

Pursuant to Article 52, paragraph 4 of the Corporate Income Tax Law (Official Gazette of the Republic of Srpska, No. 118/08, 11/09, 74/10, 86/10, 24/12, 121/12, 15/16 and 57/16,) the Minister of Finance adopts

**THE RULEBOOK**  
**ON CONDITIONS AND MANNER OF TAXATION WITH WITHHOLDING TAX**

Article 1

This rulebook shall stipulate the conditions and manner of taxation with withholding tax.

Article 2

(1) The subject of taxation with withholding tax is the income paid to a non-resident by a resident of the Republic of Srpska in accordance with the Corporate Income Tax Law (hereinafter: the Law.)

(2) The payment of income from paragraph 1 of this Article shall create an obligation to calculate and pay withholding tax.

(3) A resident of the Republic of Srpska, who pays the tax income from paragraph 1 of this Article, shall be obliged to deduct tax from the amount of income of the non-resident and to pay the deducted tax to the account of the public revenues of the Republic of Srpska, if the Double Taxation Avoidance Agreement does not otherwise stipulate.

Article 3

(1) A resident of the Republic of Srpska, in accordance with the Law and this Rulebook, is a legal entity that fulfills one of the following conditions:

1) the seat of the legal entity is registered in the register of business entities in the Republic of Srpska or  
2) the place of effective management and supervision of operations of legal entity is located on the territory of the Republic of Srpska.

(2) A non-resident is a person whose headquarters, i.e. the place of effective management and supervision of business is located outside the territory of Bosnia and Herzegovina.

#### Article 4

(1) Pursuant to the provisions referred to in Article 2 of this Rulebook, the income shall include the following payments to a non-resident:

- 1) dividends and profit shares,
- 2) interest,
- 3) fees based on copyright and related rights and intellectual property rights (rights to reproduce literary, artistic, scientific and cinematographic works, patents, licenses, rights to use names, designs, models, trademarks, drafts, plans and others similar rights),
- 4) for performance of entertainment, art, or sports program in the Republic of Srpska,
- 5) for professional, scientific, technical and educational services (market research, advertising and promotion, management, consulting, tax and business consulting, services of auditors, accountants, legal services, education and other similar services),
- 6) for insurance premiums in regard to insurance or reinsurance against risks in the Republic of Srpska,
- 7) for telecommunication services between the Republic of Srpska and a foreign country,
- 8) for lease of movable property.

(2) In addition to the tax liability from paragraph 1 of this Article, withholding tax is also due on the income from services that is paid by a resident of the Republic of Srpska to a resident of a country that has not concluded a Double Taxation Avoidance Agreement with Bosnia and Herzegovina.

(3) The withholding tax is also due in the case when the payment of income from paragraphs 1 and 2 of this Article is given to a non-resident in another way, except in money.

#### Article 5

Income from dividends and profit shares from Article 4, paragraph 1, point 1) of this Rulebook shall represent the income from shares, profit shares, as well as other corporate rights that are subject to the same tax treatment as income from shares.

#### Article 6

Interest income from Article 4, paragraph 1, point 2) of this Rulebook shall represent any amount required to be paid in money, goods or services, whether it is to pay a debt liability, or a deposit or in accordance with a financial credit/loan agreement, installment sale or some other type of sale with postponed payment.

## Article 7

(1) Royalties from Article 4, paragraph 1, point 3) of this Rulebook are fees that are paid or otherwise settled for the use of rights.

(2) Pursuant to the provisions referred to in paragraph 1 of this Article, the following rights shall be considered:

1) the right to reproduce literary, artistic, academic and cinematographic works,

2) the right to use patents, licenses, names and trademarks, designs, models, projects, plans, secret formulas or procedures,

3) the right to transfer information about industrial, commercial or scientific experience,

4) other similar rights for which royalties are paid.

(3) Copyright of cinematograph materials and films shall be deemed as the use of rights regardless of whether they are used in movie theaters, on television or on the Internet.

(4) The industrial, commercial or scientific experience referred to in paragraph 2 point 3) of this Article, shall be deemed to be all copyright data, whether they be suitable for patenting or not, used by one party to sell to the other party its business knowledge and experience with a view to applying them to its own name and for its own account.

(5) As regards the computer program-related royalty (software), only the compensation for the right to use such program (license) shall have a nature of taxable royalty.

(6) Royalty for the computer program, fully purchased, shall not have the nature of taxable income withholding tax.

## Article 8

(1) Fee pertaining to performance of entertainment, art or sports program from Article 4, paragraph 1, item 4) of this Rulebook shall represent the income that is paid to a non-resident or settled in another way based on the performance or organization of entertainment, art or sports program.

(2) The fee from paragraph 1 of this Article shall also include the income from sponsorship or advertising (promotion) that is directly or indirectly related to performance of entertainment, art or sports program.

(3) If the compensation referred to in paragraph 1 of this Article is paid to the account of a legal entity, and to the benefit of an artist, entertainer or a sportsman, the compensation thus paid shall be deemed as subject to taxation with withholding tax, if it is not taxed according to the regulations governing personal income tax.

#### Article 9

(1) Fees for professional, scientific, technical and educational services from Article 4, paragraph 1, point 5) of this Rulebook shall include: market research services, advertising and publicity, management, consulting, tax and business consulting, auditing, accounting, legal services, education and other similar services that are paid or otherwise settled to a non-resident.

(2) The technical services referred to in paragraph 1 of this Article shall be deemed services from the field of construction, architecture, electrical engineering, mechanical engineering and information technology, equipment installation or setting, supervision, training, technical support, repair, service, overhaul, then IT support and maintenance of IT infrastructure, maintenance of computer databases, if the technical services are not included through the permanent establishment from Article 40 and 41 of the Law.

(3) Legal services referred to in paragraph 1 of this Article shall be deemed to be the provision of attorney and general legal services, such as legal advice, drafting of legal acts, etc.

(4) Education services shall be deemed as the services, which a non-resident legal entity offers to a resident legal entity for the purpose of education or training in any field.

#### Article 10

The service related to property and personal insurance from Article 4, paragraph 1, point 6) of this Rulebook shall be deemed as the payment made by a resident person to a non-resident person for insurance premiums in regard to insurance or reinsurance against risks in the Republic of Srpska.

#### Article 11

(1) Telecommunication services between the Republic of Srpska and a foreign country from Article 4, paragraph 1, point 7) of this Rulebook shall be deemed as services that consist, in whole or in part, of transmission of signals on telecommunications networks, including broadcasting, but not limited only on broadcast, as well as data network.

(2) Broadcasting from paragraph 1 of this Article shall indicate any transmission of signs, signals, text, images, sound or data from one point to multiple points via wire, optical cables, by radio or any other electromagnetic means, intended for general reception through the users' receivers, which are set up for that purpose.

(3) A "foreign country" from paragraph 1 of this Article shall mean any country except Bosnia and Herzegovina.

## Article 12

The rental fee of movable property from Article 4, paragraph 1, point 8) of this Rulebook shall be deemed as the payment to a non-resident for the lease of an asset, such as means of transport or any equipment for work.

## Article 13

(1) If the non-resident's income, realized in the Republic of Srpska by the provisions of the Double Taxation Avoidance Agreement, is taxed only in the country of the non-resident, the payer of the income - a resident of the Republic of Srpska is obliged to obtain a residence certificate for non-resident beneficiary, which is issued by the competent authority of the country of the income beneficiary, which cannot be older than one year from the date of its issuance.

(2) If a lower or the same tax rate in relation to the rates specified in Article 44 of the Law is applied to the non-resident's income earned in the Republic of Srpska, based on the Double Taxation Avoidance Agreement, the payer of income - a resident of the Republic of Srpska is obliged to provide the Tax Administration, besides the evidence from paragraph 1 of this article, with a certified statement of income and the income beneficiary on the form found in annex 1 of this rulebook which is its integral part.

(3) The payer of income may be obliged to provide evidence from paragraph 2 of this Article for each payment of double taxation, for the purpose of applying the avoidance contract.

(4) Notwithstanding paragraph 3 of this Article, if the payer of income and the foreign legal person - income beneficiary to which the withholding tax applies have agreed that the payment is to be effected continually during the year, in that case the foreign legal person - resident of the country with which BiH has concluded a Double Taxation Avoidance Agreement is not required to submit the evidence needed to apply the agreement in the course of each payment of income, but only once during the year before the first payment.

(5) The payer of income may be obliged to have in his archives the evidence from paragraph 1 and 2 of this Article and to submit the said evidence to the Tax Administration when filing the withholding tax return.

## Article 14

(1) The payer shall be required to file an annual withholding tax return to the Tax Administration within the deadline prescribed by Article 38 of the Corporate Income Tax Law, and the application form can be found in Annex 2 of this Rulebook, which is an integral part of it.

(2) The tax return referred to in paragraph 1 of this Article shall include the following information about each foreign legal entity in whose name the tax has been deducted for that year:

- 1) the name of the foreign legal entity and the country of its place of business,
- 2) type and total amount of income,
- 3) amount of calculated tax,
- 4) amount of paid withholding tax.

#### Article 15

Upon the entrance into force of this Rulebook, the Rulebook on Conditions and Manner for Acquisition of the Tax Exemption Right shall cease to be valid (Official Gazette of the Republic of Srpska, No. 45/16 and 50/16)

#### Article 16

This Rulebook shall enter into force on the eighth day of its publishing in the Official Gazette of the Republic of Srpska.

Number: 06.05/020-3162/17

December 21, 2017

Banja Luka

Minister

**Dr. Zoran Tegeltija**, sgd.

