure of property with consideration of article 89.5. of this Code shall be implemented in following order:

- monetary means in cash;
- the property that does not participate directly in production of goods, for example, securities, foreign currency, non-production premises, light transport, design goods for office premises.
- manufactured goods, as well as other material valuables not involved and/or not intended for direct production purposes;
- raw materials intended for production purposes as well as machinery, equipment, buildings, facilities and other fixed assets;
- other property.

89.7. The seizure of property shall be implemented based on the resolution of the chief of tax authority. The resolution shall indicate the name of the taxpayer and address where the property is located.

89.8. The seizure of property shall be implemented by the tax authority in the presence of taxpayer, witnesses and experts, if necessary.

The tax authority implementing the seizure of property does not hold the right to refuse to the taxpayer (his authorized representative) to participate in property seizure.

Persons who participate in seizure as witnesses, experts as well as the taxpayer shall be made aware of their rights and responsibilities.

89.9. Tax authority officials who perform the seizure of property shall submit to the taxpayer (his representative) the decision on seizure of property by the chief of tax authority and documents confirming their authority.

89.10. During the seizure tax authority officials shall develop a protocol on seizure of property, list of the property seized shall be attached to this protocol.

The seizure shall indicate the names, quantity, individual characteristics and if possible the price of property. All goods to be seized shall be demonstrated to the witnesses and the taxpayer (his representatives).

A taxpayer shall be warned by a tax authority about his responsibility under the legislation of the Azerbaijan Republic for the violation of limitations established in Article 89.2 and 89.11 hereof with respect to his registered property.

89.11. Deals on seized property made by the taxpayer through violation of procedures established by this article shall be deemed as invalid.

89.12. The decision on seizure of property shall lose its force from the moment of its cancellation in established order or execution of tax liability.

89.13. Inventory of excise goods, not marked by excise labels or marked with forged excise labels, shall be implemented as follows:

89.13.1. Inventory of excise goods not marked with excise labels, or marked with forged excise labels, is a limitation of the rights of the taxpayer on these goods, under which the taxpayer does not hold the rights on ownership, use, disposition of said products.

89.13.2. In the event of reveal of storage or sale of excise products not marked with excise labels or marked with forged excise labels (food alcohol, beer, all types of alcoholic beverages and tobacco products), the total quantity, quantity of excise goods, not marked with excise marks or marked with forged excise marks (food alcohol, beer, all types of alcoholic beverages and tobacco products), shall be documented with act of relevant form, approved by the relevant executive authority, indicating the requisites of legal entities and natural person, engaged in entrepreneur activities, as well as their authorized representatives, act is verified by signatures of representatives of tax authority, as well as responsible authority of the facility and witnesses. The taxpayer or his authorized representative may write their comments on the act, refuse to sign the act with relevant notes made on this act.

89.13.3. *The list of excise goods, not marked with excise labels or marked with forged excise labels (food alcohol, beer, all types of alcohol beverages and tobacco products), in accordance with relevant form approved by the relevant executive authority. The list contains the information on name, distinguishing properties, origin, purchasing and sell prices of these goods, name of the tax authority, first, middle and last names of authorized officers, performing the listing, data and location of listing, data on the taxpayer or his representative, information on observers and invited experts.*

89.13.4. *Origin, purchasing and sell prices of excise goods, not marked by excise labels or marked by forged excise labels (food alcohol, beer, all types of alcoholic beverages and tobacco products) are determined by the primary documents or explanatory note received from the management (or in his absence-from seller).*

89.13.5. *On state official, involved in administrative violations, stipulated by the Code of the Azerbaijan Republic on Administrative Violations, protocol shall be made in accordance with specified Code.*

89.13.6. *Copies of made act, listings and protocols shall be passed to official.*

89.13.7. *Representative of tax authority, implementing the listing of excise goods, not marked with excise labels or marked with forged excise labels, is not authorized to prohibit the taxpayer or his representative to participate in listing the products.*

89.13.8. *Representative of tax authority, implementing the listing of excise goods, not marked with excise labels or marked with forged excise labels, within the listing process of these goods shall explain to the taxpayer or his representative their rights and responsibilities.*

89.14. *The leaving of listed products at taxpayer's responsible storage shall be implemented as follows:*

89.14.1. *Listed products are left for responsible storage of the taxpayer or in the event of his consent at locations, determined by authorized officials of the tax authority.*

89.14.2. *Deals made by the taxpayer with violation of these rules shall not be deemed valid in accordance with procedures, stipulated under legislation.*

89.14.3. *In the event of refusal of the taxpayer to accept the products for responsible storage or in the event of absence of appropriate conditions for the taxpayer for storage of products, actions performed with participation of authorized representative (representatives) of the tax authority, taxpayer (or his representative), two observers and authorized representative of the facility, shall be made by protocol, goods are packaged at the same location, locked and withdrawn from the facility for responsible storage by other taxpayer or authorized offices, designated by the tax authority.*

89.14.4. *The protocol on withdraw of goods from the facility shall include the following:*

89.14.4.1. *position, first, middle and last named of the person, who made the protocol;*

89.14.4.2. *date and place of protocol;*

89.14.4.3. *information on person from whom products are withdrawn;*

89.14.4.4. *information on observers participating during the development of protocol;*

89.14.4.5. *information on listing and quality of withdrawn products.*

89.14.5. *Protocol on withdrawal of products is signed by tax authority officers, as well as the taxpayer (or his representative), responsible person of the facility and observers. In the event if the taxpayer or his representative refuse to sign the protocol, relevant notes shall be made in this protocol.*

89.14.6. *Before the review of the case on administrative violation confiscated products are handed for responsible storage by the other taxpayer or authorized representative designated by the tax authority.*

89.14.7. *During handover of confiscated products for responsible storage and by the taxpayer, he shall be warned on liability in accordance with procedures stipulated under the legislation for allowance of their loss, use, replacement or hiding.*

89.14.8. *The made acts and protocols shall be considered in accordance with this Code and Code of the Azerbaijan Republic on Administrative Violations.*

89.15. *Inventory of state property, privatization of which is prohibited by the legislation of the Azerbaijan Republic, as well as the property of the taxpayers, privatization of which is conducted with resolution of the executive authority, but the decision on privatization of which is not taken or privatization is not completed, shall be conducted based on the permit of the relevant executive authority.*

The tax authority, within 15 days from the date of issuance of the resolution on collection by banks and other credit organization to the state budget of debts, interests an applied financial sanctions on taxes, shall officially apply to the relevant executive authority with the purpose of notification of consent for inventory of property specified in this Article. In the event of issuance of permit for inventory of property within one month, the inventory is performed by the tax authority in accordance with procedures stipulated under this Code.

89.16. *During the listing the taxpayer funds shall be paid to relevant state deposit account no later than within one business day from the date of listing. Tax authority submits to taxpayer the copy of the document verifying the payment of funds to deposit. In listing of jewels, made of gold, silver and pearl, those shall be packaged, sealed and submitted for responsible storage of the taxpayer (or*

legal and/or authorized representative) or other party defined by the tax authority.(6, 9, 11, 13, 14, 21)

Article 90. Procedure on tax exemption by taxpayer's property

90.1. If the taxpayer fails to fulfill his tax obligations within 30 days upon the seizure of property, the tax authority in order to provide the execution of tax obligation may appeal to the court for approval on selling the seized property in necessary quantities on the special auction.

If working life of the seized property expires before the expiration of the period, specified in the present article, the tax authority will be entitled to apply to court.

90.2. The court shall review the application of the tax authority, indicated in article 90.1 of this Code in accordance with procedure of the Civil Code of the Azerbaijan Republic.

90.3. *Calculation of interest on the debt satisfied by a court judgment after the entering into effect the court judgment on the sale of the registered property of a taxpayer in a specialized open auction (hereinafter «the Auction») by a specialized organization (hereinafter «the Auction organizer») established at the commodity exchange shall be stopped and payment of tax arrears to the state budget is provided by the officer of the court, having regard to positions of the article 90.4 of the following Code.*

Proper authority of executive power, submits quarterly information on facilities got from the sale on an auction of the inventorized property of the taxpayer, to the proper authority of executive power.

Registered property of a taxpayer with the purpose of selling at an auction shall be evaluated by an appraiser in accordance with the Law of the Azerbaijan Republic «On Valuation activity», with the exception of cases when controlled prices according to the legislation are applied

An appraiser during 10 (ten) days after the receipt of the acts of execution, given out on foundation of court decisions shall be appointed in the order established by court officer in accordance with the legislation. Services of the appraiser shall be paid by the taxpayer according to decision of court.

Such property shall be sold in the following order:

90.3.1. Property sale at auction — the unconditional sale of the inventoried property of the taxpayer on the basis of effective court decision. In this the buyer, proposing the highest price shall receiver the right of ownership on property.

90.3.2. Specialized entity performs as organizer of auction. Specialized entity performs the auction on the basis of application of court officer.

90.3.3. Following documents should be attached to the application of court officer:

90.3.3.1. *the effective court decision on sale of taxpayer's property at auction;*

90.3.3.2. *execution documents on start of execution, issued in accordance with court's decision;*

90.3.3.3. *information on starting sale price of the property;*

90.3.3.4. *number of bank account, to which funds from sales of property shall be transferred;*

90.3.3.5. *copy of the Act made by the court officer on arrest of property;*

90.3.3.6. *during sells of real estate, documents on this property required in accordance with legislation;*

90.3.3.7. *in the event of sells of separate structure — copies of documents, verifying the right to use the land site or right of ownership of this land site, at which the structure is located;*

90.3.3.8. *in the event of sell of long term lease- copy of the agreement and copy of the document verifying the state registration of this agreement in cases, stipulated under the legislation;*

90.3.3.9. *in the event of sell of rights on facility with incomplete construction — copy of the decision on allotment of additional land site and construction permit document.*

If the expiry period of the inventoried property is less than 60 days upon the effective date of the court decision or if it is a food product, the court officer shall submit the document to the auction organizer within 3 days.

90.3.4. *Upon receiving of documents stipulated in Article 90.3.3 of this Code, the auction organizer no later than within 30 days, and for the fast expiry date and sell of foodstuff property, as well as food and non-food products being under risk of spoilage no later than 7 days before the auction date shall publish announcement in mass media on auctioned property.*

90.3.5. *The announcement shall contain the following information:*

90.3.5.1. *the list of property being sold by each lot, location;*

90.3.5.2. *the start sell price of each property in accordance with the list;*

90.3.5.3. *day, deadline and place of acceptance of applications and other documents for participation in the auction;*

90.3.5.4. *information on property owner;*

90.3.5.5. amount of down payment, calculated at 5 percent of starting sale price of real estate, at the volume of 10 percent of the starting sell price of movable property, and bank account to which the payment shall be made;

90.3.5.6. bank accounts to which payments for property sales shall be transferred, and amount of funds which will be transferred to these accounts;

90.3.5.7. date, time and place of auction, contact telephone number;

90.3.5.8. name of the auction organizer, address, contact telephone and other requisites.

90.3.6. From the moment of publication of information, persons, who obtained the right to participate in auction in accordance with legislation, shall be allowed to check the property taken on auction. Upon the check of the property, persons allowed to the auction within 5 days before the auction shall submit to the auction organizer in writing their final decision on whether to participate in the auction.

90.3.7. In the auction can participate the persons, who applied to participate, who prepared the documents required within the required timeframe indicated in the announcement, as well as persons who provided the prove of down payment transfer to the bank account shown in the announcement.

90.3.8. Application for participation in the auction, signed by person or his authorized representative (additionally verified by the seal of legal entity), in accordance with sample established by the customer shall be submitted to the auction organizer with following documents attached to the application:

90.3.8.1. document verifying the transfer of down payment to the bank account indicated in the announcement;

90.3.8.2. for natural persons — notary approved copy of the identification document;

90.3.8.3. for legal entities and (or) individual entrepreneurs— notary approved copy of certificate of taxpayer registration.

90.3.9. Persons are not allowed to the auction if following circumstances are established by the auction organizer:

90.3.9.1. re-organization, liquidation or bankruptcy of legal entities;

90.3.9.2. inaccuracy of information submitted by the person;

90.3.9.3. documents are submitted upon the expiry of the application period;

90.3.9.4. the application is submitted by the person without relevant authority;

90.3.9.5. *not all documents indicated in the list are submitted, or submitted documents have not been prepared in complying order.*

90.3.10. *Auction organizer refuses to accept the documents with indication of causes. Documents of persons, application and documents of which have not been accepted, with written indication of causes of refusal shall be returned within the following business day.*

90.3.11. *Persons submit to the auction organizer the application to participate in auction and attached documents, as well as 2 copies of the list of submitted documentation.*

Each application and attached documents shall be registered by the auction organizer in dedicated log maintained in sequential manner with indicated date and time of application.

Auction organizer returns to the declarant one copy of the list of submitted documents with indication of the date and time of application submission, as well as number in registration log.

90.3.12. *Auction participants are provided with the ticket indicating their number in the auction.*

90.3.13. *The person shall be entitled to re-call its application before the end of application acceptance period. For this he shall apply to the auction organizer in writing.*

In the application acceptant log relevant notes are made to indicate the re-call of the application for participation in the auction.

In accordance with provisions of auction, persons, who re-called their applications at auction, shall be reimbursed for the down payment.

90.3.14. *The decision of the auction organizer to allow in auction the persons, applied to participate in the auction, shall be documented by the protocol. In this protocol shall be indicated the surnames of persons, application of which have been accepted or rejected. Motivations of rejections of applications shall be communicated to persons in writing.*

Relevant persons gain the status of auction participant upon the signing of protocol on acceptance of applications.

90.3.15. *Auction organizer shall take all necessary measures for appropriate filing of all submitted applications and attached documents.*

90.3.16. *Auction organizer:*

90.3.16.1. *provide the organization and conduct of auction;*

90.3.16.2. *verified the fact of implemented or not implemented sale;*

90.3.16.3. *Suspends the auction, in the event of arising of disputes during the auction, until the dispute resolution. If dispute cannot be resolved, declares the auction abortive;*

90.3.16.4. *make the protocol on results of auction and submits to the customer for approval;*

90.3.17. *Auction is held in following order:*

90.3.17.1. *Starting price is announced for the property being sold. During the announcement of starting price or sale price increased upon raise, persons, participating in the auction raise their tickets expressing the agreement to purchase the property at the announced price;*

90.3.17.2. *The auction principal announces every new price three times. If the number of auction participants, who agree to purchase the property at announced sale price is two or more, these price is escalated by customers by raise. If only one customer agrees to purchase the property at the announced sale prices, such customer is considered the winner of auction. In this the auction principal informs on sell of property, its sell prices and winner's ticket number.*

90.3.17.3. *If after 3 time announcement of starting sale price or reduced price on following auction on property none of the participants does not raise the ticket, auction is considered abortive*

90.3.17.4. *If first auction was abortive or the sale of listed property was not conducted separately, 10 days before each auction the announcement shall be made in the mass media, as per article 90.3.5. On second auction the price can be reduced by 10 percent, with reduction by 20 and 40 percent at third and fourth auction relatively, below the starting price of the unsold property or unsold separate part along the list.*

90.3.17.5. *in this the period between the second and next auction shall not exceed 10 days, and in the event of expiry (or expiry within this period) the timeframe between the auctions shall not exceed 3 days;*

90.3.17.6. *it is prohibited to submit to the auction the foodstuffs with expired period. If such property in accordance with legislation is suitable for animal forage, it shall be re-evaluated within 5 days and sold in accordance with procedures stipulated under legislation;*

90.3.17.7. *Upon the end of auction the auction organizer shall made the protocol on results of auction in two original copies and in accordance with legislation the sale and purchasing agreement is signed between the customer and buyer;*

90.3.17.8. *protocol is signed by the winner or his representative, in two copies. The protocol contains brief information on customer and winner, list of sold property and sale price, bank account to which the sale price will be paid, receiving of down payment made by the winner of auction within its obligations under the signed protocol, as well as other rights and responsibilities of parties. Auction winner and auction organizer shall sign the protocol at the completion day of auction. Signed protocol shall be submitted to the seller no later than within 3 days. The sale and purchasing contract indicated the name of facility (listing), price of its purchasing, customer and winner information as well as other data in accordance with legislation. The Contract shall be signed within 5 days from the signing date of protocol.*

90.3.17.9. *if the winner denies to sign the protocol made in accordance with legislation, the down payment is not reimbursed. The Customer denying to sign the protocol, shall return to winner the two times value of down payment, as well as compensate the losses incurred as a result of participation in auction. The size of loss is determined by the agreement between the customer and winner. If parties could not reach the agreement, amount of loss is determined by the court on the basis of application by one of the parties;*

90.3.17.10. *If auction was abortive the down payment is not returned. The down payment of parties participating in the auction but not winning it shall be returned within 5 banking days;*

90.3.17.11. *if auction was abortive the auction organizer shall develop a protocol.*

90.3.18. *Information on results of auction within 15 calendar days from the date of auction shall be published in mass media, where the organizer has announced the holding of auction.*

90.3.18. *No later than within five banking days from the moment of agreement between the winner of auction and customer, funds to be paid by the auction winner shall be transferred to the bank account indicated by the seller. The auction organizer shall submit to the customer the documents that verify costs associated with implementation of auction.*

90.3.18. *Upon the submission of payment document (documents), verifying the complete payment of the value of property (or certain lot) the right of ownership on property (lot) is transferred to the winner of auction.*

90.3.18. *Officials of justice authorities, including officers of court, tax authorities and auction organizer are not entitled to participate directly or indirectly in the role of buyers during sales of listed property at open auction.*

90.4. *Amounts received from selling of seized property shall be directed first to compensate the costs on application of measures for collection and sell of property and then for payment*

of tax, interest and financial sanction amounts. The remaining part of assets, *if not any new taxpayer debts have been formed*, shall be returned to the taxpayer within 3 banking days.

If funds obtained from sell of property are not sufficient for payment of debts to state budget on taxes, interest and financial sanctions or property was not sold in auction in accordance with procedures of legislation by a court officer with the purpose of providing of payment of debts to the state budget , the other property of the taxpayers at the volume of balance of debts can be confiscated in accordance with provisions of legislation.

90.5. Provisions of this article shall be also applied for tax agents.

90.6. The officials and other employees of tax authorities are not allowed to participate *as buyers* in auctions neither directly nor through their representatives.

Article 91. Liabilities of the Purchaser of Assets with Respect to Unpaid Taxes

If a taxpayer's tax liabilities remain unpaid after the seizure of property, a person that purchased a taxpayer's assets in the course of an operation which is not deemed an operation between interrelated persons and was conducted during a three-year period preceding the date that the arrest was implemented, shall be jointly responsible for tax payment in the amount that remains after the deduction of any amounts paid by such person for the purchase of said assets.

Article 92. Responsibility for the withholding of tax at the source of payment

Physical and legal persons that pay income without withholding tax on income (profit) at the source of payment shall bear responsibility, in accordance with the provisions of this Code, for the taxes not withheld or paid to the budget.

Article 93. Writing off bad tax debts

93.1. Bad tax debts shall be written off by the tax authorities, upon a decision of relevant financial authorities, when:

93.1.1. the time to demand tax payment or the term for lodging a claim regarding tax violation has passed;

93.1.2. the tax liability has been annulled pursuant to this Code or other legislative acts;

93.2. In other cases amounts of debts on taxes, interests and financial sanctions *recognised as bad debts by the court judgement* shall be written off in accordance with existing legislation. (21)

Article 94. Responsibility to prove

94.0. The responsibility to prove the errors in calculation of taxes in cases stipulated by this Code shall be laid upon:

94.0.1. tax authorities- if error is made by the taxpayer,

94.0.2. taxpayer- if error is made by the tax authority.

Special Section

Chapter VIII. Income tax from natural persons

Article 95. Taxpayers

Payers of income tax shall be resident and non-resident natural persons.

Article 96. Taxable Base

96.1. The taxable base with respect to the personal income tax of residents shall be the taxable income determined as the difference between their gross income for tax year and expenses (or deductions) stipulated by this Code for this period.

If tax is withheld at payment source the taxable base shall be the taxable income.

96.2. A non-resident taxpayer engaged in activity in the Republic of Azerbaijan through a permanent establishment should be a payer of income tax with regard to taxable income connected with the permanent establishment.

Taxable income shall be a difference between gross income generated in a specific period from Azerbaijani sources with regard to the permanent establishment and the amount of expenses with respect to the generation of said income during that period.

96.3. Non-resident's gross income not stipulated in Paragraph 96.2 of this Article, but stipulated in article 125 of this Code, shall be subject to taxation at the source of payment without consideration of amounts deducted from income.

96.4. A non-resident physical person receiving employment income or income from the transfer of property shall be a payer of income tax with regard to gross income for the calendar year from a source in the Republic of Azerbaijan, reduced by the amount that are attributable to the income for that period, stipulated by this Code.

Article 97. Income

97.1. Income of a resident shall consist of income generated in and outside the Republic of Azerbaijan.

97.2. Income of a non-resident shall consist of income generated from the sources in the Republic of Azerbaijan.

97.3. Income shall cover:

97.3.1. income received as the result of employment;

97.3.2. income from activity which is not (connected with) employment;

97.3.3. all other kinds of income except for tax-exempt income.

Article 98. Income received as the result of employment

98.1. Any payments or benefits received by a physical person from employment, including those received as pension, or otherwise, from the former work-place, or income received by such physical person from future employment shall be income received in the form of salaries and wages.

98.2. For the purposes of Article 98.1. of this Code, the amount of benefit shall be equal to the amount indicated below less any expenses of employee incurred with respect to such benefit:

98.2.1. in the event of loans granted to the natural person at the interest rate which is lower than the inter-bank credit market interest rate — the difference between the amount to be paid at the market rate of inter-bank credit trade for such loans, and amount to be paid in accordance with lower rates;

98.2.2. in the event of the sale of goods, works, services or gratuitous transfer thereof by an employer to his employee - the fair market value of these goods, works, services;

98.2.3. in the event of reimbursement of expenses to an employee - the amount of reimbursement;

98.2.4. in the event of writing off of the employee's debt or obligation to his employer - the amount of such debt or obligation;

98.2.5. *98.2.5. Insurance premiums paid by Employer;*

98.2.6. in any other case - unless otherwise stipulated in instructions, the market value of a benefit pursuant to Article 14 of this Code.

98.3. Reimbursement of actual travel allowances, *and also daily allowances paid to the members of deck crew instead of travel allowances at sea transport, fixed by the respective executive power body* or other expenses, shall not be included in income.

98.4. The amounts and costs stipulated in Article 98.2 of this Code shall include excise, value added tax and any other tax which is subject to payment by employer in relation to the Contract value.

98.5. The income received by employer as the result of costs stipulated in article 109.3 of this Code shall not be a taxable income. (3, 9, 14)

Article 99. Income from activity that is not connected with employment

99.1. Income from activity that is not connected with employment shall consist of incomes from entrepreneurial and non-entrepreneurial activity:

99.2. Income from entrepreneurial activity, including:

99.2.1. income from the realization of assets used for the purposes of entrepreneurial activity;

99.2.2. income received due to the restriction of entrepreneurial activity or agreement to its closing;

99.2.3. amounts that are received from the realization of fixed assets and which are included in income pursuant to Article 114.7. of this Code;

99.2.4. expenses reimbursed, deducted from income according to Article 141 of this Code or from decrease of resources;

99.3. Income from non-entrepreneurial activity, including:

99.3.1. interest income;

99.3.2. dividends;

99.3.3. income from the lease of property;

99.3.4. royalty;

99.3.5. amount of taxpayer's written-off debt, except those included in article 98.2.4. of this Code;

99.3.6. gains received from the sale of assets not used for entrepreneurial activity;

99.3.7. amount of presents and heritage received in calendar year, with exception of those specified in article 98.2.2. of this Code;

99.3.8. any other income that indicates the increase of the net price of taxpayer's assets (*in the event of submission or calculation of amortization for the taxation purposes*) - other than salaries and wages.

99.3.9. Difference between insurance premiums paid for life insurance and insurance payments.

Article 100. Adjustment of income

Dividends, interests, leasing fees and royalty for which the withholding tax is applied in the Azerbaijan Republic in accordance with Articles 122, 123 and 124 of this Code, shall be deducted from the profits.(21)

Article 101. Income tax rates

101.1. The monthly income shall be taxed at following rates:

Table 1

Amount of monthly taxable income	Amount of tax
Up to 2000 manats	14 percent
Over 2000 manats	280 Manats + 35 30% of the amount exceeding 2000 manats

Income tax from the incomes of natural persons, working under contracts in two or more places, shall be calculated separately from the amount paid by each employer, and paid to the state budget.

Income tax of natural persons, subject to withholding tax in accordance with Articles 150.1.1, 150.1.2, 150.1.3 and 150.1.7 of this Code shall be calculated in accordance with table 1, stipulated under this Article and paid to the state budget.

101.2. The annual income on non-entrepreneurial activity shall be taxed at following rates:

Table 2

Amount of taxable annual income	Tax amount
Up to 24000 manats	14 percent
Over 24000 Manats	3360 Manats + 35 30% of the amount exceeding 24000 manats

(3, 9, 14, 21)

101.3. From the physical persons carrying out entrepreneurial activity without creating a legal entity, tax is withheld at the rate of 20 percent of the taxable profits.

Article 102. Exemptions and privileges on income tax

102.1. The following income of physical persons shall not be subject to income tax:

102.1.1. wages obtained abroad by employees of diplomatic services, assigned to work in foreign states within rotation program, and by officers of the diplomatic service, engaged in administrative and technical services, income from official employment, received by employees of diplomatic and consular services, which are not the citizens of Azerbaijan;

102.1.2. income from the work-place of a person who is not a resident of the Azerbaijan Republic - if this income is paid by an employer or in the name of an

employer who is not a resident of the Republic of Azerbaijan and is not paid by a permanent establishment of a non-resident;

102.1.3. income received as gift, moneyed assistance, *lump-sum grant* and inheritance in calendar year:

102.1.3.1. Part of the value of gifts, moneyed assistance, lump-sum grant for the payment of education and medical treatment fees amounting to up to 1000 manats, part of the value of the moneyed assistance, lump-sum grant for the payment of medical treatment abroad amounting up to 2000 manats, part of the value of succession amounting up to 20000 manats.

Persons, who received payments for education or medical treatment services, such privilege is provided only in cases, when they submit relevant documents, verifying the payments of these amounts as appropriate;

102.1.3.2. in the event that a gift or inheritance is received from family members of the taxpayer- the entire value of such gift;

102.1.4. With the exception of allowances paid in connection with the temporary loss of ability to work (earning capacity), government allowances, irreplaceable government transfers, government pensions, government living allowances, in case of termination of labor contract due to reduction of the number of employees and staff, allowances paid to employees in accordance with Labor Code of the Azerbaijan Republic, as well as one-time individual payments or moneyed assistances from the resources of the State Budget based on the Laws of the Azerbaijan Republic and decisions of the appropriate government authorities.

102.1.5. alimony;

102.1.6. If monthly income of the physical person received in relation with employment on the main place of work (at the place where labor record is maintained) is up to 200 manats, then the part in the amount of 1 minimum salary, if annual income is up to 2400 manats, then in the amount of 12 minimum salaries.

102.1.7. income from the realization of movable tangible assets, except for precious stones and metals, precious stone and metal products, fine art works, antique items as well as property which is used in the entrepreneurial activity of a taxpayer.

102.1.8. funds paid by money or in kind in the event of insurance case for compensation of damage to the life of an insured and beneficiary, as well as damages to his property and property interests, and also all types of mandatory and voluntary medical insurance premiums paid by employer, insurance premiums paid by employer to insurers of the Azerbaijan Republic on accumulative life insurance and pension insurance under contract concluded for not less than 5 3 years, any amounts paid to the insured and beneficiary after 5 3 years term from the moment of entering the accumulative life insurance and pension insurance contract into effect.

102.1.9. income from the realization of immovable property which was the place of residence of a taxpayer for not less than 3 years;

102.1.10. compensation payments related to the compensation of losses caused;

102.1.11. income received directly from production of agricultural products;

102.1.12. income of physical persons from craft production of copper, tin and pottery products, house appliances, gardening instruments, national music instruments, toys, souvenirs, house appliances made of reeds and cane, involved in embroidery and production of house appliances from wood;

102.1.13. the amount of wins received from lotteries officially registered by *respective executive power body, as well as obligations of the internal state winning bonds*;

102.1.14. Compensation payment to natural persons:

102.1.14.1. the amount of additional payments stipulated under the legislation, as well as daily travelling expense payments to the crews of marine transport, established by the relevant executive authority instead of daily travelling expenses to the workers, which are always on road during business hours, or their work at field site and field organizations;

102.1.14.2. amounts of travelling expenses stipulated under legislation (daily food allowance, utility and transportation costs);

102.1.14.3. amounts of expenditure, paid in accordance with procedures approved by the legislation at the expense of the employer for medical examination of employees involved in difficult, health deteriorating and hazardous areas;

102.1.14.4. the amount of free of charge treatment milk and other equivalent products provided to employees, engaged in areas with health deteriorating, heavy work conditions and underground work, as well as the value of special cloth, shoes and other personal protection equipment, issued to the employees within required time and required assortment;

102.1.14.5. amounts of allowances paid by the enterprises and organization to students, master of sciences, directed to receive the education out of work;

102.1.14.6. lump sum aid provided on the basis of decisions of relevant executive authorities, as well as foreign states and other organizations due to natural disasters and other emergency circumstances;

102.1.14.7. amounts of compensation paid to donors for the blood;

102.1.14.8. payment for the diving job;

102.1.14.9. financial aid, paid by public entities, charity societies and funds;

102.1.14.10. All types of payments to military servicemen, prosecutor office employees, associates of law-enforcement agencies and special telecommunications services, having special ranking (with exception of official payments and for military (special) rankings), as well as all types of wages and other financial payments to persons cooperating with investigation authorities, intelligence and counter-intelligence services;

102.1.14.11. Amount of allowance paid by the employer in accordance with legislation of due to call of the employee for military and alternative service;

102.1.15. the complete value of prizes received as goods on competitions and tournaments. The value of monetary prizes received on international competitions and tournaments - up to 4000 manats, and for those received in in-country competitions and tournaments- up to 200 manats.

102.1.16. Lump sum, paid as a result of voluntary retirement of the state employee reaching pensionable age;

102.1.17. Monthly allowance to official salary of the members of Milli Mejlis of the Azerbaijan Republic for compensation of costs related with implementation of delegation authorities and monthly allowance to official salaries of the officials of executive power authorities of the Azerbaijan Republic, appointed to positions by the decisions of relevant executive authority, as well as other state authorities (agencies) for compensation of representation costs, related with implementation of their duties.

102.2. The monthly taxable income from any type of employment shall be reduced by the amount of 400 manats for following persons:

102.2.1. National Heroes of the Azerbaijan Republic;

102.2.2. Heroes of the Soviet Union and Social Labor;

102.2.3. persons awarded with all three degrees of the Honorary Order;

102.2.4. disabled people of disability groups I and II;

102.2.5. widowed wives (husbands) of war participants who were killed at war or died later;

102.2.6. income of persons who were awarded orders and medals for heroic labor in the home front during the years of 1941-1945.

102.2.7. persons who received the status of war veterans in accordance with legislation;

102.2.8. persons who acquired radiation and radiation sickness or had these diseases as a result of accidents at Chernobyl AES, radiation accidents in civil or military atomic facilities, as well as tests, training or other work related to any kind of nuclear facilities (installations) and nuclear weapons and space technology;

102.3. The monthly taxable income of disabled people of I and II groups (except for veterans of war), *persons under age of 18 with limited levels of health* from any type employment shall be reduced by the amount of *100 manats*.

102.4. The taxable income of the following persons from employment shall be reduced by the amount equal to *55 manats*:

102.4.1. parents of war participants who were killed at war or died later, including parents and wives (husbands) of people in state service who died during the performance of their duties. Such privilege shall be granted to the wives (husbands) of these persons, provided that they have not married again;

102.4.2. parents and wives (husbands), including children living together with them, of persons who were killed as a result of the intervention of Soviet troops on January 20, 1990 and during the protection of the integrity of the territory of the Republic of Azerbaijan. Such privilege shall be given to the wives (husbands) of these persons, provided that they have not married again;

102.4.3. military officials involved in the training and test gatherings and military servicemen who were sent to Afghanistan and other countries where war operations were conducted;

102.4.4. any of the parents (according to their own decision), wife (husband), guardian or patron taking care of *a child with limited level of health* with whom they live together, who need a permanent care and who is an invalid from childhood or belongs to the 1st group of disability;

102.4.5. displaced people and persons of similar status. *This privilege in accordance with housing legislation or civil legislation deals is not applicable to persons, residing permanently as a result of obtaining of personal dwelling space.*

102.5. The taxable monthly income of a spouse caring for three persons, to include pupils and students under the age of 23, shall be reduced by an amount equivalent to *20 manats* of such spouse.

This rule shall be valid for children until the end of the year they reach the age of 18, for students — age of 23, or in the event a of death of children or persons under patronage.

The taxable income of physical persons shall be reduced beginning from the year when children are born or when patronage starts.

When the number of persons under patronage lessens (except in the case of death) during a year the deduction of an amount for the support of persons under patronage shall be

terminated starting from the month following the month in which the number of such persons lessened.

102.6. The following shall not be persons under patronage:

102.6.1. persons who receive a scholarship, pension, and unemployment grant (other than children);

102.6.2. persons who are on state maintenance (students of technical colleges, children maintained in nurseries and kindergartens);

102.6.3. students of special schools and children maintained at boarding schools for whose maintenance guardians are not charged, as well as children maintained at boarding schools attached to state maintained schools.

102.7. If a physical person has several grounds for the right to privilege in accordance with articles 102.2, 102.3 and 102.4 of this Code such person shall be entitled to one of these privileges which is greater in amount.

102.8. During calculation of tax levied from the salary, a physical person's right to tax privileges stipulated in this Article shall arise upon the submission of documents determined by the relevant central executive authorities of the Republic of Azerbaijan and shall be exercised *at the main place of work (at the place where such labor record is maintained)* (1, 3, 8, 9, 11, 12, 14, 16, 17, 21, 22, 23)

Chapter IX. Profit tax from legal persons

Article 103. Taxpayers

103.1. Resident and non-resident enterprises in the Azerbaijan Republic shall be payers of profit tax.

103.2. Any foreign person who is not a physical person shall be treated as an enterprise for the purposes of this Article, unless it proves that it should be treated as a joint ownership pursuant to Article 137 of this Code.

103.3. Provisions of Articles 103.1 and 103.2 of this Code shall not be applied for the purposes of Article 13.2.39.3. of this Code.

Article 104. Taxable Base

104.1. The profit of a resident-enterprise shall be a taxable base. Profit shall be defined as difference between *all incomes* of a taxpayer (except for the income that is exempt from tax) and expenses (deductions) stipulated in Chapter X of this Code from the income.

104.2. A non-resident enterprise operating in the Republic of Azerbaijan through its permanent establishment shall pay tax on its profit, i.e. on gross income generated from

Azeri sources in relationship with the permanent establishment less the amount of expenses incurred with respect to such income as outlined in this Code.

104.3. The gross income of a non-resident enterprise not connected with the permanent establishment shall, if so provided in Article 125 of this Code, be taxed at the source of payment without expenses being deducted.

104.4. A non-resident enterprise generating income through the transfer of property not connected with the permanent establishment shall pay tax on said gross income received during a calendar year from an Azerbaijani source. Said tax shall be paid after the deducting the expenses as outlined in this Code and which relate to such income.(15)

Article 105. Tax Rates

105.1. An enterprise's profit shall be taxed at the rate of 20 percent.

105.2. The gross income (with deduction of VAT and excises) of non-resident, not connected with the activity of his permanent establishments but received from Azerbaijani source shall be taxed at the rates stipulated in Article 125 of this Code.(6, 9, 14)

Article 106. Exemptions and privileges

106.1. The following shall be exempt from tax:

106.1.1. income of charitable organizations - except for the income from entrepreneurial activity

106.1.2. grants, membership fees and donations received by non-commercial organizations;

106.1.3. income of international, interstate and intergovernmental organizations - except for the income received from the entrepreneurial activity;

106.1.4. income of state power authorities, budget-funded organizations and local managing authorities (except for the income from entrepreneurial activity);

106.1.5. income of the Central Bank of the Republic of Azerbaijan, its structures and State Oil Fund of the Azerbaijan Republic (with exception of profits made from allocation of its funds), as well as the Fund of Deposit Insurance;

106.1.6. received insurance payments (with exception of amounts of losses connected with each insurance case).

106.1.7. Income of special educational institutions, established for education of persons with poor health - except for income, gained as a result of business activity.

106.1.8. Income from writing-off tax debts to the state budget in accordance with legislation of the Azerbaijan Republic

106.2. Income tax rate for production enterprises owned by public organizations of disabled people, *or children with limited levels of health* shall be reduced by 50 percent if not less than 50 percent of employees at such enterprises are disabled people, *or persons under age of 18 with limited levels of health*.

When establishing the right for the privilege the average number in the list of employees shall not include disable people *or persons under age of 18 with limited levels of health* who work on contract terms at two jobs, as contractors and other agreements civil legislation.

Chapter X. Articles concerning income taxes of natural and profit taxes of legal persons

Article 107. Area of Application

This section shall be applied for the purposes of the income tax and profit tax.

Article 108. Expenses connected with the generation of income

Except for non-deductible expenses determined under this Article, all expenses *as well as mandatory payments stipulated under the law* connected with obtaining income shall be deducted from such income.

Article 109. Non-Deductible Expenses

109.1. Expenses incurred on the acquisition and installation of fixed assets as well as other expenses that are characterized as expenses incurred on capital pursuant to Article 143 of this Code shall not be deducted.

109.2. Expenses that are not connected with economic activity shall not be deducted.

109.3. Deductions shall not be allowed with respect to representation or entertainment expenses, as well as expenses connected with food (*with exception of costs on preventive health food, milk and equivalent products, as well as costs on food for the offshore crews within norms established by the relevant executive authority*) and accommodation.

109.4. If the expenses of a taxpayer whose entrepreneurial activity is of entertainment nature are incurred within the framework of such activity, expenses incurred on entertainment shall be deducted from the income.

109.5. No deductions shall be allowed with respect to the expenses of a physical person incurred on personal consumption or receipt of the salary (wages).

109.6. Deductions to reserve funds shall be made from income only in accordance with articles 111 and 112 of this Code.

109.7. No deductions shall be allowed with respect to the actual travel costs exceeding the limit established by relevant authority of the executive power.(15)

Article 110. Limitation of Interest Deduction

110. Actual amount of interest on debts obtained from abroad, and also paid to each other by interconnected persons (when applying payment method-amount of interest on payment), shall be deducted from the profit within period for which interests are applied, at the same currency and at the amount not exceeding 125 percent of the average interest on inter-bank trade on credits with similar periods, or, if no trade was conducted - on inter-bank credits published by the Central Bank of the Azerbaijan Republic.(6)

110.2. The maximum amount of deductible interests from the income in accordance with article 110.1. of this Code or interests to be paid on mutual debts of interrelated persons shall be restricted to the amount determined by the following formula:

$$O_C = \Delta_{\Pi} + 50\% (\Delta_B - \Delta_{\Pi} - B)$$

with,

O_C - as limited amount

Δ_{Π} - taxpayer`s any interest income

Δ_B - taxpayer`s gross income

B- the amount deducted from gross income (with exception of the amount deducted from interest income)

Article 111. Deduction of bad and debts

111.1. A taxpayer shall be entitled to a deduction for doubtful debts connected with goods, work and services that have been realized where income from them was previously included in the gross income received from entrepreneurial activity.

111.2. Doubtful debt deduction shall be allowed only if the debt is written off as worthless in taxpayer`s books.

111.3. Banks and credit entities engaged in certain types of banking activities shall be entitled dependent from classification of assets in order established under legislation, to deduct from income amounts assigned for establishment of special reserve funds in accordance with procedures established by the relevant executive authority.(6)

Article 112. Deductions for allocations to reserve insurance funds

A legal entity engaged in insurance activity shall be entitled to deduct allocations to reserve insurance funds within the norms established by the legislation of the Republic of Azerbaijan.

Article 113. Deductions for expenditures on research, project-research and experimental-design work

Expenditures on research, project-research and experimental-design work connected with the receipt of gross income (except for the expenditures on the acquisition of fixed assets, their installation and other expenses of a capital nature) shall be deductible.

Article 114. Amortization charges and deductions for *depreciated assets*

114.1. Amortization charges for fixed assets used in entrepreneurial and non-entrepreneurial economic activity, specified in article 99 of this Code, shall be deductible in accordance with the conditions of this Article.

114.2. Land, arts, buildings, facilities representing rare historical or architectural monuments, as well as other wear-proof assets, determined under this Article shall not be depreciated:

114.2.1. equipment, exhibits, equipment, samples, operational and non-operations models, mock-ups and other visual aids used in cabinets and laboratories of for scientific, educational and practical purposes;

114.2.2. productive livestock (pedigree cows, buffalos, mares, camels, pigs, deer, sheep, goats; pedigree bulls, studs, camels and other similar productive cattle);

114.2.3. exhibits of fauna located in zoos and other similar facilities;

114.2.4. perennial plants;

114.2.5. library funds, film funds (video, audio, photo), stage requisites, museum exhibits;

114.2.6. completely depreciated main assets if suitable for operation;

114.2.7. main assets undergone conservation;

114.2.8. public motor roads;

114.2.9. public park equipment;

114.2.10. main assets at stores, not issued for operations.

114.3. Annual amortization rates as per depreciated assets shall be classified as follows:

114.3.1. Buildings, facilities and installations, structures - up to 7%;

114.3.2. Machinery, equipment and calculation technology - up to 25%;

114.3.3. Transport means - up to 25%;

114.3.4. Draft animals - up to 20%;

114.3.5. Costs on geological exploration and preparation work for production of natural resources - up to 25%;

114.3.6. non-tangible assets- for those with undetermined period of use- up to 10 percent, for those with determined period of use- at years on amounts pro-rata to period of use;

114.3.7. Other fixed assets- up to 20%;

114.4. Amortization charges on each main category is calculated by applying the amortization levels established for fixed assets, related to each category, indicated in Article 114.3. of this Code as for the end of the tax year.

If amortization charges applied are lower than those that are established for the tax year on fixed assets related to any category, the difference created as the result of this can be added to the amounts of amortization deducted from income in future tax years.

114.5. Amortization for buildings and structures (hereinafter - buildings) shall be charged for each building separately.

114.6. For the purposes of calculation of amortization the residual value on main assets (main asset) at the end of tax year shall be the amount established in following order (not less than zero):

- *To add value of main assets (main asset) obtained within current year in accordance with Article 143 of this Code and above limit part of repair costs for previous year established on the basis of Article 115 of this Code to the residual value of main assets (main asset) at the end of previous year (value upon the deduction of amortization amount calculated for subject year), minus residual value of main assets, submitted, liquidated within the tax year or having residual value of less than 100 manats or 5 percent of initial value.*

114.7. If the amount obtained from provision of main assets (main asset) exceeds the residual value of these main assets (main asset), the difference shall be included as income.

114.8. If the residual value of main asset at the year-end is less than 100 manats or 5 % of initial value, the amount of residual value shall be deducted from income.

114.9. If amount obtained from provision of main assets (main asset) is less than the residual value of these main assets (main asset), the difference shall be deducted from income. (3, 6, 9, 11, 14, 15)

Article 115. Deductions for repair expenses

115.1. The amount of repair expenses deductible each year shall be limited as of the *previous* year-end for each category of fixed assets - *2 percent of remaining value at the end of year of category of main assets, specified in Article 114.3.1 of this Code, 5 percent of main assets at the end of year of assets, shown in Articles 114.3.2 and 114.3.3, 3 percent of the remaining value at the year end of the category of main assets specified in Article 114.3.7, and zero (0)*

percent on main assets, to which the depreciation is accounted, in accordance with value. In event when the actual amount of repair expenses is less than amount established by this limit than the actual amount of repair expenses shall be deductible from income.

In such case the maximum value of expenses in following tax years shall be increased by the difference between the amount of actual repair costs and amount calculated on established limit.

115.2. Amount, exceeding the limit established under Article 115.1 of this Code shall be assigned for increase of residual value of main assets (main asset) at the end of current tax year.

Costs associated with maintenance of main assets, which are not depreciated, for which the wear (depreciation) is not accounted shall not be deducted from income and their balance value is increased.

115.3. The procedure on deduction from income of costs for the repair of leased fixed assets shall be established in accordance with Articles 115.4 - 115.8 of this Code.

115.4. The amount of costs deducted from incomes for maintenance of leased main assets shall be limited by interest range stipulated under Article 115.1 of this Code from the remaining value at the end of previous year for each category of main assets.

115.5. Terms, provisions of transfer of main assets for leasing, as well as costs for their maintenance shall be agreed between the Lesser and Lessee in the contract made, as stipulated under the legislation.

115.6. If repair work is conducted at the expense of Lesser, or Lessee, during the compensation of leasing payment, provisions of Article 115 of this Code shall not be applied to Lesser.

115.7. If the residual value of each category of main assets by the end of previous year is equal to zero, the actual amount of repair costs shall be assigned to residual value of relevant category of main assets and depreciation is calculated in accordance with provisions of this Code.

115.8. Provisions of this Code shall only limit the amount deducted from income for repair and do not prevent from implementation of repairs at the expense of other sources of taxpayers. (6, 9)

Article 116. Deduction for insurance payments

116.1. Insurance payments that are paid by insured parties under insurance agreements shall be deducted, with the exception of insurance payments on property damage insurance to employees' favour, as well as life insurance made by foreign insurance organizations.

116.2. Insurance premiums paid on foundation of insurance agreements between a physical person and insurers of the Republic of Azerbaijan on stock life insurance and pension insurance foreseeing delivery of insurance payment after 3 years from the day of coming into

force of insurance agreement, are withheld by the employer with the purpose of taxation, from the income received by a physical person in connection with employment.

Insurance payments, paid on stock life insurance and on pension insurance, withheld by the employer from the income of a physical person in connection with employment, are withheld only after payment to the bank account of the insurer by the bank.

116.3. In the case of cancellation of the insurance agreement foreseen by the article 116.2 of the following code before the term, made insurance payments are taxed at the source of payment by the insurer.

Article 117. Expenses on geological surveying and preparatory work for the production of natural resources

117.1. Expenditures on geological surveying and preparatory work for the production of natural resources shall be deductible from gross income as amortization charges at the rates stipulated in Article 114 of this Code.

117.2. This Article shall apply also to expenditures on intangible assets incurred by the taxpayer in connection with the acquisition of rights to geological surveying and processing or exploitation of natural resources.

Article 118. Deductions from income of expenses on intangible assets

118.1. Intangible assets shall include expenses of legal and physical persons on intangible objects used for more than one year in economic activity.

118.2. Expenditures on intangible assets shall be deductible from income as amortization charges at the rate stipulated in Article 114 of this Code.

118.3. When costs on purchasing and production of intangible assets are deducted from income during calculation of taxpayer's taxable income, specified costs shall not be related to the value of intangible assets to be amortized.

Article 119. Limitation of deductions from income

119.0. No deduction shall be allowed with respect to the following taxes, *interests, calculated for delayed payment of taxes, stipulated under this Code* and financial sanctions:

119.0.1. profit tax or any other tax calculated on profit which has been paid in the territory of the Republic of Azerbaijan or other countries;

119.0.2. financial sanctions, *interests, calculated for delayed payment of taxes, stipulated under this Code*, paid.(11)

Article 120. Losses upon the realization of property

Losses arising upon the realization by a physical person of property (except for property used for economic activity or property the income upon the realization of which is exempt from tax) shall be compensated from the gains received upon the realization of such property. If the losses cannot be compensated in the year in which they took place, they shall be carried forward for a period of up to *three* years and compensated from the income received from the gains upon the realization of property.(14)

Article 121. Loss Carry-Forward

121.1. Part of expenses exceeding the profit, which is allowed to exclude from the profits of the enterprise, shall be switched to the next period continuing for up to five years, and shall be compensated at the expense of the profits of these years with no limitation on years.

121.2. With respect to physical persons, expenses deductible from gross income generated from the non-entrepreneurial economic activity, which exceed said gross income may not be deducted from salaries and wages, but shall be carried forward for a period of up to *three* years and shall be covered at the expense of the gross income generated from entrepreneurial economic activity of future periods. (9, 14, 21)

Article 122. Withholding of tax at the source of payment

122.1. Dividends paid by resident enterprises shall be subject to taxation at the source of payment at a rate of 10 percent.

122.2. If dividends are taxed pursuant to Article 122.1 of this Code from natural and legal persons, then the specified income of natural and legal persons shall not be taxed again.

Such income shall not be liable to taxation when paying it repeatedly as dividends.

Article 123. Withholding of tax on interest at the source of payment

123.1. If income received from Azerbaijani source in accordance with Article 13.2.16. of this Code, interests paid by resident or non-resident's permanent establishment or on behalf of such establishment with exception of interests paid on credits (loans), *deposits (accounts)* of resident-banks, *including, from loan interests paid on financial leasing operations, to resident persons carrying out financial leasing* or non-resident banks, or permanent establishment *of a non-resident carrying out financial leasing* shall be taxed at the source of payment at a rate of 10%.

123.2. If the actual owner of interest is a natural person, interests from which taxes are levied, upon their payment to natural person shall not be taxed.

123.3. If the actual owner of interest is a taxable resident enterprise or the permanent establishment of non-resident then the specified enterprise or permanent establishment of non-resident receiving the interest in accordance with Article 123.1 of this Code, from which taxes are levied shall reduce the amount of tax paid at the source if documents are provided to confirm the payment of tax at the source of payment.

123.4. Income received as difference between the payments by and to insured shall be taxed at the rate of 10 percent. (6, 14)

Article 124. Withholding of tax from rent payment and royalty at the source of payment

124.1. If the income from the rent payment of movable and immovable property, income from royalty paid by the resident or permanent establishment of non-resident in the Azerbaijan Republic or paid on his behalf received in accordance with article 13.2.16. of this Code from Azerbaijani source such income shall be taxed at the source of payment at the rate of 14 percent.

If leasing payment is paid by natural person, who is not registered as taxpayer, Lesser in accordance with this Article shall pay the tax himself and upon the registration shall submit the declaration in accordance with Articles 33 and 149 of this Code at the rate of 14 percent

124.2 If tax is withheld from natural person receiving the leasing payment or royalty, or paid in accordance with Article 124.1 of this Code, the tax is not withheld from such incomes

124.3. Amounts paid to resident enterprises in the Azerbaijan Republic and permanent establishments of non-residents shall not be a taxable base under this Article.

124.4. Minimum amount of monthly leasing payment for the purposes of taxation of immovable property (with exception of resident housing fund) in the Azerbaijan Republic shall be established by relevant executive authority.(11, 15)

Article 125. Withholding of tax on income of non-residents at the source of payment

125.1. Gross income of a non-resident from an Azerbaijani source that is stipulated in Article 13.2.16. of this Code and that is not attributable to the permanent establishment of the non-resident located in the territory of the Republic of Azerbaijan shall be subject to taxation at the source of payment without deduction of costs at the source of payment at the following rates:

125.1.1. dividends - according to Article 122 of this Code;

125.1.2. interests - according to Article 123 of this Code;

125.1.3. insurance payments of resident-enterprise or entrepreneur under risk insurance or reinsurance agreements - 4 percent;

125.1.4. payments by a resident enterprise or an individual enterprise for telecommunication or transport services during international communications or shipments between the Republic of Azerbaijan or other states - 6 percent;

125.1.5. the following payments by a resident enterprise or an individual enterprise, connected with employment, including the income from services specified in articles 13.2.16.2, 13.2.16.10 (with exception of profits obtained as royalty for property, stored or used in the Azerbaijan Republic), 13.2.16.12 (with exception of profits

made as a result of leasing of immovable property in the Azerbaijan Republic) and 13.2.16.14. of this Code, as well as income received from the Azeri source - 10 percent;

125.1.6. income in the form of wages paid by a resident enterprise or an individual enterprise - at the rates specified by Article 101 of this Code;

125.1.7. rent payment and royalty- in accordance with Article 124 of this Code.

125.2. For the purposes of this Article, payments made by or on behalf of the permanent establishment of a non-resident in the Republic of Azerbaijan or on his behalf, shall be considered to be made by a resident enterprise.

125.3. In case if the international treaties on avoidance of double taxation with participation of the Azerbaijan Republic stipulate the low tax rate or full exemption from taxes, then tax amount which was overcharged from the source of payments will be refunded in an order stipulated by the article 87.4 of this Code. (3, 14, 15)

Article 126. Taxation of net profit of non-resident's permanent establishment at the source of payment

In addition to profit tax of non-resident's permanent establishment from any amount of net income of this permanent establishment *at the source of payment*, transferred (issued) to the favor of such non-resident tax shall be withheld at the rate of 10 percent.(9)

Article 127. Foreign Tax Credit

127.1. Amounts of income tax or profit tax of resident enterprise paid outside the Republic of Azerbaijan from the incomes of not Azerbaijani source shall be credited upon the payment of tax in the Republic of Azerbaijan.

127.2. The amounts of the credit stipulated in Article 127.1 of this Code shall not exceed the amount of tax charged on that income or profit in the Republic of Azerbaijan at the rates in effect in the Republic of Azerbaijan.

Article 128. Income received in countries with concessive taxation

128.1. If a resident directly or indirectly holds more than 20 percent of the basic charter capital or possesses more than 20 percent of the voting shares of a foreign legal entity that, in turn, received income from a state with concessive taxation, said income of the resident shall be included in its taxable income.

128.2. A foreign state shall be considered a state with concessive taxation, if in that country the tax rate is 2 or more times lower than that determined under this Code, or if there exist laws on confidentiality of information about companies, which allow secrecy to be maintained concerning financial information, as well as the actual owner of property or income (property) receiver.

Article 129. Tax year

A tax year shall be a calendar year.

Article 130. Procedure for recording income and expenditures

130.1. With a view to reflecting clearly taxable income (or profit), the taxpayer shall be obliged to maintain accurate and timely records of income and expenditures on the basis of documented data and shall assign, using methods provided for in this Chapter, said income and expenditures to relevant reporting periods during which they were received or incurred. The method used by taxpayer shall take account of all requirements concerning the moment of expenditures and receipts and procedure for their accounting. Taxpayer can use cash basis or accrual basis method as an accounting method.

Legal and physical entities shall keep the records of profit and losses according to the current legislation of the Azerbaijan Republic. With taxation purposes the profit and losses are established on the basis of this Code. (3)

130.2. Taxpayer shall be obliged to ensure that all operations connected with its activity are recorded in such a manner that their beginning, course and end can be discerned.

130.3. Subject to the provisions of this Article, taxable income shall be calculated by the method used by the taxpayer for his own book-keeping, provided that adjustments necessary for meeting the requirements of this Code are incorporated.

130.4. Taxpayer may use cash method or accrual method of tax accounting, provided that the same method is applied by taxpayer during a year.

130.5. If the accounting method of taxpayer is changed, adjustments to accounting operations affecting the tax amount shall be effected in the year that the accounting method changed, so that none of the operations is left out or included twice.

Article 131. Procedure for recording income and expenditures using the cash basis method

Taxpayer using cash method shall account for income at the moment that it actually receives such income or such income is transferred to its disposal and for expenses - at the moment that these expenses are actually incurred.

Article 132. Moment of receipt of income when using the cash basis method

132.1. The moment of receipt of income shall be considered the moment that cash monies are received. Should non-cash payment be made, the moment of the receipt of income shall be the moment said monies are transferred to taxpayer's bank account or to another account at his disposal or from which he is entitled to receive said resources.

132.2. In the case of annulment or discharge of taxpayer's obligation, i.e. in the event of mutual offsetting, the moment of the receipt of income shall be considered the moment that the obligation is annulled or discharged.

Article 133. Moment of carrying out expenses when using the cash basis method

133.1. When taxpayer uses the cash method for tax accounting purposes, the moment of carrying out expenses shall be the moment that these expenses are actually incurred unless otherwise provided for in this Article.

133.2. If taxpayer pays out cash monies, the moment of incurring expenses shall be the moment the monies are paid. Should non-cash payment be made, the moment of incurring expenses shall be the moment that the bank receives the order of the taxpayer to transfer said funds.

133.3. In the case of the annulment or discharge of taxpayer's financial obligation, i.e. in the event of mutual offsetting, the moment of carrying out expenses shall be the moment that the financial obligation is annulled or discharged.

133.4. When paying interest on a debt obligation or making payments for rental property (if the term of the debt obligation or rental agreement extends over several reporting periods) the amount of interest (or rent) actually paid, which is deductible for the tax year shall be deemed as the amount of interest (or rent) calculated for that year.

Article 134. Recording income and expenditures using the accrual basis method

Taxpayer maintaining records using the accrual basis method shall record income and expenditures based on the moment of the acquisition by taxpayer of the right to that income or of the acknowledgment of the expenditures, respectively, regardless of the moment that the income is received or the expenditures are incurred.

Article 135. Moment of the receipt of income when using the accrual basis method

135.1. The right to receive income shall be considered to have been acquired if the relevant amount is subject to unconditional payment to taxpayer or taxpayer has fulfilled all its obligations under the transaction.

135.3. If taxpayer fulfills work or provides services, the right to receive income shall be considered to have been acquired at the time when the fulfillment of such work under the agreement has been fully completed.

135.3. If taxpayer receives income, or has the right to receive interest income or income from the lease of property, the right to receive income shall be considered to be acquired at the moment of expiration of the term of the debt obligation or lease agreement. If the term of the debt obligation or lease agreement extends over several reporting periods, the income shall be distributed among these reporting periods according to the procedure for the calculation of this income.

Article 136. Moment of carrying expenditures when using the accrual basis method

136.1. When taxpayer uses the accrual basis method in tax accounting, the moment of carrying expenditures in respect of a transaction (agreement) shall, unless otherwise provided by this Article, be considered when all the following condition are fulfilled:

136.1.1. taxpayer's acceptance of a financial obligation can be acknowledged indisputably;

136.1.2. the amount of the financial obligations can be valued with sufficient accuracy; and

136.1.3. all of the parties to the transaction (agreement) have actually fulfilled all their obligations under the transaction (agreement) or the relevant amounts are subject to unconditional payment.

136.2. In relation to the above mentioned, financial obligations shall be such obligations assumed according to a transaction (agreement), for the fulfillment of which the other party to the transaction (agreement) will be required to pay relevant income in monetary or other form.

136.3. When paying interest or rental on a leased property the debt obligation term or lease agreement term shall cover few reporting periods, the income shall be distributed among these reporting periods in accordance with the procedure for their calculation.

Article 137. Distribution of income from joint ownership

In the case of joint ownership agreements or agreements that involve ownership by more than one person without establishing a legal person, income and expenditures resulting from said agreements shall be attributed to owners according to the agreement and tax shall be imposed according to the participating interest of such owners.

Article 138. Income and deductions under long-term contracts

138.1. «Long-term contract» - shall mean a contract on production (manufacture), installation or construction, or the performance of related service, which is not completed within a tax year. Contracts to be completed within 6 months of the date on which work under such contracts commenced shall be an exception.

138.2. If taxpayer uses the accrual method of accounting, income and deductions with respect to long-term contracts shall be accounted for during the tax year in accordance with the actual percentage of completion of such contracts.

138.3. Percentage of a completion of a contract shall be determined by comparing the expenditures borne by the end of the tax year against the total expenditures under the contract.

138.4. Provisions of Article 138 of this Code shall not be applied to simplified tax payers for operations in residential housing constructions. (15)

Article 139. Procedure for Recording Stocks of Commodities and Materials

139.1. Taxpayer shall be obliged to include in stocks of commodities and materials any goods in its possession and to be used for subsequent sale or for production of goods, doing work or providing services.

139.2. When accounting for commodity and material stocks, taxpayer shall be obliged to reflect in tax accounting the value of goods produced or acquired by it, such value being determined on the basis of the production cost or purchase price of these goods, respectively. Taxpayer shall also be obliged to include storage or transportation costs on these goods in their value.

139.3. When recording commodity and material stocks, the taxpayer may assess the value of obsolete, defective or out-of date goods (or products), that cannot be transferred at a price higher than their production cost or purchase price for the same reasons, on the basis of the price at which said goods (or products) can be transferred.

139.4. The taxpayer holds the right to keep the accounting of commodity and material stocks using the method of valuation at average cost if he is not keeping the individual record of goods on which he has the authority.

Article 140. Financial lease

140.1. If lesser lets tangible assets to lease under a financial lease agreement, the lessee shall, for taxation purposes, be considered owner of the assets and lease payments - payments on the loan granted to the lessee.

140.2. Lease of assets shall be considered a financial lease in the following cases:

140.2.1. the assets are to be transferred to ownership upon the termination of the lease period or the lessee is entitled to purchase the assets at a determined or presumed price upon the termination of the lease period; or

140.2.2. the lease term exceeds 75% of the service period of the leased assets; or

140.2.3. the residual value of the leased assets upon the termination of the lease is less than 20 percent of their value at the beginning of the lease;

140.2.4. the current discounted value of payments over the entire lease term is greater than or equal to 90% of the fair market value of the assets as of the beginning of the lease.

140.2.5. the leased property has been prepared for the lessee by the order of the lessee and may not be used, upon the termination of the lease term, by any person other than the lessee.

140.3. The Article 140.2.4. of this Code shall not apply to a lease that started during the final quarter of the term of utilization of assets.

140.4. In case when no interest rate is mentioned on loan payments in a financial leasing contract or to non-residents carrying out financial leasing, as well as to interdependent persons the interest rate used for establishment of current value of financial leasing payments shall be taken for the period to which payments are applied in the same currency at volume of 125 percent of the average interest on inter-bank trade on credits with similar periods, or, if no trade was conducted — on inter-bank credits published by the ~~National~~ Central Bank of the Azerbaijan Republic.

140.5. For the purposes of this Article, the lease term shall include any period for which the lessee is entitled to extend the lease.

140.6. In the cases where the lessee is the owner of the assets before the start of the financial lease, the transaction property shall, in addition to the regime of granting loan stipulated in Article 140.1. of this Article, be regarded as a sale by the lesser and purchase by the lessee. (6, 14)

Article 141. Compensated deductions and reduction of reserves

141.1. If previously deducted expenses, losses, or doubtful loans are reimbursed, then the amounts received shall be deemed income for the moment in which they were reimbursed.

141.2. If previously deducted reserves are reduced, then the amount reduced shall be included in income.

Article 142. Income and losses upon the realization of assets

142.1. Income from the realization of assets shall consist of the positive difference between the proceeds from the realization of such assets and the cost of the assets as determined in accordance with Article 143 of this Code. Upon the transfer of assets on a gratuitous basis or at a reduced price, the income of the person transferring the assets shall be determined as the positive difference between the market value of the property so transferred and its cost as determined in accordance with Article 143 of this Code.

142.2. Losses from the realization of assets shall consist of the negative difference between the proceeds from the realization of such assets and their cost as determined in accordance with Article 143 of this Code.

Article 143. Cost of assets

The cost of assets shall include outlays for their acquisition, production, construction, assembly and installation as well as other outlays that increase their value with the exception of outlays for which the taxpayer is entitled to a deduction.

In the event of obtained assets to cover credits, the interest on credits do not increase the value of assets and shall be deducted from profits as per Article 108 of this Code. (15)

Article 144. Non-recognition of profit or losses

144.1. No profit or loss shall be taken into account in the following cases when determining taxable income:

144.1.1. assets are transferred between spouses;

144.1.2. assets are transferred between former spouses as part of a divorce settlement;

144.1.3. assets are impartially liquidated or alienated where the proceeds are reinvested in an asset of the same or similar nature before the end of the second year following the year in which the liquidation or alienation took place.

144.2. The cost of the replacing asset described in Article 144.1.3. of this Code shall be determined with reference to the cost of the replaced asset at the time of the liquidation or alienation.

144.3. The cost of an asset acquired in a transaction in which profit is not taken into consideration for tax purposes under Articles 144.1.1. or 144.1.2. shall be the cost of the transfer or on the date of transaction.

Article 145. Liquidation of legal person

145.1. The liquidation of a legal entity shall be treated as a nullification of all participating interests of the participants therein, unless otherwise stipulated in this article.

145.2. If a legal person is liquidated and its asset is transferred to a participant that is a legal person or before the liquidation the participant held 100% of the participating interests in this legal person:

145.2.1. the transfer shall not be treated as the taxable transfer by the liquidated legal entity;

145.2.2. the cost of the assets transferred to the participant shall be equal to the cost of such assets to the liquidated legal person prior to the transfer;

145.2.3. the distribution of the assets shall not be a dividend;

145.2.4. no profit or loss shall be taken into consideration upon the cancellation of the participant's interest in the liquidated asset;

145.2.5. the balance value of fixed assets of any category shall be transferred to the person gaining such fixed assets.

145.3. Article 145.2 of this Code shall apply only if the tax agency proves that the main objective of a complete liquidation was not tax evasion. (6)

Article 146. Establishment of a legal person

146.1. The transfer of assets shall not be deemed their alienation in the following cases:

146.1.1. a physical person, or a group of physical persons, transfers one or more assets (with or without any liability) to a legal person in exchange for a participating interest in that legal person;

146.1.2. a physical person, or a group of physical persons, owns 100% or more of the participating interests immediately after the exchange.

146.2. The cost, to the transferee, of the assets to which Article 146.1. of this Code applies shall be equal to the cost, to the transferor, of those assets at the time of the transfer.

146.3. The cost of a participating interest received by exchange stipulated in Article 146.1 of this Code shall be equal to the cost of the assets transferred less any liability transferred.

146.4. If the liabilities transferred exceed the cost of the assets transferred, this Article shall not apply to the difference between these amounts. (6)

Article 147. Reorganization of a legal person

147.1. The cost of the property and participating interests held by a legal entity or entities that are parties to the reorganization shall be equal to the cost of said property and interests immediately before the reorganization. The balance value of fixed assets connected to any depreciation category shall be transferred to person who purchased these fixed assets.

147.2. The transfer of property or participating interests between the legal persons that are the parties to reorganization shall not be treated as a surrender of property.

147.3. Any exchange of participating interests in a resident legal person which is a party to a reorganization for participating interests in another resident legal person which is also a party to that reorganization shall not be deemed taxable alienation of a participating interest.

147.4. The cost of the participating interests exchanged under Article 147.3. of this Code shall be equal to the cost of the original participating interests.

147.5. The distribution of participating interests connected to the exchange of participating share of resident legal person who is the party of reorganization to the participating interests in other legal person- party of reorganization shall not be considered as dividends for the parties of reorganization.

147.6. The value of original participating interests, under article 147.5. of this Code shall be divided immediately after distribution of original and distributed participating shares proportional to their market value.

147.7. Reorganization of legal person shall be:

147.7.1. merger of two or more resident legal persons;

147.7.2. acquisition or take-over of 50% or more of the voting participating interests and 50% or more of the value of all the participating interests of a resident legal person solely in exchange for the participating interests of the party of reorganization;

147.7.3. acquisition of 50% or more of the assets of a resident legal person by another resident legal person solely in exchange for voting participating interests with no preferential rights as to dividends of the party of reorganization;

147.7.4. a split-up (division) of a resident legal person into two or more resident legal persons;

147.7.5. a split-off (establishment of a new legal person by separation) provided that the tax agency proves that the main objective of such merger, acquisition, takeover, split-up and split-off was not tax evasion.

147.8. Any legal person party to reorganization, or any legal person who owns the resident legal person- party to the reorganization, or any legal person belonging to such person shall be deemed as party to reorganization.

147.9. For the purposes of Article 147.8 of this Code, the owner of a legal person shall mean an owner of 50% or more of the voting participating interests and 50% or more of the value of all the remaining participating interests in the legal person.

Article 148. Change of control over a legal person

148.0. Where there has been a change in the principal ownership of a legal person for 50 or more percent as compared with the ownership one year earlier, the carry-forward of a loss, deduction or credit from a previous taxable year shall not allowed in the following cases:

148.0.1. the legal person carries out the same ownership activity during three years after the change occurred;

148.0.2. the legal person does not start a new ownership activity during one year after the change occurred.

Article 149. Filing of Tax Returns

149.1. The following taxpayers shall submit tax returns to tax authorities within the terms stipulated in Article 149 of this Code:

149.1.1. resident enterprises;

149.1.2. non-residents who have permanent establishments in the Azerbaijan Republic;

149.1.3. non-residents, taxable income of which is generated from the Azerbaijani source and specified income of which is not taxed at the source of payment;

149.1.4. Natural persons with incomes, for which the withholding tax is not stipulated (not possible), or natural persons-residents, obtaining profits from the outside of the Azerbaijan Republic, including those obtaining profits from royalty.

149.2. *Persons mentioned in Article 149.1 hereof shall submit their tax return no later than March 31 of the year following the accounting year.*

149.3. In the event that taxpayer ceases his/its ownership activity in the Republic of Azerbaijan, he/it shall submit the return to tax authorities within 30 days. For the purposes of this Article the accounting period shall cover the timeframe from the beginning of tax year until the day of entrepreneurial activity cessation by the taxpayer.

149.4. Upon the liquidation of a legal person the liquidation commission or taxpayer shall immediately notify the State tax authorities of such liquidation in the manner established by legislation. *Termination commission shall give to the tax authority the declaration from the date of liquidation, shown in the decision on liquidation of legal entity, and if this date is not shown for the permanent representation of non-resident, within 30 days upon the date of legalization of the decision by representation of the Azerbaijan Republic in foreign states (consulates of other state representing the interests of the Azerbaijan Republic).*

149.5. A physical person who is not required to file a declaration may file a declaration claiming recalculation of tax and refund of resources.

149.6. A non-resident taxpayer which has no permanent establishment in the Republic of Azerbaijan and receives income taxed at the source of payment in accordance with articles 125.1.3., 125.1.4., 125.1.5. and 125.1.7. of this Code shall be entitled to the tax refund by filing a declaration about such income. Such declaration shall be filed within the term stipulated in article 149.2 of this Code. Such taxpayer shall be taxed at the rates as determined for the income of the permanent establishment of a taxpayer in the Republic of Azerbaijan in accordance with Article 105.1 of this Code. The expenses of taxpayer incurred in connection with the permanent establishment shall be deductible under the same procedure established for permanent establishments, provided that the tax does not exceed the amount of tax withheld at the source of payment in accordance with Article 125 of this Code. (6, 9, 11, 14)

Article 150. Procedure for withholding tax at the source of payment

150.1. The following persons (tax agents) shall be obliged to withhold *tax* at the source of payment:

150.1.1. legal persons which make payments to physical persons working as employees;

150.1.2. entrepreneurs who make payments to physical persons working as employees;

150.1.3. legal or natural persons paying out pensions to persons, with the exception of paid under the State social security system;

150.1.4. resident legal persons paying dividends to legal and natural persons;

150.1.5. legal or natural persons paying interests to legal or physical persons;

150.1.6. legal or natural persons making payments stipulated in Articles 124, 125 or 126 of this Code.

150.1.7. Legal persons or individual entrepreneurs making payments to natural persons for services (works) provided, not registered by tax authorities as a taxpayers, without provision of TIN.

150.1.8. insurers paying insurance payments in the case of cancellation of insurance agreement foreseen by the article 116.2 of the following Code, before the term.

150.2. Persons indicated in article 150.1 of this Code shall be responsible for withholding and transferring taxes to the budget. If tax amounts are not withheld or not transferred to the budget, legal or natural persons paying income shall be obliged to pay to the budget the taxes not withheld and associated sanctions and interests.

150.3. Physical and legal persons withholding tax at the source of payment in accordance with Article 150.1 of this Code shall be obliged to:

150.3.1. to the calculation of income tax on the calculated monthly income of physical persons in accordance with Articles 150.1.1, 150.1.2 and 150.1.8 hereof, and payment of the calculated tax to the Budget not later than the 20th day of the next month;

150.3.2. to the payment of taxes to the Budget not later than the 20th day of a month after the quarter when the income was paid, in accordance with Articles 150.1.3 to 150.1.7 hereof.

150.3.3. no later than by 20th of following month after the end of quarter, to provide the tax authorities with tax declaration reflecting the taxes withheld from the source of payments according to the form, stipulated by the respective power executive body.

150.3.3. declaration on taxes withheld at the source of payment in a form certified by the proper authority of executive power, are obliged to submit to a tax authority:

150.3.3.1. in accordance with the articles 150.1.3.-150.1.8 of the following Code, persons withholding tax at the source of payment, not later than 20th of the next month;

150.3.3.2. in accordance with the articles of 150.1.1 and 150.1.2 of the following Code, the payers of VAT withholding tax at the source of payment and simplified tax payers, not later than January 31 of the next year following the reporting;

150.3.3.3. except of the VAT payers and simplified taxpayers, other taxpayers withholding tax at the source of payments in accordance with the articles 150.1.1 and 150.1.2 of the following Code, shall submit not later than 20th of the next month after the quarter.

150.4. The tax agent shall withhold the tax from the taxpayer at his place of employment. If the taxpayer is not obliged to submit the return, then it shall be considered as the entire amount of income tax. Should taxpayer not to use rights granted by Article 149.5 of this Code, the withheld tax shall be considered the complete amount of income tax. (3, 9, 11, 14, 15)

Article 151. Current tax payments

151.1. Legal and natural persons shall be obliged to make current payments to the budget no later than the fifteenth day of the month following each quarter. Enterprises and organizations, which are owned by municipalities, shall pay taxes to local (municipal) budget. The amount of each payment shall be 1/4 of the tax amount calculated in tax year.

151.2. The taxpayer may determine the amounts of current tax payments by multiplying the volume of his income in relevant quarter to coefficient of tax weight in the gross income for previous year (with no consideration of amounts to be deducted from income).

151.3. In this, the taxpayer selects annually until April 15 one of the two modes for calculation of the amount of payable taxes within the year and informs the tax authority. In the event that a taxpayer has chosen the method provided by Article 151.2 hereof for the determination of the amount of current tax payments, within 15 days after the end of each quarter, he shall submit a certificate to tax authorities about current tax amount calculated on the profit or income, otherwise the tax authority shall apply the method provided by Article 151.1 hereof. In case, when the taxpayer will not inform about mode applied for calculation of the amount of current tax payments, the tax authority will apply the first method and such method shall not be changed until the end of tax year.

151.4. Current tax payments shall be the amounts of tax withheld from the taxpayer within tax year.

151.5. Current tax payments not applying in previous tax year, but acting in the next tax year of the legal and physical entities (further - taxpayers previously not active), carrying out business activity without establishment of the legal entity, and also new established and acting taxpayers are to be determined shall be implemented as follows:

151.5.1. Current tax payments on income tax or profit tax of taxpayers, previously not active shall be calculated on quarterly basis, within the calendar year on the basis of tax rates stipulated under this Code.

151.5.2. The amount of current tax payments cannot be less than 75 percent of the amount of the amount of profit or income tax.

151.5.3. Taxpayers not involved previously activities, within 15 days upon the end of quarter shall perform current tax payment and provide to the tax authority the note on current tax amount, calculated within the quarter from the income or profit.

151.5.4. If current tax payments are not paid by the taxpayer, previously not active, within timeframe defined under Article 151.5.3 of this Code, for unpaid current tax payments the interest shall be paid for each extended day of payment in accordance with procedures stipulated under Article 59 of this Code.

151.5.5. The interests established under Article 151.5.4 of this Code shall be applied towards current tax payment for delayed taxes, revealed as a result of tax inspection, conducted for entire period of payment but less than for a year.

151.5.6. Current tax payments are assigned to the amount of tax withheld from the taxpayer, not previously involved in activities, over tax year.

151.5.7. Upon registration of payers of simplified tax for the purposes of value added tax, the amount of current tax payment is defined in accordance with this Code.

151.5.8. In the event is taxpayers, not previously involved in activities did not submit the relevant note, stipulated under Articles 16.2 and 151.5.3 of this Code, the tax authority shall calculate the amount of current tax payments on the basis of similar information on taxes in accordance with Article 67 of this Code and shall submit the relevant notification to the taxpayer.

151.6. Upon the ending of reporting period, current tax payments shall be re-calculated and if in this the calculated amount of current tax exceeds the tax amount indicated in the report, the exceeding amount of current tax as well as interests accrued shall be decreased.(3, 6, 9, 14, 15)

Article 152. Tax Payment for Year End

152.1. Taxpayers shall carry out final calculations and pay taxes before the date established for the submission of tax returns.

152.2. Enterprises owned by municipalities shall transfer the profit tax to local budget and other enterprises to the state budget. Natural persons shall pay the profit tax to the state budget.

Chapter XI. Value Added Tax

Article 153. Concept of value added tax

The Value Added Tax (hereafter referred to as the VAT) is the difference between the amount of tax calculated from taxable turnover and the tax amount which is creditable according to electronic tax invoices submitted in accordance with provisions of this Code or documents reflecting the payment of VAT in import. (3)

Article 154. Taxpayers

154.1. Any person who/which is registered or to be registered as VAT payer shall be VAT payer.

154.2. A person registered as VAT payer shall be considered a taxpayer from the date that the registration takes effect. A person who must file for registration, but has not been registered, shall be considered taxpayer from the beginning of the accounting period following the period in which the obligation to apply for registration arose.

154.3. All persons importing taxable goods into the Republic of Azerbaijan shall be considered payers of VAT on goods so imported.

154.4. A non-resident person who performs work, or provides a service, without being registered for VAT purposes and who is subject to tax in accordance with Article 169 of this Code shall be considered taxpayer on such work or service. (3)

154.5. The joint entrepreneurial activity implemented without establishment of legal person, stipulated by article 137 of this Code, for the purposes of VAT shall be considered as activity implemented by separate person.

154.6. Producers and persons involved in residential housing construction of the goods subject to excise application are considered as VAT payers (3)

Article 155. Requirement for submission of application on registration

155.1. Any legal entity engaged in entrepreneurial activity and which taxable operations during previous 12 months exceeds 150000 manats and physical person exceeding 90000 manat (except for indicated in the article 218.1.1.1 of the following Code), within 10 days shall be obliged to submit the application on VAT registration to a tax authority.

155.2. A non-resident's providing goods, performing work and rendering services shall, when determining the total volume of taxable transactions for the purposes of Article 155.1. of this Article, shall be taken into account through permanent establishments in the Republic of Azerbaijan.

155.3. In the event stipulated by Article 155.1. of this Code as well as in the case when participant is the VAT payer, the person indicated in Article 154.2. of this Code shall submit the application on registration.(3, 6, 9, 15)

Article 156. Voluntary registration

A person engaged in business undertakings who does not need to be registered may voluntarily hand in a tax authority an application about registration with the purposes of VAT.

Article 157. Registration

157.1. An application for compulsory or voluntary registration for VAT purposes shall be submitted in the pro-forma determined by the relevant executive authorities.

157.2. When persons is undergoing the VAT registration the tax authority shall register such person in the state register of VAT payers and no later than within 5 business days from the date of submitted application issue the registration notification in the form set by the relevant executive authority, indicating in this notification the name of the taxpayer and other relevant data, date of entering of validity into force and his TIN.

Notification on registration of VAT payer shall be issued to the VAT payer just once and kept by him. If the notification on registration of VAT payer is lost or became unusable the copy of notification shall be issued on the basis of the copy of notification.

157.3. The registration shall take effect as of the following dates, whichever is earlier:

157.3.1. for mandatory registration — on the first day of the accounting period following the month in which the application for registration was submitted;

157.3.2. for voluntary registration — on the first day of the accounting period following the month in which the application for registration was submitted;

157.3.3. on the date indicated in taxpayer's application for registration.

157.4. Tax agency shall be obliged to start and maintain a list of registered VAT payers. *In the event of adding of taxpayers into the VAT registry, information is used which is contained in the application for registration, submitted to the tax authorities.*

157.5. The tax agency shall, on its own initiative, register and send a registration notification to any taxpayer who/which is subject to registration for VAT purposes, but has not applied for such registration

157.6. Should any change occur to the information of VAT payer, relevant amendments are made to the state registry of VAT payers.

157.8. On the basis of official enquiries in cases defined under current Code, the applicant can be issues with "Extract from the VAT payer registry. (9, 14, 16, 21)

Article 158. Cancellation of registration

158.1. If taxpayer ceases his/its activity charged for VAT, he/it shall be obliged to place an application for the cancellation of registration on VAT. In such case the cancellation of registration for the purposes of VAT shall enter into force from the date when taxpayer's taxable operations are ceased.

158.2. Taxpayer who/which has registered voluntarily and whose total taxable operation during the preceding 12 months do not exceed the volume equal to 75000 manats may apply for the cancellation of registration at any time within *one* year after his/its last registration for VAT purposes, with exception of situations stipulated by article 158.1. of this Code. The cancellation of registration for VAT purposes shall enter into force from the date of submission of application to the tax authority on cancellation of registration.

Tax authority shall send to relevant executive authority the information on cancellation of VAT registration within one business day.

158.3. The tax agency shall remove from the registry of VAT payers the name and other details concerning the person whose registration for VAT purposes has been cancelled. (6, 9, 14, 16, 21)

Article 159. Taxable bases

159.1. Provision of goods, works, rendering of services and taxable import are subject to taxation.

159.2. Taxable transactions shall include, along with the furnishing goods, performing work and rendering services that are exempt from tax under this Section`s provisions, any furnishing of goods (including fixed assets), performance of work and rendering of services within the framework of a joint economic activity carried out without the creation of a legal entity, provided that they are conducted in the territory of the Republic of Azerbaijan pursuant to Article 168 and 169 of this Code. Performance of works and provision of services outside the territory of the Republic of Azerbaijan shall not be included in taxable operations in accordance with article 168 of this Code.

159.3. Import of goods shall, with the exception of the import exempted from tax pursuant to this Section, be considered taxable as import. Goods that are temporarily imported by transit or goods that are not considered imported goods pursuant to customs legislation shall not be considered importation goods for VAT purposes.

159.4. Taxpayer`s supply of goods, performance of works and provision of services (including on a non-compensated basis) to its own employees or for non-economic activity, as well as barter operations shall be viewed as a taxable operation.

159.5. If taxpayer makes a purchasing of goods (works, services) by paying the VAT and receives or holds the right to receive a credit, *the use, loss, damage or theft of goods, with exception of emergency situations of such goods (works, services)* for non-commercial activity shall be considered as a taxable operation.

159.6. If taxpayer`s registration is cancelled, the goods that remain in his/its ownership at the time of cancellation shall be considered goods realized at such time and within the limits of a taxable operation.

159.7. Regardless of other provisions of this article, the delivery of goods by the person who made the purchase of goods in the result of VAT taxable operations but does not hold the right for VAT compensation on the basis of article 175 of this Code, shall not be considered

as taxable operation. If partial VAT compensation was not provided during purchasing the amount of taxable operation proportional to the uncompensated part.

159.8. VAT operations by persons not registered as VAT payers as well as their operations released from VAT or zero (0) VAT rate, but conducted with application of VAT shall be subject to taxation.

159.9. Minimum turnover taxable for VAT purposes shall be calculated by persons engaged in activities on apartment construction, via application of rates set by the relevant executive authority by territorial zones of cities and districts of the country, to the amount of 225 manats for each square meter of the taxable facility, as per Article 219.1.2 of this Code. (3, 6, 16, 21)

Article 160. Provision of enterprise

160.1. Provision of the enterprise by one taxpayer to the other taxpayer within one operation shall not be considered the taxable operation.

160.2. In the case indicated in article 160.1 of this Code the person who purchased or accepted the enterprise shall accept all rights and obligations related with this enterprise of the person who provided the enterprise. This provision shall not relieve the person who provided the enterprise from the payment of taxes, interests or financial sanctions associated with previous periods.

160.3. This article shall only be applied if parties providing and purchasing (accepting) the enterprise (independent subdivision of the enterprise) inform the tax authority in writing on application of provisions of this Article not later than within 10 days from the provision of enterprise. (11)

Article 161. Value of a Taxable Operation

161.1. The value of a taxable operation (including any duties, taxes and other fees (without the consideration of VAT) shall be determined on the basis of the amount of the fee which is paid or payable to taxpayer by customer or any other person.

161.2. If taxpayer receives, or is entitled to receive, goods, work or services in exchange for a taxable consideration, the market value (without the consideration of VAT) of such goods, works and services (including any duties, taxes and other fees) shall be included in the value of the taxable operation.

161.3. Pursuant to Articles 159.4., 159.5. and 159.6. Code, the amount of the taxable operation shall be equal to the cost of such goods, work or services (including any taxes and payable duties), without the consideration of VAT. The cost of taxable operation shall be determined in accordance with the procedure established in article 159 of this Code. This procedure shall be applied during the cancellation of registration in accordance with article 159.6. of this Code.

Article 162. Volume of the Taxable Import

162.1. The volume of the taxable import shall consist of the value of the goods determined in accordance with the customs legislation of the Republic of Azerbaijan and taxes and duties (without the consideration of VAT) to be paid after these goods are imported to the Republic of Azerbaijan.

162.2. When rendering a service, which is considered a part of import pursuant to Article 171.2. of this Code, the value (without the consideration of VAT) of such service shall be added to the value stipulated in Article 162.1. of this Code.

Article 163. Adjustment of the Taxable Turnover

163.1. This Article shall apply to the operations on provision of goods, works and services in the following cases:

163.1.1. the operation is fully or partially cancelled, including the full or partial return of goods;

163.1.2. the nature of operation has changed;

163.1.3. the agreed compensation (advance payment) for the operation has been altered because of the reduction of prices or any other reason;

163.1.4. new facts supporting the adjustment of the taxable income arise after the submission of *an electronic tax* invoice by taxpayer and such adjustment is effected in the relevant instructions.

163.2. If, as a result of any of the cases stipulated in Article 163.1., taxpayer

163.2.1. has submitted invoice for VAT and has not correctly indicated the tax amount in that *electronic tax* invoice;

163.2.2. has not correctly indicated the VAT amount in VAT tax return, adjustments shall be effected in accordance with Article 174.2. and 175.5. of this Code. The adjustment shall be effected in the tax period in which the change in assessment occurred.

Article 164. Exemption from tax

164.1. Along with the export of goods, the following types of the realization of goods, performance of work and provision of services, as well as the following types of import shall be exempt from the payment of VAT:

164.1.1. the value of state enterprise property purchased within privatization program; as well as part of the rent payment *for leasing of state property*, which shall be paid to the budget;

164.1.2. provision of financial services;

164.1.3. supply (sending) and import of the national and foreign currency as well as of securities (except for numismatic purposes);

164.1.4. import of gold and currency valuables to be deposited with the ~~National~~ *Central Bank* of the Republic of Azerbaijan, as well import of monetary means, anniversary coins and other similar valuables of the Azerbaijan Republic, manufactured abroad;

164.1.5. investment of any property in the form of share into the charter fund (capital) of enterprise, with exception of imported property (investment of property as a share, if it is not directly related to obtaining of other property);

164.1.6. state fees, payments for permits, charges levied by state power authorities, local management authorities and other authorized agencies and services provided by the above in the exchange of amounts received;

164.1.7. turnover on all types of purchasing and sale of mass media products, editing, publishing, polygraph activity connected with production of mass media publishing (with exception of advertisement services);

164.1.8. editing, publishing, polygraph activity related to the production of textbooks for schools, children literature and state publishing funded by state budget;

164.1.9. ritual services of undertaking bureaus and cemeteries;

164.1.10. import of goods, provision of works and services by the *Central Bank* of the Azerbaijan Republic connected with obligations stipulated by legislation;

164.1.11. Operations on provision of fixed assets of any kind, movables and other assets to the State Oil Fund of the Azerbaijan Republic, the transfer of which to the Azerbaijan Republic, including the legal entities representing it, are stipulated according to agreements on exploration, development of oil-gas resources and production sharing, export pipelines and etc.

164.1.12. Services on transportation of passengers by Underground.

164.1.13. Provision of chargeable services in preschool education (except of provision of services related to other activity).

164.2. Relevant executive authority shall be entitled to grant the VAT exempt for import of goods and equipment used for production purpose, providing advance technologies, stipulated for specific period with provision of development of specific area, in the event of impossibility to satisfy the production needs from local resources. (3, 6, 9, 13, 16)

Article 165. Taxation at a zero (0) rate

165.1. Zero (0) rate VAT shall be applied for the provision of following works, services and transactions:

165.1.1. Goods and services intended for use of diplomatic and consular representations accredited in the Azerbaijan Republic of international organizations and foreign states, as well as for personal use of diplomatic and administrative-technical associates of certain rank, who are not the citizens of the Azerbaijan Republic, as well as their family members;

165.1.2. import of goods, provision of goods, implementation of works and provision of services to grant recipients on the expense of financial aid (grants) received from abroad;

165.1.3. Export of goods and services specified in Article 168.1.5 of this Code;

156.1.4. international and transit cargo and passenger transportation`s, except for international postal services. Fulfillment of works, rendering of services directly connected with international and transit flights;

165.1.5. delivery of gold and other valuables to the Central Bank of the Azerbaijan Republic;

165.2. According to the article 165.1.1 of this Code, Zero (0) rate VAT will be applied to countries imposing Zero (0) rate VAT to works, services and operations specified in the article 165.1.1. (3, 6, 9, 21)

Article 166. Date of Taxable Operations

166.1. Unless otherwise provided for in this Article, the time of a taxable operation shall be the time when *electronic* VAT invoice is submitted for that operation. If an *electronic* VAT invoice is not submitted within five days from the dates stipulated in Articles 166.1.1. and 166.1.2. of this Code, the taxable operation shall be considered to have been carried out at the following time:

166.1.1. at the time of the supply or realization of goods, performance of works or provision of services;

166.1.2. if supply of goods involves their transportation — at the time that the transportation started.

166.2. If the payment has been effected before the time stipulated in Articles 166.1.1. and 166.1.2. where the *electronic* VAT invoice has not been submitted within five days from the payment, the taxable transaction shall be considered to have been carried out at the time of payment. If two or more payments are made for a taxable consideration, each payment shall be deemed as a separate transaction, within the limits of the payment amount.

166.3. If services are rendered on a regular or continuing basis, the time of rendering services shall be the time when an *electronic* VAT invoice is submitted for any part of the operation, or, if payment has been made, at the time when any part of the operation has been paid for.

166.4. Where the provisions of Articles 159.3. and 159.5. of this Code are applied, the time of carrying out a taxable operation shall be the time when the use, or production of the

goods, works and services begins. In the cases stipulated in Article 159.4. of this Code, the time of carrying out a taxable operation shall be the time when goods are supplied, works are performed and services are provided for employees. Where the provisions of Article 159.6. are applied, the time of the supply of goods shall be the time immediately preceding the time when the cancellation takes effect.

Article 167. Place of transfer of goods

The transfer of goods shall be deemed to take place at the place they are transferred. If conditions of supply involve lifting and transportation, the transfer shall be considered to be effected at the time when the lifting or transportation of the goods starts. If, however, the supplier is to install or fix up the goods, the transfer shall be considered to be effected at the place the goods are installed or fixed up.

Article 168. Place of performing works or rendering services

168.1. For the purposes of this *Chapter* the place of the performance of works (provision of services) shall be as follows:

168.1.1. the place where immovable property is located — if works (services) are directly connected with that property. *Such words (services) shall be considered construction, installation, maintenance, refurbishment works, agent and expert services, related to immovable property and other similar works (services);*

168.1.2. the place where the works are performed (services are rendered) actually — if they are connected with movable property;

168.1.3. the place where services are actually rendered — if they are rendered in the area of culture, arts, physical fitness or sports, or in another similar area;

168.1.4. the place where transportation is actually provided- if works (services) are directly connected with that property;

168.1.5. location of registration place of the entity buying works or services, and if works or services are directly linked with permanent representation of the buyer- location of such permanent representation.

Provisions of this article shall be applied to following services:

- transfer of ownership or transfer of rights on the use of patents, licenses, trade marks, copyrights and other similar services;
- provision of advertisement, legal, accounting, engineering services as well as data processing and similar services;
- provision of services on workforce;
- leasing of movable property (with exception of transportation means of transportation enterprises);
- services of agent who on behalf of the main party of agreement invites legal or natural persons for the provision of services specified in this article;

- *provision of telecommunication services (receiving, transmission and distribution of signals, documents, photos, voice or information of any kind via telegraph, radio, optic or other electromagnetic system, including obtaining or granting rights for such transmission, receiving and distribution shall be considered telecommunication services;*
- *services on radio and television transmission, postal services;*
- *provision of services via computer, Internet and other electronic networks, e-mail and other similar means or granting of rights to use such networks or services.*

168.1.6. the place of activity of the person who performs the work or renders the services.

168.2. When applying the article 168.1. of this Code the place of execution of work or rendering of service listed in more than one article shall be determined by the first in order of articles' list.(6, 9, 16)

Article 169. Taxation of non-residents

169.1. If a non-resident who has not registered for VAT purposes in the Republic of Azerbaijan performs work or provides a service in the territory of the Republic of Azerbaijan for a tax agent stipulated *in Articles 169.2 or 169.5* of this Code, the performance of work or provision of services for the purposes of this Chapter shall be taxed in accordance with this Article.

169.2. For the purposes of this Article, any person registered for VAT purposes or any resident legal person shall be considered a tax agent.

169.3. Where Article 169.1. of this Code is applied, the tax agent shall *charge and pay VAT* from the amount to be paid to non-resident. The amount of tax shall be determined by applying the tax rate provided for in Article 173.1. of this Code to the amount payable to non-resident (without VAT).

169.4. If the tax agent has been registered for VAT, the tax withheld shall be payable at the time of filing of the VAT return for the month in which the operation took place. The payment document *verifying the payment of the calculated tax* shall be considered to be an *electronic tax invoice* giving the tax agent the right to a VAT credit according to Article 175 of this Code.

169.5. If the tax agent has not been registered for the VAT purposes, he shall pay upon payment of calculated tax to non-resident in accordance with this Article within 7 days and before the 20th of following month submit the VAT declaration in accordance with the form approved by relevant executive authority. Amount to be paid to non-resident by the tax agent in accordance with this Code shall not be assigned to taxable operations, defining operation for calculation of VAT for registration of tax agent for VAT purposes. If the tax agent has made the payment to the budget of VAT calculated on the amount to be paid to non-resident, the payment document shall contain the note on payment of tax from the amount to be paid to non-resident.

169.6. When property owned by non-resident is imported, the tax agent shall be entitled to claim, upon the permission of non-resident who/which is the owner of property, a VAT credit to the tax withheld from the importation. In this case the tax agent shall be considered taxpayer and be responsible for the payment of VAT when further realizing (except for exporting) that property.

169.7. The tax agent no later than within 20th of the following month upon the payment to non-resident, shall submit to the tax authority the declaration on payment of VAT in accordance with the form established by the relevant executive authority. (6, 9)

Article 170. Time of Import

An import of goods shall be considered to take place at the time when customs duties are collected on such goods pursuant to customs legislation. If goods are exempt from tax, an import of goods shall be considered to take place when such goods are removed from the customs control.

Article 171. Mixed operations

171.1. Supply of goods, performance of works or provision of services that is subsidiary to the main supply of goods, performance of works or provision of services shall be considered a part of such operations.

171.2. Performance of work or provision of services by an exporter, which are subsidiary to the import of goods, shall be considered a part of the import of goods.

171.3. When operation which involves independent elements is divided into taxable but VAT exempted operations those shall be considered as separate operations.

Article 172. Operations by Agent

172.1. Supply of goods, performance of works and provision of services by a person who is an agent (proxy) for another person (principal) shall be considered an operation conducted by principal.

172.2. Article 172.1. of this Code shall not apply to services rendered by agent to principal.

172.3. Article 172.1. of this Code shall not apply to the supply of goods to the Republic of Azerbaijan by a person who/which is a resident agent of a non-resident person not registered for VAT in the Republic of Azerbaijan. In such cases supply of goods shall, for the purposes of VAT, be considered to be carried out by an agent.

The amount of VAT that shall be paid on lotteries, tourist agency services, commission sales, sell of used goods, and other areas, determination of taxable base of which in accordance with general rules involves difficulties, shall be determined in *this Article*.

172.4. The basis for VAT taxation on operations performed via the agent of other person, shall be defines as follows:

172.4.1. During provision of goods, implementation of works or provision of services via the agent of other person, the price of indicated goods (works, services) shall be recognized as a price of taxable operations and basis for taxation.

Award (Premium), paid to the agent for provided services, along with inclusion into the taxable operation of the agent, shall be assigned for costs deducted from the income of other party.

The electronic invoice received by the agent from other person does not allow him to compensate the amount of VAT.

172.4.2. The time of taxable operations for other person shall be considered the time of transfer to the agent of goods (works, services).

In the event of transfer of goods (works, services) in batches (parts) the time of taxable operations is established for each batch.

172.4.3. If the agent is the VAT payer he shall submit only the tax receipt on services provide to other person. The tax receipt shall entitle the other person, who is the payer of VAT to compensate the paid VAT to the agent.

Irrespective of VAT inclusion to the cost of goods (works, services) delivered to the agent by other person, the agent shall not be entitled to issue electronic tax invoice to the buyer (customer) of the goods (works, services).

172.4.4. For the agent the taxation basis shall be the value of services provided by him to other persons on provision of goods (works and services), the time of taxable operations is an actual time for provision of these services, and the value of taxable operations is the award (premium), which he shall obtain (obtained) from other party.

172.5. In operations of other person, implemented via the agent, specific of VAT calculation shall be defined as follows:

172.5.1. Value of taxable operations for persons implementing the lottery, shall be the amount received, left after deduction of the sum of winning fund from sells of lotteries.

172.5.2. If in accordance with provisions of lottery the prize fund is completely or partially comprised of goods, the amount of VAT paid for goods, purchased for prize fund not compensated.

172.5.3. The basis for taxation of parties providing tourist services on routes, starting from the territory of the Azerbaijan Republic to other countries (with exception of services, provided outside of the Azerbaijan Republic), shall be the value of tourist services, and for persons (agents), providing tours, the value of services provided for their supply.

172.5.4. The basis of taxation for comittent during sale of goods in commission shall be the value of goods, transferred to the commissioner (with deduction of commissions).

172.5.5. The electronic tax invoice of the commissioner, transferred by the committent, does not entitle the commissioner to pay the VAT amount.

172.5.6. The commissioner, independent whether the VAT is included in the value of commissioned goods, cannot transfer the electronic tax invoice to the buyer of goods.

172.5.7. If the committent is non-resident, in accordance with Article 172.3 of this Code good sales operations are recognized as operations conducted by the agent, thus commissioner.

In this instance the taxation base for the commissioner shall be the amount of goods, sold under the commission, as well as value of services, provided to the commissioner. Amount of taxable operation of the commissioner — is the sale price (without VAT), established by the committent for goods, sold under the commission, and award (premium) for services, which was received from the committent for services provided.

For the commissioner the time of taxable operations shall be the time of provision to the purchasers (clients) of goods (works, services). In the event of transfer of goods (works, services) in batches (parts) the time of taxable operations is established for each batch.

If the commissioner has paid to the customs authorities the VAT for imported goods, documents verifying the implementation of this obligation shall entitle the commissioner, who is the VAT payer to compensate the price of this VAT. If the commissioner is a taxpayer, goods, provided under the commission shall be subject to VAT on general basis.

If goods imported under the commission were not sold by the commissioner, who is the payer of VAT, and by the assignment of committent completely or partially transferred to other person on the territory of the Azerbaijan Republic, the amount for the unsold part of goods from the amount paid to customs authorities for VAT, shall be paid by the commissioner to the budget.

172.5.8. During implementation of taxable operations, performed by other person via agent, transfer of VAT to the budget, compensation of VAT during the determination of payments to the budget and application of electronic tax invoices, with consideration of provisions of this Article shall be defined on general basis in accordance with this Code.

172.6. If persons, who are subject to VAT except operations specified in this Article perform any other operations, registration of such additional operations shall be performed separately.⁽⁹⁾

Article 173. VAT rate

173.1. VAT shall be 18 percent of each taxable operation and taxable import.

173.2. The taxable turnover shall be the total value of taxable operations during an accounting period.

Article 174. VAT on taxable turnover payable to the budget

174.1. The sum of VAT payable to the budget in respect of taxable turnover in accordance with Article 166 of this Code shall be determined as the difference between the sum of tax charged in accordance with article 173.1. of this Code on the taxable turnover and the sum of tax creditable under Article 175 of this Code.

174.2. In the event that VAT payable under Article 163 of this Code exceeds the VAT indicated in taxpayer's tax returns, the difference shall be considered a VAT payable during the accounting period in which cases stipulated in Article 163.1. of this Code and shall be added to the tax amount payable in the accounting period pursuant to Article 174.1. of this Code.

Article 175. VAT creditable in the determination of payments to the budget

175.1. Subject to the provisions of this Article, *the amount of tax paid to the deposit account of VAT as per payments and operations performed within such account made by cashless transfer (with exception of payments made in cash to the bank account of the provider of goods, works and services) on electronic tax invoices issued to taxpayer shall be considered the amount of credited VAT and in this case the time for imposing tax on the following operations shall be taken into account:*

175.1.1. on operations involving supply of goods, performance of works and provision of services which are considered operations conducted during an accounting period pursuant to Article 176 of this Code;

175.1.2. on import of goods during an accounting period pursuant to Article 170 of this Code.

175.1.3. if in accordance with invoice issued to the taxpayer two or more payments have been made, each payment shall be considered as performed for separate operations at the value of payment. Not later than the day of payment of the value of goods (works and services), purchased by electronic tax invoice, issued to the taxpayer the amount of VAT shall be paid for in accordance with procedure set by this Code and the relevant executive authority. If in this two or more payments are made of the value of goods (works and services), the amount of VAT shall be paid via VAT deposit account in accordance with amount of payment made.

When the cost for goods, works and services is not included in the production expenditures, for the use of such goods, works and services for commercial purposes provisions of articles 175.1., 175.1.1., and 175.1.2. of this Code shall be applied.

175.2. The amount of VAT *paid by cashless transfer by VAT deposit account (with exception of payments made in cash to the bank account of the provider of goods, works and services) by the taxpayer on electronic tax invoices submitted for taxable operations, which are partially used for entrepreneur services and other part for other purposes, as well as on*

the import of goods compensating the amount of VAT determined by the weight of goods (*works, services*) used for entrepreneurial activity.

175.3. No VAT compensation shall be made for costs stipulated in article 109.3. of this Code, with the exception of specified in article 109.4. of this Code.

175.4. In the case where taxpayer carries out taxable operations and operations exempt from tax pursuant to Article 164 of this Code, the amount allowed as a VAT credit shall be determined on the basis of the proportion between the taxable and total turnover.

175.5. If under circumstances indicated in Article 163 of this Code the amount of VAT to be paid to the budget is not indicated correctly, the amount of VAT to be paid to the budget shall be indicated in the declaration, provided by the taxpayer for reporting period, in which such circumstances have occurred.

175.6. In cases when goods (works, services) are bought by the persons carrying out operations, exempted from VAT or not liable to VAT, the amount of VAT paid in an order stipulated by this Article, is not liable to compensation.

175.7. Operations, as per which VAT is deducted at Zero (0) rate, are considered the operations liable to VAT, and VAT amount, paid by cashless transfer by VAT deposit account (with exception of payments made in cash to the bank account of the provider of goods, works and services) when buying goods (works, services) by the persons, carrying out such operations are to be compensated according to the provisions of this Code.

175.8. In purchasing of goods, services (works) by VAT payers, as well as non-registered legal entities for VAT purposes and budget organizations, with more than 50 percent of state ownership, amount of VAT on issued electronic tax invoices shall be paid to VAT deposit account. Rules for maintenance of the VAT deposit account, VAT movements, compensation for VAT with operations performed on this account and their payments to state budget shall be set by the relevant executive authorities.(3, 6, 9, 21)

Article 176. Electronic Tax Invoices

176.1. Subject to the provisions of article 176.4. of this Code, a person registered as VAT payer and conducting a taxable operation shall be obliged to issue an *electronic* tax invoice to the person receiving goods, works and services. A person who is not registered for VAT has no right to issue an *electronic* tax invoice.

176.2. An *electronic* tax invoice drawn up on the pro-forma determined by the relevant executive authorities and contain the following information:

176.2.1. last name, initials or name of taxpayer and purchaser (customer);

176.2.2. identification number of taxpayer and purchaser (customer);

176.2.3. name of the goods supplied, works performed and services rendered;

176.2.4. amount of the payment for the taxable operation, as well as volume of the taxable operation;

176.2.5. excise amount on excise goods;

176.2.6. tax amount payable on the given taxable operation;

176.2.7. date of issuing the *electronic* tax invoice;:

176.2.8. *electronic tax invoice number*;

176.2.9. *taxpayer registered for the VAT purposes, name of the tax authority that issued the notification on registration, date of issuance and number of notification*;

176.2.10. *position, full name of the executive who signed the electronic tax invoice*.

176.3. Taxpayer shall be obliged to draw up and issue to purchaser of the goods (works or services) an *electronic* tax invoice upon delivery or not later than 5 days after the delivery thereof.

176.3-1. The rules of application, register and use of electronic tax invoices, is determined by the proper authority of executive power.

176.4. In the case of the supply of goods, performance of works or provision of services at retail to purchasers (customers) that are not VAT payers, a cash receipt or a simplified form of an invoice prescribed by the relevant executive authorities may be used instead of an *electronic* tax invoice. *Receipts, checks that were not ordered, printed and developed in accordance with established procedures, tax invoice, registration documents for cash operations* cannot be used as basis for tax compensation for the purposes of Article 175 of this Code *and independent of provisions of other articles of this Code the payment made shall be considered invalid.*

176.5. Import documents provided by customs authorities and confirming the payment of import tax *independent of form of payment* shall provide the basis for tax compensation for the purposes of Article 175 of this Code. (6, 9, 11)

Article 177. Filing of tax returns and payment of VAT

177.1. Each VAT payer shall be required:

177.1.1. to file a VAT return with a tax agency for each accounting period;

177.1.2. to pay tax for every accounting period within the term established for the filing of VAT.

177.2. A tax return shall be submitted for each accounting period not later than the 20th day of the month following the accounting period.

In case of liquidation of a legal person-taxpayer or if activity of a physical person engaged in business undertakings without having established a legal person is terminated, a VAT declaration should be submitted to the tax authority within 30 days provided that it is not later than the term provided by this Code. In this case, tax period shall cover the period from the beginning of a term considered as accounting period till the date when the taxpayer stopped his activity.

177.3. Articles 177.1 and 177.2 of this Code shall not apply to persons who are taxpayers only on the import of goods pursuant to Article 154.3. of this Code.

177.4. VAT on taxable import shall be calculated and collected by customs agencies in the manner established for the payment of customs duties pursuant to this Code and customs legislation.

177.5. During the registration for previous dates in accordance with article 157.3.3. of this Code the taxpayer shall be obliged to pay VAT from taxable operations from the moment the registration had entered into force and shall hold the right to for compensation of tax amounts in accordance with procedure established by taxpayers. These operations shall be deemed as implemented within the month in which the declaration was submitted. In such event the taxpayer shall hold the right to submit *electronic* VAT invoices for operations that were reflected in declaration.

177.6. VAT shall be paid to the state budget.(14)

Article 178. VAT accounting period

A VAT accounting period shall be a calendar month.

Article 179. Relations with the budget when the amount of creditable tax exceeds the amount of calculated tax

179.1. With respect to taxpayer whose taxable turnover taxed at a zero rate is at least 50% - the credited tax amount which exceeds the calculated tax amount in the accounting period shall be returned by the State tax agency within 45 days after the receipt of taxpayer's application.

179.2. With respect to other taxpayers — the credited tax amount that exceeds the calculated tax amount in the accounting period shall be carried forward to the following 3 months and credited against the payments of that period. Any balance of the excess payment shall be refunded from the treasury within 45 days after filing a tax return for that period.

179.3. In any case when certain amounts are refunded to taxpayer erroneously, the tax agency may demand the return of such amounts according to the procedure established for the collection of tax.(14)

Article 180. Liability of Taxpayers and Supervision by Tax Authorities

180.1. Taxpayers and their officials shall be liable for calculating the VAT correctly and paying it to the Treasury in a timely manner. They shall also be liable for filing tax returns

with tax authorities within the established term, pursuant to the tax legislation of the Republic of Azerbaijan or, in the event VAT collection is vested in customs authorities, pursuant to customs legislation of the Republic of Azerbaijan.

180.2. Administration and supervision with respect to tax collection shall be carried out by State taxation and customs authorities, within the power vested in them, in accordance with this Code and customs legislation of the Republic of Azerbaijan.

Article 181. Refund of VAT in the case of a free grant

181.1. A person who receives goods or benefits from work or services provided free of charge by an international organization, foreign legal entity or physical person pursuant to international or intergovernmental agreements to which the Republic of Azerbaijan is a party, shall be entitled to a refund of the VAT paid on said goods, work or services, within 45 days upon submitting *electronic* tax invoices to tax authorities.

Note: If as of 1 January 2003, the total amount of taxable operations of the taxpayer does not exceed 5000-fold size of non-taxable amount of monthly income for the previous 12 full calendar months, the taxpayer within 45 days can apply for revocation of registration for VAT, except for cases stipulated by the Article 158.1 of the Tax Code of the Republic of Azerbaijan. Cancellation of registration for VAT purposes shall be carrying out in accordance with the second sentence of Article 158.2 and 158.3 of the Tax Code.

If the tax declarations submitted after the date of entry into force of the law № 383 (1 January 2003) cover the activity relating to the period prior to January 1, 2003, then tax rates in effect during this period shall be applied.

If tax invoices for transactions undertaken by the taxpayer in cash before January 1, 2003 and subject to VAT are reflected in the declarations submitted to the tax authorities within the set deadline for the period in which these operations were carried out, they give rise to a tax reimbursement. (6)

Chapter XII. Excise taxes

Article 182. Concept of excise

182.1. Excise shall be an indirect tax included in the sale price of excise goods.

182.2. Excise goods produced in or imported into the Republic of Azerbaijan shall be subject to excise tax, except for goods that are exempt from tax.

Article 183. Taxpayers

183.1. Unless otherwise provided for in this Chapter, all legal or physical persons engaged in the production of excise goods in the Republic of Azerbaijan, or importation of such goods into the Republic of Azerbaijan, as well as residents of the Azerbaijan Republic involved in the production of excise goods directly or via contractor outside of the territory of

Azerbaijan, who are not registered as taxpayers at the manufacturing location of such goods, shall be payers of excise tax.

183.2. With respect to goods produced from raw materials delivered by customer, manufacturers (contractors) of goods shall be considered as excise taxpayers. In such case the manufacturer (contractor) holds the right to request the compensation for the amount of excise from the customer.

Article 184. Taxable base

184.1. The taxable base shall be the following:

184.1.1. release of excise goods produced in the territory of the Republic of Azerbaijan outside the boundaries of the building they were produced;

184.1.2. with respect to imported goods — a taxable operation shall include an import of excise goods pursuant to the customs legislation of the Republic of Azerbaijan.

184.2. For the purposes of this article the production facilities shall stores, secondary storage areas and other similar premises.

Article 185. Amount of taxable operation

185.1. With respect to *oil products and tobacco products* produced in the territory of the Republic of Azerbaijan, the amount of the taxable consideration shall be determined, excluding the VAT and excise amounts, on the basis of the compensation (including barter) received, or receivable, by the taxpayer from a customer or any other person, the amount of such compensation being not less than the wholesale market price of the relevant goods. *Taxable operation for other goods with excise tax produced in the territory of the Azerbaijan Republic shall be considered as the amount of goods produced.*

185.2. With respect to import goods (*with exception of light vehicles, leisure and sports yachts and other floating transports stipulated for these purposes*), the amount of the taxable consideration shall be the customs value of the goods determined in accordance with the customs legislation of the Republic of Azerbaijan (but not less than the wholesale market price, excluding the excise and VAT) plus the amount of duties and taxes payable on the import of goods into the Republic of Azerbaijan (excluding excise and VAT).

Taxable operation on light vehicles, leisure and sports yachts and other floating transports, specified for these purposes is their engine volumes.

Article 186. Date of the taxable operation

186.1. With respect to goods produced in the territory of the Republic of Azerbaijan, the time of the taxable operation shall be the time when the goods are released outside the boundaries of the building they are produced.

186.2. With respect of the import of goods, the time of the taxable operation shall be the time when the import is effected in accordance with the customs legislation of the Republic of Azerbaijan.

Article 187. Taxation of export

Export of excise goods shall be taxed at a zero rate.

Article 188. Excise exemptions

188.1. The following shall be exempted from excise:

188.1.1. import of three litres of alcoholic beverage and three blocks of cigarettes by a physical person for personal consumption and, with respect to persons entering the territory of the Republic of Azerbaijan by automobiles, one tank of fuel stipulated by the technical passport of the vehicle;

188.1.2. goods transported through the territory of the Republic of Azerbaijan by transit;

188.1.3. temporary import of goods into the Republic of Azerbaijan, except for goods intended for re-export;

188.1.4. goods that are intended for re-export and secured under a pledge;

188.2. Exemptions from excise provided in Article 188.1. of this Code shall apply only if the conditions for the exemption from customs duties are complied with. If, for the purposes of customs duties, goods imported are subject to the regime of the refund of the duty, or if the payment of the custom duty is required upon the violation of the conditions of the exemption, such regime shall be applied to the collection of excise taxes.

Article 189. Credit of excise for production needs

189.1. A person purchasing excise goods (raw materials) and using these goods for the production of other excise goods shall be entitled to a credit in the amount of the excise paid on the purchase of the raw materials or to a refund of the excise amount.

189.2. A credit or refund of excise according to this Article shall be allowed provided that the producer of the raw materials submits a supporting *electronic tax* invoice or, when importing raw materials, relevant documents. The amount shall be returned to taxpayer within 45 days after the filing of a relevant document with tax authorities.

Article 190. Tax rates and the list of excise goods

190.1. Following goods shall be subject to excise tax:

- Alcohol, beer and all types of alcoholic beverages;
- Tobacco products;
- Oil products;
- *Light vehicles (with exception of motor transport means for special purposes, equipped with special markings and equipment);*
- *Leisure and sports yachts as well as other floating transports stipulated for these purposes.*

190.2. The relevant executive authority shall determine rates of excise tax *for excise goods imported into the Azerbaijan Republic (with exception of light vehicles, leisure and sports yachts and other floating transports stipulated for these purposes).*

190.3. *To food alcohol, beer, alcoholic beverages and tobacco products, imported to the territory of the Azerbaijan Republic, following excise rates are applied:*

190.3.1. food alcohol (including ethyl alcohol non-denatured with alcohol content of not less than 80 percent; ethyl alcohol non-denatured with alcohol content of less than 80 percent) - 0.8 manats for liter;

190.3.2. vodka, strong drinks and strong beverage materials, liqueurs and liqueur products - 0.5 manats per liter;

190.3.3. cognac and cognac products - 0.2 manats per liter;

190.3.4. sparkling wines - 0.2 manats per liter;

190.3.5. wine and vineyard materials — 0.1 manats per liter;

190.3.6. beer (with exception of non-alcoholic beer) and other beverages containing beer — 0.08 manats per liter;

190.3.7. all types of tobacco products - 12,5%.

190.4. *Following excise rates are applicable to light vehicles, leisure and sports yachts and other floating transports stipulated for these purposes imported to the Azerbaijan Republic:*

Description of taxable object

Excise rate

Light vehicles:

With engine volume up to 2000 cubic sm.

For each cubic sm. of engine volume — 0.15 manat

With engine volume up to 3000 cubic sm.

300 manats + 1 manat for each cubic sm. for the portion of engine 2001-3000 cubic sm. of engine volume

With engine volume up to 4000 cubic sm.

1300 manats+ 2manats for each cubic sm. for the portion of engine 3001-4000 cubic sm. of the engine volume

With engine volume above 4000 cubic sm.	3300 manats + 4 manats for each cubic sm. for the portion of engine exceeding 4000 cubic meters of engine volume
Sport and leisure yachts and other floating transports used for these purposes	1 manat for each cubic sm. of engine volume»

190.5. Excise rates on petroleum materials, light vehicles, leisure and sports yachts and other floating transports stipulated for these purposes produced in the Azerbaijan Republic shall be established by the relevant executive authority. (3, 9, 14, 16)

Article 191. Accounting period and payment of excise

191.1. The accounting period for excise shall be determined on the basis of calendar month. With respect to the production of goods — when carrying out taxable operations during each accounting period excise shall be paid no later than 20th of the month following the accounting month.

191.2. If a taxpayer has fallen into arrears on excise tax for any period, the excise tax shall, starting from the time that the arrears started until the time of settlement, be paid when carrying out the taxable transaction. Moreover, the taxpayer shall not have the right to remove the goods out of the building where the goods are produced before said excise tax is paid on such goods.

191.3. When excise goods are imported excise shall be collected under the procedure established for the collection of customs duties.

191.4. Excise shall be paid to the state budget.

Article 192. Filing of returns

192.1. In the cases stipulated in Article 191.1. of this Code, taxpayer shall be required to file a tax return according to the procedure established by the relevant central executive authorities within the term determined for the payment of the tax, such return indicating taxable operation during each accounting period.

In case of liquidation of a legal person-taxpayer or if activity of a physical person engaged in business undertakings without having established a legal person is terminated, an excise tax declaration should be submitted to the tax authority within 30 days provided that it is not later than the term provided by this Code. In this case, tax period shall cover the period from the beginning of a term considered as accounting period till the date when the taxpayer stopped his activity.

192.2. Excise taxpayer shall submit an application for a credit mentioned in Article 189 of this Code together with the tax return.(14)

Article 193. Refund of excise during re-export

193.1. With respect to imported goods intended for further re-export, excise shall be paid upon the import of the goods and be subsequently refunded, in the amount corresponding to the actual quantity of the re-export, from the customs authorities collecting that excise within 15 days.

193.2. Article 193.1. of this Code shall not apply to the import goods that are exempted from the collection under Article 188.1.4. of this Code.

Article 194. The tax control over excise goods

194.1. The procedure for affixing excise stamps to goods, as well as import goods, which are subject to excise under the established rate, shall be determined by the relevant executive authority. Import, storage (except for storage of goods of personal consumption) or sale of such excisable goods without a stamp shall be forbidden *and shall involve the responsibility envisaged by the legislation.*

194.2. Tax authorities *shall be entitled to* prevent the export (issuance) of excise goods outside of production boundaries without registration, marking and payment of excise in case stipulated by Article 191.2. of this Code, in accordance with procedure established via installation of control posts, measurement devices and putting a seals in appropriate premises and stores (except for personal premises), *in case of establishment by taxpayers of violation of requirements provided by this Code, of taxpayers* that produce excise goods to be stamped, as well as other measures.

194.2.1. Control posts are established by the decision of relevant executive authority and shall be equipped with telephone and other required equipment at access and exit gates of production sites of taxpayers engaged in production of goods subject to excise.

194.2.2. In establishment of control posts the inspection of technical integrity, compliance with process equipment standards, instrumentation and laboratory devices of taxpayers manufacturing products subject to excise, their sealing shall be implemented by relevant executive authority.

194.2.3. Employees of control posts provide the inventory of remaining excise marks, seal instrumentation on production measurement, raw material and final product stores, process equipment at production sites, as well as marking during the sell of products subject to marking, with review of initial support documentation (receipt, bill of lading, electronic tax invoice etc.), control their transportation from production sites, transfer of final product to store and issuance to customers, compliance with marking application rules.

194.2.4. Sealing of instrumentation on volumes of production, raw material and final products stores, process equipment at production sites shall be implemented by employees of control posts together with manufacturer's representative and performance of relevant records in accordance with forms approved by tax authority, including the records of instrumentation on volumes of production at the day end, break between the shifts, as well as in the event of suspension of validity of licenses or their cancellation, absence of excise marks for marking of final products, absence

of raw materials, support and packaging materials, as well as in the event of long-term stand-by of equipment for technical reasons.

194.2.5. Shutting of production capacities in the event of suspension of production shall be performed by sealing of process lines and equipment at places to make their use impossible.

194.2.6. Sealing and removal of seals shall be documented by the relevant act with participation of control post employees and manufacturer representative.

194.2.7. If during the commencement of the operations control post employees are absent, seals can be removed by responsible employees of the manufacturer informing the tax authority, and relevant protocols shall be made with indication of reasons and date.

194.2.8. Employees of control posts shall check the conformance of quantities, volumes, weights specified in documents issued for sells of products with their actual numbers, volumes and weights and indicators in documents shall be registered in dedicated logs. Upon this the employees of control posts on initial confirmation documents of goods (receipts, bills of lading , electronic tax invoice etc.) shall authorize the issuance.

194.2.9. In the event of changes to indicators of instrumentation, damage to seals on process equipment within the period between application of the seal and its removal, found deviations in marking of production by excise marks, as well as delivery of final products outside of the production site with violation of Article 191.2 of this Code employees of control post shall develop the relevant protocol and immediately inform the tax authority.

Article 195. Electronic tax invoices

195.1. Subject to the provisions Article 195.3. of this Code, taxpayers supplying excisable goods shall write out and issue *electronic* tax invoices to the receivers of the goods in accordance with the existing instructions.

195.2. An *electronic* tax invoice shall be an invoice drawn up in the pro-forma established by the relevant central executive authorities and reflecting such information as stipulated in Article 176.2. of this Code.

195.3. When goods are supplied on a retail basis simplified invoices may be used instead of *electronic* tax invoices.

Chapter XIII. Property Tax

Article 196. Taxpayers

The payers of property tax are the physical persons and enterprises specified in article 197 of this Code being the objects of taxation. (3)

Article 197. Taxable base

197.1. Following shall be a taxable base:

197.1.1. The value of buildings and their parts (hereinafter referred to as buildings) as personal property of *resident or non-resident* physical person in the Republic of Azerbaijan, any water and air transport facility owned by a physical person, irrespective of where they are located and whether or not they are used;

197.1.2. average annual value of fixed assets on the balance of enterprises;

197.1.3. for enterprises-non-residents, carrying out the business activity by permanent representation in the Azerbaijan Republic, - only the average annual value of fixed assets connected with permanent representation.

197.2. The value of the assets that constitute a taxable base and are accumulated by enterprises for carrying out a joint activity without creating a legal entity shall be included in the tax return for the purpose of taxation by the joint activity participants consolidating such assets. The value of the fixed assets created (acquired) as a result of the joint activity shall be included in the tax return in accordance with the participating shares in the property determined under contract by the joint activity participants.(3, 6, 11)

Article 198. Tax rates

198.1. Physical persons shall pay the property tax in following order and at following rates:

198.1.1. from the inventoried value of the building in their ownership:

- the tax not to be levied if the value does not exceed the sum of *5000 manats*. The rate of 0.1 % shall be levied from the amount exceeding *5000 manats*.

198.1.2. for water and air transport facilities:

198.1.2.1. *0.02 manat* per 1 cub. sm. of the water transport facility's engine;

198.1.2.2. *0.02 manat* per 1 cub. sm. of the air transport facility's engine;

198.1.2.3. 1% of the market value for water and air transport facilities without engines.

198.2. Enterprises shall pay tax at the rate of 1% of the value of the fixed assets determined under Article 202 of this Code.

Article 199. Tax privileges and exemptions

199.1. Budget-funded institutions and organizations, state power and governing bodies, the Central Bank of the Republic of Azerbaijan and its offices, state funds and public entities for disabled people, *children with limited levels of health*;

199.2. Buildings of art workshops or parts of buildings where such workshops are located that belong to natural persons involved in entrepreneurial activity without establishing the legal entity on craft production of copper, tin and pottery products, house appliances, gardening instruments, national music instruments, toys, souvenirs, house appliances made of reeds and cane, involved in embroidery and production of house appliances from wood shall not be taxed;

199.3. The amount of property tax that shall be paid by persons indicated in article 102.2 of this Code, as well as people on pension or obligatory military service, their family members for the period of such service shall be reduced for the amount of *30 manats*, with exception of cases of their leasing, rent or use for entrepreneurial or other commercial activity.

199.4. For the purposes of taxation the value of enterprise property shall be reduced for the amount of value of following facilities:

199.4.1. facilities used for the purposes of environment, fire protection and civil defense;

199.4.2. product lines, railways and motorways, communication and power lines, melioration and watering facilities;

199.4.3. Automobile transport that shall be taxed in accordance with article *211.1.2* of this Code;

199.4.4. facilities of enterprises involved in education, health, culture and sports that used only for the purposes of such areas of activity;

199.5. Trolley buses and tramps used for the transportation of passengers in cities shall be exempted from property tax.

Article 200. Procedure for the calculation and payment of the property tax of physical persons

200.1. The property tax shall be calculated on a building according to the inventory value placed by local government authorities to that building.

For premises owned by natural persons, the property tax shall be calculated by the municipality of the area at which they are located.

200.2. Property tax on a building that has several owners shall be calculated, in accordance with the share of each owner in that building, on the basis of procedure established in Article 200.1. of this Code.

200.3. Tax authorities shall calculate tax on water and air transport facilities, as of January 1 of each year, on the basis of the relevant information submitted by authorities registering such facilities. In the absence of such registration the owner of this property each year before January 1 shall provide to relevant authorities documents that include all necessary data (year of manufacturing, price at the moment of purchasing and technical characteristics) on all water and air transport owned.

Tax on a water or air transport facility that has several owners shall be collected from the person who has registered such facility under his own name.

200.4. *Municipalities* shall submit tax payment notifications to taxpayers not later than *August 1*.

200.5. The annual tax amounts shall be paid, in equal portions, before September 15 and before November 15. If property tax was not paid by the previous owner of property it shall be paid by new owner within timeframes stipulated by this Article.

200.6. The tax on the property of natural persons shall be paid into local (municipal) budget.

Article 201. Calculation and payment of the property tax of enterprises

201.1.1. In the case of insurance of property of the enterprise more than it's residual value, the property tax is counted up with the use of level of tax on property certained in accordance with the article 14.3.4 of the following Code. In case if the cost of insured property is determined by taking into account the market value, positions of the article 202 of the following Code, are not used.

201.2. The average annual value of the property of enterprises shall, for taxation purposes, be determined pursuant to Article 202 of this Code.

201.2. The tax period on property tax shall be established as calendar year.

201.3. Property taxpayers shall pay 20 percent of annual tax amount not later than 15 of the second month of each quarter.

Legal persons, who were not the payers of property tax in previous accounting year, who are the payers of such tax in the following year, as well as newly established and payers of property tax, no later than by 15 of the second month of each end of quarter, in which the property was purchased, shall make the current tax payments at the rate of 20 percent of the annual amount of property tax, which shall be subject to calculated for such property.

Current tax payments on property tax are applicable to tax amount, withheld from the taxpayer for the tax year.

201.4. The amount of tax that shall be paid to the state budget for accounting period shall be determined with increasing value from the start of year with consideration of previous payments.

In the event of failure to pay current taxes within timeframe established under Article 201.3 of this Code, for each day of delay of the tax payment the interest shall be charged to taxpayer in accordance with procedures specified in Article 59 of this Code.

Current tax payment on property tax upon expiry of reporting year shall be recalculated and if the amount of current tax is higher than the tax amount in the report, the exceeded amount of current tax and relevant amount of interest shall be reduced.

201.5. *Enterprise shall submit to the tax authority the annual declaration on property tax no later than March 31 of the year following the reporting year.*

A taxpayer-legal person shall, within 30 days from the date of adoption of decision on its liquidation, and in case when such date is not mentioned for a permanent representative office of a non-resident, from the date of legalization of such decision at representatives of the Azerbaijan Republic in foreign countries (at consular offices of other countries representing interests of the Azerbaijan Republic), submit property tax declaration to tax authority, and in this case accounting period shall cover the period from the beginning of the tax year till the date when the business activity of the taxpayer was terminated

201.6. Taxes on annual return shall be paid before the submission deadline for such returns. The amount of calculated tax shall be deducted from income, which shall not be limited by Article 199 of this Code.

201.7. The property tax of enterprises shall be paid into the state budget.

In the absence of documents, confirming the tax payment, registration, re-registration and technical inspection shall not be conducted. (6, 11, 14, 16)

Article 202. Procedure for determining the average annual value of the property of an enterprise

202.0. For taxation purposes, the average annual value of an enterprise's property (with exception of automobile transport means) shall be calculated in the following way:

202.0.1. The residual value of enterprise property (with exception of transport means) for the start (cost remained after deduction from the residual value, fixed by the end of the previous tax year, of depreciation cost calculated for this year) and end of reporting year shall be summed and divided by two.

202.0.2. If enterprise was established or became a taxpayer of assessed tax within a accounting year, the residual value of its property (with exception of automobile transport means) of the date of establishment or becoming liable to payment of assessed tax and the end of reporting period shall be summed, divided by 24 and multiplied by the number of month following the month when enterprise was established or became a taxpayer of assessed tax until the end of the year.

202.0.3. *On liquidation of the enterprise during the financial year or in case if it is the simplified taxpayer, the remaining cost of its property (except for auto transport vehicles) on beginning of the year and upon the date of liquidation of enterprise, or upon the date of it's being a simplified taxpayer, is added up, divided on 24 and multiplied on the amount of months, preceding from the beginning of the year to the month in which the enterprise was liquidated or while was the payer of the simplified tax.*

Chapter XIV. Tax on land

Article 203. Tax on land

203.1. The land tax shall be calculated in the form of fixed payment for land area independent from the results of economic activity of land owners and users.

203.2. Resident and non-resident physical persons, as well as Azerbaijani and foreign enterprises, shall be registered after obtaining documents proving their right to own or use land plots. Natural persons and municipal enterprises shall be registered at municipalities, other enterprises- in the tax authority.

Article 204. Taxpayers

The payers of tax on land are the physical persons and enterprises who own or use land plots on the territory of Azerbaijan Republic. (3)

Article 205. Taxable base

Land plots granted to the ownership or use of enterprises and physical persons pursuant to the legislation of the Republic of Azerbaijan shall be objects of taxation.

Article 206. Tax rates

206.1. Land tax rates for agricultural land *shall be 0.06 manat* for 1 conventional point.

206.2. Conventional points shall be determined by the relevant executive authority with consideration of evaluation procedures depending on the purpose, geographical location and the quality of agricultural lands in administrative regions.

206.3. *For industrial, construction, transport, telecommunications, trade and utility services lands and other dedicated lands occupied by agricultural sites of housing funds and lands of citizens the tax shall be charged for each 100 sq. meters of the land plot in accordance with rates specified in the table below:*

Areas	Industrial, construction, transport, telecommunications, trade	Lands of housing funds, agricultural lands and lands occupied by citizens (in
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	and housing servicing and other dedicated lands (in manats)	manats)
Baku	10	0.6
Cities Gandja, Sumgayit and Apsheron district	8	0.5
Other towns (with exception of regional subordination towns), regional centers	4	0.3
In towns, settlements and villages of regional subordination (with exception of settlements and villages of Baku and Sumgayit cities, as well as Apsheron region)	2	0.1

(3, 9, 14, 16)

Article 207. Tax privileges

207.1. The following shall be exempt from the payment of tax on land:

207.1.1. commonly used land belonging to populated areas;

207.1.2. lands owned or used by government authorities and local management authorities, budget funded organizations, *Central Bank of the Azerbaijan Republic* and its structures *and also the State Oil Fund of the Azerbaijan Republic*;

207.1.3. land pertaining to the State, forest and water reserves which is not attracted to economic activity, as well as land located under the Azerbaijani sector of the Caspian Sea;

207.1.4. state border lines and lands designated for defence purposes.

207.2. The amount of tax for lands owned by persons stipulated in article 102.2. of this Code, shall be reduced by *10 manats*.(9, 16)

Article 208. Procedure for the calculation and payment of tax on land

208.1. The land tax shall be established on the basis of documents that confirm the right of ownership and use of lands. For lands with located structures and facilities as well as plots necessary for sanitary protection of facilities the land tax shall be paid.

208.2. Enterprises shall annually calculate tax on land on the basis of the sizes of the land spot and the tax rates, and submit such tax returns to tax authorities not later than May 15 of each year.

208.3. Relevant agencies shall calculate tax on land on physical persons annually before July 1 of and submit the payment notifications not later than August 1.

208.4. for land plots intended for placement of structures owned by the number of legal or natural persons, the tax shall be calculated separately, proportional to areas of structure owned by such parties.

208.5. Tax shall be paid, in equal portions, before August 15 and November 15. If the land tax was not paid by previous owner of the land, it shall be paid by the new owner of land plot by the date established in this Article.

208.6. Enterprises shall pay the tax on land to the state budget and natural persons to the local (municipal) budget.

208.7. Amount of land tax calculated for land used by natural persons for the purposes of entrepreneur activities as well as land owned by legal entities, shall be considered as deductions from profits, not limited by Article 119 of this Code.(21)

Chapter XV. Taxes to the Road Fund

Article 209. Taxpayers

The road fund taxpayers for the use of automobile roads in the Azerbaijan Republic shall be non-resident enterprises that own the transport means arriving to the territory of the Azerbaijan Republic and using the territory for transportation of passengers and cargoes, *as well as persons, owning or using on the territory of the Azerbaijan Republic light vehicles, buses and other motor transport means (hereinafter, for the purposes of this Article —motor transport means).(11)*

Article 210. Taxable base

The taxable base shall be automobile means of foreign countries arriving to the territory of Azerbaijan Republic, *as well as property owned or used on the territory of the Azerbaijan Republic. (11)*

Article 211. Road fund tax rates

211.1. Tax for motor transport means of foreign states, entering the territory of the Azerbaijan Republic, is calculated dependent on the type of motor transport, number of seats, loading capacity and total weight of motor transport means together with cargo, axis load, distance on the territory of the Azerbaijan Republic, transportation of hazardous materials, as well as the volumes of engines of motor transport means, owned or used by persons on the territory of the Azerbaijan Republic in accordance with following rates.

211.1.1. From motor transport means of foreign states, entering the territory of the Azerbaijan Republic.

211.1.1.1 Motor cars - \$15 USA

211.1.1.2 For buses dependent on number of seats and period of presence on the territory of Azerbaijan Republic:

Period of presence on territory	With number of seats up to 12	With number of seats from 13 to 30	With number of seats from 31 and more
For 1 day	15 dollars USA	20 dollars USA	25 dollars USA
Up to 1 week	30 dollars USA	40 dollars USA	50 dollars USA
Up to 1 month	100 dollars USA	140 dollars USA	175 dollars USA
Up to 3 months	300 dollars USA	400 dollars USA	500 dollars USA
Up to 1 year	1050 dollars USA	1400 dollars USA	1750 dollars USA

211.1.1.3 for trucks, trailer transport means dependent on number of axis and period of presence on the territory of Azerbaijan Republic:

Period of presence on territory	Number of axis up to 4 (four)	Number of axis of 4 (four) or more
For 1 day	20 dollars USA	30 dollars USA
Up to 1 week	40 dollars USA	80 dollars USA
Up to 1 month	140 dollars USA	280 dollars USA
Up to 3 months	400 dollars USA	800 dollars USA
Up to 1 year	1400 dollars USA	2800 dollars USA

211.1.2. persons, owning or using motor transport means on the territory of the Azerbaijan Republic (with exception of agricultural equipment, used for production of agricultural products (tractors, harvesters and cotton harvesters) and budget organizations motor transport), shall pay the annual road tax in accordance with volume of engine of this motor transport in accordance with following rates:

Description of item of taxation	Road tax rate
Light vehicles	
Engine volumes up to 2000 cubic sm	For each cubic sm. of engine volume — 0.01 manat
Engine volumes above 2000 cubic sm.	20 manat + 0.02 manats for each cubic sm. of engine volume for the portion of engine exceeding 2000 cubic sm.
Buses and other automobile transports	For each cubic sm. of engine volume — 0.02 manats

211.2. Tax, stipulated in Article 211.1.1.3 of this Code on the movement of heavy and oversized vehicles and transportation of cargo shall be paid at the following rates per 1 kilometer of the road in the territory of the Republic of Azerbaijan:

211.3. The tax amount specified in Article 211.1.1.3 of this Code shall be increased by percentage for the transportation of dangerous cargo:

- for cargo involving little danger - 100%
- for dangerous cargo — 200%
- for cargo involving special danger - 400%

Article 212. Road tax deduction

212.1. Tax for motor transport means of foreign states, established in accordance with Article 211.1 of this Code, is deducted by customs authorities in the entrance of these motor transport means to the customs territory of the Azerbaijan Republic and within one banking day is transferred to the state budget.

212.2. In the event of non-submission of documents, verifying the payment of annual road tax in accordance with procedures, specified in the Article 212.4 of this Code, registration, re-registration and technical check of motor transport by the relevant executive power authority, which implements the state registration of motor transport means, is not implemented.

212.3. Legal persons, who own or use motor transport means on the territory of the Azerbaijan by the end of calendar year, shall submit to the tax authority the annual declaration on road tax no later than by March 31 of the year following the reporting year and transfer the paid tax until this period to the state budget. Amount of paid tax shall be applicable to deductions from profits, not limited by Article 119 of this Code.

212.4. Natural persons, who own or use motor transport means on the territory of the Azerbaijan Republic, shall pay the annual road tax to the state budget during the technical check of automobiles.

212.5. Information on newly registered transport means or transport means the registration of which was cancelled, every quarter no later than by 20th of each month, following the reporting quarter, submitted to the relevant executive authority, which implements the state registration of motor transport, to the relevant executive authority in accordance with the form, determined by the relevant executive authority. (11, 16)

Article 213. Royalty (Mining Tax)

Royalty shall be paid with a view to rational use of subsurface resources in the territory of the Republic of Azerbaijan and on the Caspian shelf.

Article 214. Taxpayers

Payers of royalty are the physical entities and enterprises extracting the minerals from subsurface strata of the earth on the territory of the Azerbaijan Republic (including Caspian sea sector belonging to the Azerbaijan Republic). (3).

Article 215. Taxable Base

Minerals extracted from subsurface strata in the territory of the Republic of Azerbaijan, including the portion of Caspian Sea belonging to the Republic of Azerbaijan.

Article 216. Tax rates

216.1. Royalty is established dependent from the type of produced natural resources, with application to wholesale price, as follows:

<i>Name of natural resources subject to royalty</i>	<i>Royalty rates (in percents)</i>
<i>Crude oil</i>	26
<i>Natural gas</i>	20
<i>Mining natural resources:</i>	3
<i>All types of metals</i>	

216.2. Royalty is calculated for each cubic meter dependent on the following types of produced natural resources at following rates:

<i>Names of natural resources, subject to royalty tax</i>	<i>Royalty tax rates (in manats)</i>
<i>Non-metallic natural resources:</i>	
<i>Zeolite</i>	0,5
<i>Barite</i>	0,5
<i>Sawn stone</i>	0,5
<i>Rubbles</i>	0,5
<i>Clays for production of light fillers (claydite, nodulizer)</i>	0,5
<i>Bentonite clays</i>	0,5
<i>Brick and tiling clays</i>	0,5
<i>Volcano ash and pamice</i>	0,5
<i>Quartz sands</i>	0,5
<i>Construction sands</i>	0,5
<i>cement stuff (limestone, marl-clay, volcano ash)</i>	0,5
<i>mask stones (marble, gabbro, tufs, travertine, marbled limestone)</i>	1
<i>Precious and half precious jewelry stones</i>	4
<i>Rock salt</i>	4
<i>iodine bromine mixed waters</i>	0,02
<i>Mineral waters</i>	6

(6, 9, 11, 14, 16)

Article 217. Procedure for calculating tax, term for its payment and submission of the tax return

217.1. Tax on trade shall be calculated on minerals stipulated in Article 216.1 hereof- with application of the appropriate tax rates to the wholesale price of minerals mined from the subsurface of the earth, and on minerals stipulated in Article 216.2 hereof - with application of the appropriate tax rates to each cubic meter of minerals mined from the subsurface of the earth

217.2. Royalties shall be paid after the extraction of a product on a monthly basis on *no later than 20th* day of the month following the accounting month.

217.3. Payers of royalties shall submit tax returns on a monthly basis no later than the 20th day of the month following the accounting month, on the mining tax to the tax authorities, on taxes to be paid to local budgets- to municipalities.

217.4. The amount of tax calculated in accordance with procedures stipulated by this Article shall be considered as deductions not limited by Article 119 of this Code.

217.5. The mining tax (with exception of mining tax on construction materials of local importance) shall be paid to the state budget. The mining tax on construction materials of the local importance shall be paid to the local (municipal) budget.

Ceramide clays, mortar sand, raw materials from ~~high-strength~~ crushed stone are considered as the construction materials of local importance.

217.6. When calculating the mining tax in accordance with article 217.1. of this Code for the production of oil and gas, the volumes of oil and gas re-injected back to well due to the technological processes shall be deducted from the volumes of oil and gas produced in accordance with regulations established by relevant authorities of executive power.(3, 11, 14)

Chapter XVII. Simplified tax

Article 218. Payers of Simplified Tax

218.1. With consideration of provision of chapter XI of this Code legal entities not registered for the VAT purposes, which have the volume of taxable operations for the previous 12 months period at 150000 manats and less and physical persons engaged in entrepreneur activities without creation of a legal entity, which have the volume of taxable operations at 90000 manats and less, shall be entitled to be taxpayers under simplified regime.

Taxpayers entitled to payment of simplified tax (with exception of taxpayers, stipulated under Article 218.1.1 of this Code) annually, no later than on April 20 shall submit the appropriate declaration or written notification on non-using of this right to tax authority, in which they are registered. Taxpayer is not entitled to make changes to the selected method until the end of calendar year, unless otherwise is stipulated under this Code. If the taxpayer did not submit the declaration or written notification within the specified time, the tax authority

applies the taxpayer's method, used in previous tax year. Taxpayer, who has started new activities within a year, shall apply the method, specified in the application for tax registration.

218.1.1. Following persons are the payers of simplified tax:

218.1.1.1. persons, implementing the transportation of passengers and cargoes in the Azerbaijan Republic by motor transports, owned or used by them (with exception of international cargo and passenger transportation), or performing such transportation via other persons on contractual basis;

218.1.1.2. persons engaged in activities on dwelling housing construction (legal entity or natural person constructing on the own or leased areas, as well as land plots allocated for dedicated purpose, using his own or attracted funds for satisfaction of personal needs of population or for commercial purposes, using his own sources or qualified professional contractor, who owns the facility or complete structure).

218.2. Following groups are not entitled to use simplified tax system:

- *Parties producing excise goods,*
- *Crediting and insurance entities, investment funds, professional security market participants,*
- *Non-governmental pension funds;*
- *Obtaining incomes from letting the property or royalty,*
- *the residual value of owned fixed assets at the year start for the amount exceeding 1 000 000 manats (with exception of persons, specified in Article 218.1.1 of this Code) (6, 9, 11, 16, 21).*

Article 219. Subject of taxation

219.1. The gross volume of cash flow obtained for goods (works, services) and property provided by the taxpayer (with exception of taxpayers, stipulated under Article 218.1.1 of this Code) as well as non-sale incomes within reporting period shall be subject to taxation.

219.1-1. Motor transports, owned or used by taxpayers, specified in Article 218.1.1.1 of this Code, are subject to taxation.

219.1.2. For persons, performing activities in residential housing construction, the total area of the building, including basements, floors and garrets (with exception of the portion allocated to state, living area, constructed of which is funded by state budget, non-budgetary funds, under state guarantees and aid provided to state, individual residential houses, or site of constructions not in contact with other facilities) shall be subject to taxation.

219.2. Legal entities paying simplified tax (with exception of persons specified in Article 218.1.1.2 of this Code) shall not pay VAT, profit tax and property tax, and natural persons involved in entrepreneur activity without creation of legal entity - profit tax and VAT on subject activity.

219.2.1. Legal entities paying simplified taxes in accordance with Article 218.1.1.2 of this Code shall not be subject to profit tax and property tax, and natural persons performing entrepreneur activities without formation of legal entity shall not be the payers of income tax for such operations. (6, 9, 11, 16)

Article 220. Simplified tax rate

220.1. *The simplified tax«(with exception of taxpayers engaged in activities, stipulated under Article 218.1.1 of this Code) shall be calculated from the amount of funds (gross volume of cash flow) obtained from provision of goods, implementation of works, rendering of services by the taxpayers and non-sale profits at following rates:*

- *for Baku: 4 percent*
- *for other regions and cities, Nakhichevan Autonomy Republic: 2 percent*

220.2. *For taxpayers involved in activities in cities and regions of the Azerbaijan Republic, with exception of Baku, including Nakhichevan Autonomy Republic, the tax rate established shall be applied only when taxpayers are engaged in activities on these territories using their own production facilities, property and labour.*

220.3 *Payers of simplified tax registered for taxation purposes in cities and regions of the Azerbaijan Republic, in Nakhichevan Autonomy Republic, but engaged in activities in the city of Baku shall be subject for payment of simplified tax established for the city of Baku.*

220.4. *On profits established for various tax rates, control shall be conducted separately. The highest tax rate shall be applied in the event of failure to maintain such control.*

220.5. *Simplified tax for taxpayers engaged in passenger and cargo transportation by automobile transport, is determined as follows:*

<i>Type of transportation</i>	<i>Unit of measurement applied by simplified tax</i>	<i>Monthly amount of simplified tax (in manats)</i>
<i>Passenger transportation (with exception of taxis), by the number of seats:</i>	<i>1 seat</i>	<i>1.8 manats</i>
<i>Passenger transportation by taxi</i>	<i>1 unit of transport</i>	<i>9 manats</i>
<i>Cargo transportation</i>	<i>Load capacity 1 ton</i>	<i>1 manat</i>

220.6. *Simplified tax for taxpayers, implementing passenger and cargo transportation, dependent on the type and territory of operations, is determined with application to the amount of simplified tax, specified in Article 220.5 of this Code, of following rates:*

220.6.1. *in the city of Baku (including villages and districts) and between Baku and other settlements of the country — 2.0;*

220.6.2. *Absheron region, in the cities of Sumgayit, Gandja and between this region and cities and other settlements of the country (with exception of those specified in Article 220.6.1 of this Code) — 1.5;*

220.6.3. *In other cities and districts and between these cities and districts and other settlements (with exception of those specified in Articles 220.6.1 and 220.6.2 of this Code) — 1.0.*

220.7. *Number of seats in the automobile transports (with exception of taxis) or loading capacity, are determined by the registration certificate of the automobile transport.*

If number of seats or load capacity of vehicles (with the exception of taxis) have not been mentioned on the registration certificates of the vehicles, such data shall be determined based on the certificates given to tax authorities by the appropriate executive authority. In the event that it was impossible to determine the number of seats on the basis of the registration certificate of the vehicle or according to the certificates given by the appropriate executive authority, then amount of the simplified tax shall be determined based on the actual number of seats.

220.8. *For persons engaged in operations on residential housing construction, the simplified tax is calculated with application of rates established by relevant executive authority on the basis of zoning of country's cities and regions, to the amount of 10 manats for each square meter of taxable object, defined in Article 219.1.2. of this Code. (6, 9, 11, 14, 16, 21)*

Article 221. Procedure for calculation of simplified tax, period of payment and submission of declaration.

221.1. *The amount of simplified tax (with exception of taxpayers, stipulated under Article 218.1.1 of this Code) for the reporting period shall be calculated via application of tax rate stipulated under Article 220 of this Code to the gross volume of cash flow for reporting period.*

221.2 *Quarter shall be the reporting period for simplified tax regime.*

221.3. *Payers of simplified tax shall, no later than the 20th day of each month following the reporting period, submit to tax authorities the declaration on the amount of tax that shall be paid and make the tax payment to the state budget within same period.*

In case of liquidation of a legal person-taxpayer or if activity of a physical person engaged in business undertakings without having established a legal person is terminated, a declaration should be submitted to the tax authority within 30 days. In this case, tax period shall cover the period from the beginning a term considered as accounting period till the date when the taxpayer stopped his activity.

221.4. *Simplified tax for passenger and cargo transportation by the automobile transport is calculated as follows:*

221.4.1. Simplified tax for each automobile transportation of the taxpayer, engaged in passenger and cargo transportation, is calculated by multiplication of the applied unit of measurement of simplified tax, specified in Article 220.5 of this Code, to the monthly amount of simplified tax, specified in this Article, as well as on rates, specified in Article 220.6 of this Code, and transferred to state budget.

221.4.2. Taxpayers, specified in Article 218.1.1.1 of this Code, shall pay the simplified tax, calculated for the territory of actual implementation of passenger and cargo transportation in accordance with Articles 220.5 - 220.7 of this Code, independent of the place of registration of the automobile transport.

221.4.3. During implementation of passenger and cargo transportation by the automobile transport, used under the power of attorney or leasing agreement, the responsibility for the payment of simplified tax lays with persons, who perform the operations of automobile transport under the power of attorney or leasing agreement. In all other cases, the responsibility for payment of simplified tax lays on the owner of transport.

221.4.4. During implementation of passenger and cargo transportation by automobile transport, owned by legal entities, by the legal entity itself, the simplified tax shall be paid by this legal entity.

221.4.5. Taxpayers, engaged in passenger and cargo transportation by automobile transport, do not submit to tax authorities the declaration on their operations, unless otherwise is stipulated under this Code.

221.4.6. Control over accurate calculation and timely payment to the state budget of the simplified tax by taxpayers, engaged in passenger and cargo transportation, shall be implemented by the relevant executive authority.

221.4.7. Persons, implementing passenger and cargo transportation by automobile transport, shall by the end of calendar month obtain in the relevant executive authority for following month, quarter, half-year or year as per own wish for each transport the «Distinction Sign» issued no later than within two business days upon the taxpayer's application in the form approved by the appropriate executive authority carrying out transportation policy.

To the application of taxpayer for obtaining of the «Distinction Sign» shall be attached the bank payment document, verifying the payment of simplified tax for this activity. In the bank payment document shall be specified the series and number of state registration license of automobile transport.

Legal persons and physical persons engaged in business undertakings without having established a legal person dealing with transportation of passengers and cargo shall be given «a Distinction Sign» after they have fully paid the calculated tax amount to the State Budget. Taxes paid by persons dealing with transportation of passengers and cargo using vehicles shall neither be returned to them nor replaced with taxes for the next month, regardless of whether they were actually carried out such activities or not in that month.

In case of change of the owner or user of the vehicle, taxes paid for the next months by the previous owner or user for that vehicle shall be taken into consideration and official re-registration of the «Distinction sign» confirming payment of taxes shall not be required.

221.4.8. Forms of the «Distinction sign» and «Special distinction sign» shall be determined by the appropriate central executive authority carrying out the transportation policy, and shall contain the following information:

221.4.8.1. Full name of the taxpayer-legal person, or name, middle name and family name of the physical person;

221.4.8.2. Tax ID number ;

221.4.8.3. effectiveness period of the sign;

221.4.8.4. model of the vehicle and state registration sign;

221.4.8.5. number of seats or load capacity of the vehicle;

221.4.8.6. territory where the transportation is carried out;

221.4.8.7. amount of taxes paid.

221.4.9. Automobile transport used for transportation of employees and their luggage for provision of own operations by automobile transport, owned by the taxpayers, shall not be subject to simplified tax and for this transports the «Special Distinction Sign» is obtained.«Special Distinction Sign» is issued to the relevant executive authority within five business days upon application of the taxpayers, who have transport facilities in their ownership. No payment is required for obtaining of «Special Distinction sign». Taxpayers, who received the «Special Distinction Sign», during sales or transfer of automobile transport under leasing, as well as in the event of changes to its applications, not stipulated under this Article, no later than in one business day in advance shall return the «Special Distinction Sign» to the issuing authority.

221.4.10. Upon the registration of new transport means used for transportation of taxpayer's employees and their luggage, owners of these automobile transport within five days shall submit the information to relevant executive authority in accordance with form, approved by the relevant executive authority.

221.4.11. «Distinction sign» or «Special distinction sign» shall not be received for special purpose vehicles equipped with a special sign or equipments (with the exception of such services rendered to them by other taxpayers within business activity), as well as vehicles intended for the official use of public authorities, budget organizations and local self-government bodies, Central Bank of the Azerbaijan Republic, foreign contractors and sub-contractors acting within production sharing, main export pipeline and other similar types of agreements, state funds, diplomatic and consular representatives of foreign countries, representatives of international

organizations, and owners of such vehicles shall inform the appropriate executive authorities about such vehicles.

The appropriate executive authority shall inform the appropriate executive authority till the 10th day of the next month about the signs given during the previous month.

221.5. Persons engaged in residential housing construction, shall calculate the simplified tax for each construction site in the quarter when the construction has commenced, as per article 220.8 of this Code, and no later than 20th of following month of the quarter shall submit the declaration to the tax authority in the form specified by relevant executive authority.

Taxpayers specified in Article 218.1.1.2 of this Code independent of their place of registration as taxpayers, shall pay the simplified tax for the territory where actual operations are taking place on construction of residential housing (place of location of construction site), defined as per Article 220.8 of this Code.

Upon submission to tax authority of the declaration specified under this Article, calculated tax is paid to state budget in equal portions at the rate of 12.5 percent no later than by 20th of the month following the quarter, until fulfillment of all obligations.

221.6. Persons, specified in Article 218.1.1 of this Code shall maintain the calculation of all profits and expenditures separately for each type of activity. Profits (losses) of these persons on these types of operations shall not be applicable to profits (losses) from other operations.
(6, 11, 14, 16, 21)