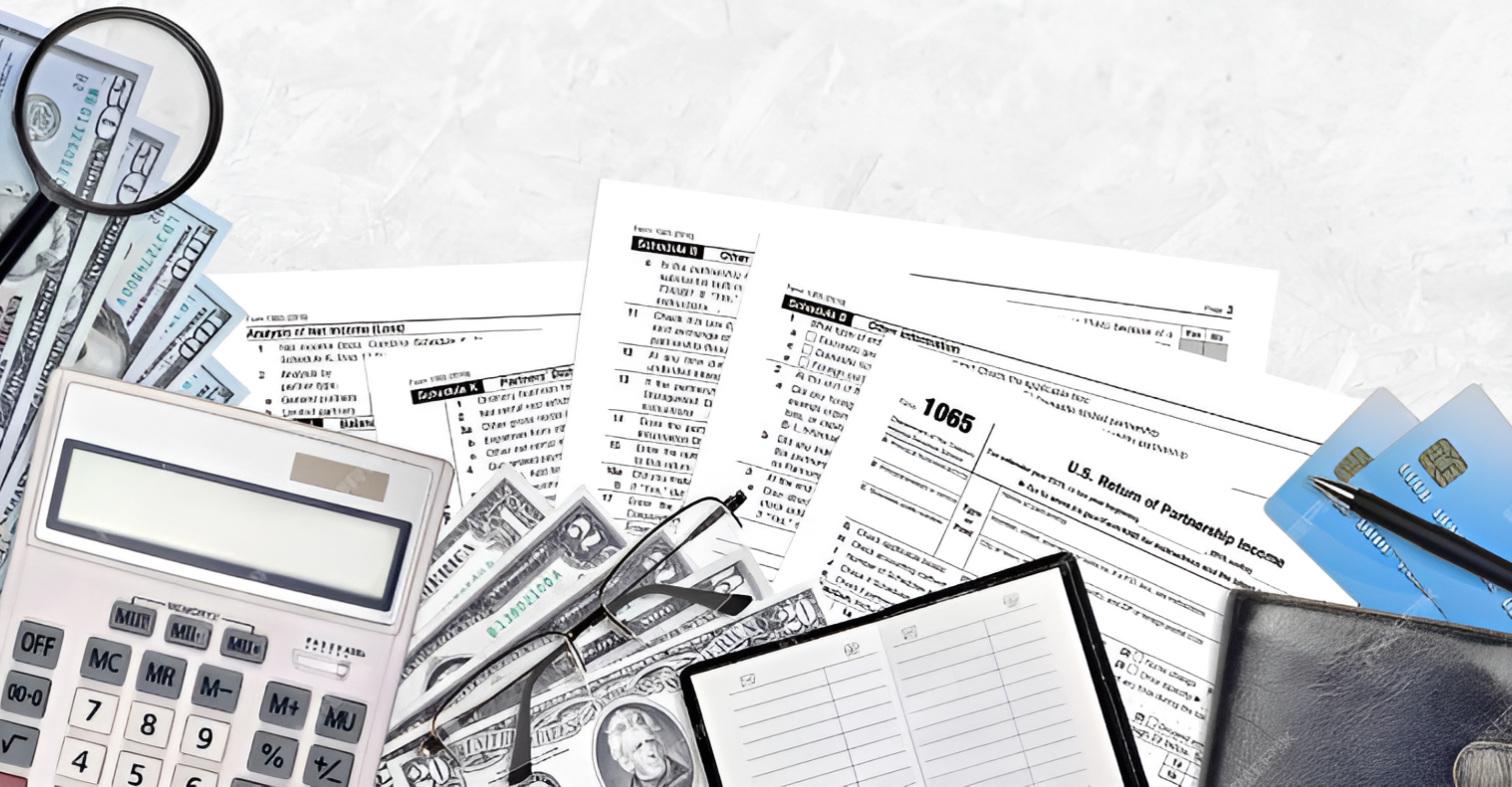
VOKSHI & LATA

LAW FIRM

TAXATION

LEGAL GUIDE TO INVESTING IN KOSOVO 2024



5. TAXATION

Kosovo has made significant strides in its efforts to establish an attractive and competitive tax system. The tax landscape in Kosovo is characterized by low tax rates making it a favourable destination for investors and businesses seeking to operate in the region.

One of the most compelling aspects of the tax system in Kosovo is the relatively low tax rates it offers. Kosovo's corporate income tax rate stands at a flat 10%, which is notably competitive in comparison to many other European nations. This favourable corporate tax rate is a key driver in attracting businesses to Kosovo and encouraging domestic and foreign investment.

Furthermore, Kosovo's unique advantage lies in its exemption of dividend income from taxation. This tax-free treatment of dividends serves as a compelling incentive for potential investors, rendering Kosovo an exceptionally attractive destination for businesses seeking expansion in the region.

Kosovo has implemented a simplified VAT system with a standard rate of 18%. However, it's important to note that VAT is set at 0% on exported goods and services, making Kosovo highly competitive in international trade. Additionally, Kosovo offers a reduced VAT rate of 8% for essential goods and services. This simplified VAT structure contributes to a transparent and business-friendly environment, enhancing the ease of doing business.

Kosovo has been proactive in negotiating double taxation treaties with various countries, promoting international trade and investment. These treaties help in preventing double taxation on the same income and offer tax relief through tax credits and exemptions. Kosovo has signed double taxation treaties with multiple countries, further bolstering its appeal as a hub for international business operations.

Furthermore, Kosovo has implemented several incentive schemes aimed at attracting foreign investors, including reduced tax rates for specific sectors, such as IT and tourism. These incentives are designed to stimulate economic growth and job creation in key industries.

5.1. CORPORATE INCOME TAX

Corporate Income Tax ("CIT") is regulated in Kosovo by the Law No.06/L-105 on Corporate Income Tax ("Law on CIT").

5.1.1. Taxpayers

Taxpayers are taxable corporations and business enterprises with legal person statute; business organisations operating with public or socially owned assets; NGOs and non-resident persons with a permanent establishment in Kosovo. Resident taxpayers are taxable for their Kosovo and foreign income sources. Non-resident taxpayers are taxable for their Kosovo income sources.

Declaration: Tax declaration and financial statements shall be submitted to Tax Administration of Kosovo ("TAK") by March, 31st of the year following the tax period.

5.1.2. Taxable Income

Taxable income, as per Kosovo's legislation, refers to the income that is subject to taxation. It is calculated as the difference between the gross income received and accrued and the allowable deductions. In other words, it represents the portion of income that is eligible to be taxed after accounting for deductions and exemptions, in accordance with Kosovo's tax laws.

Avoidance of double taxation: Kosovar residents who receive income from foreign business activities, for which they pay income taxes to another state, are entitled to a tax credit for the amount paid abroad. However, this deduction cannot exceed the tax liability calculated under the Kosovar tax rate. These provisions are overridden by any existing double taxation treaties. Kosovo has such treaties in place with Albania, Austria, Belgium, Croatia, Finland, Germany, Luxembourg, Hungary, Ireland, Latvia, Lithuania, Saudi Arabia, Malta, Macedonia, the Netherlands, Slovenia, Switzerland, Turkey, the United Arab Emirates, and the United Kingdom. Additionally, Kosovo has double taxation treaties with the Czech Republic, France, and Italy, although they are not yet in force.

In Kosovo's tax system, the prevention of double taxation is governed by specific rules:

Residency Requirements: To qualify for double taxation relief in Kosovo, individuals or companies must meet certain residency criteria. This often involves spending a specified period within Kosovo's territory during a defined timeframe.

Required Documentation: To claim double taxation relief, individuals or companies may need to provide relevant documentation to confirm their eligibility. This typically includes certificates issued by the tax authorities of their home country.

Dividend Taxation: Kosovo generally refrains from taxing dividends at the source to avoid double taxation on such income.

By way of illustration, let's consider the double taxation avoidance agreement between Kosovo and Germany.

This agreement outlines specific provisions to prevent double taxation, which include:

Residency Determination: The agreement establishes clear guidelines for determining an individual's tax residency, often based on the number of days spent within a country.

Threshold for Residency: Usually, there is a specified threshold (e.g., 183 days in a tax year) to determine tax residency.

Exceptions for Certain Income: The agreement may exempt certain types of income, such as income from government services or earnings by students and apprentices working abroad.

Tie-Breaker Rule: In cases where an individual is considered a tax resident in both contracting countries, the agreement often includes a tie-breaker rule to definitely determine their primary tax residency. This rule considers factors such as the individual's permanent home, center of vital interests, habitual abode, and nationality.

Business Residency: For businesses, the agreement typically defines criteria, such as the location of effective management or the headquarters, to determine their tax residency.

Government Employee Limitations: Specific rules may apply to government employees working abroad for a set period.

In summary, Kosovo's double taxation avoidance agreement with Germany outlines clear criteria and thresholds for tax residency. It also addresses exceptions for income and includes tie-breaker rules to resolve disputes over tax residency.

5.1.3. Exemptions from CIT

Are exempted from CIT:

• NGOs to the extent that their income is only used for public benefit purposes;

• Central Bank of Kosovo and international financial institutions;

• financial instruments issued or guaranteed by public authority of Kosovo;

• religious communities;

• foreign contractors and subcontractors for supply contracts to foreign governments and certain international organisations and agencies;

• income received from grants, subsidies and donations;

• dividend paid or received for resident and non-resident persons.

5.1.4. Deductions

Can be deducted from gross income the expenses in connection with the taxpayer's economic activities, such as:

• health insurance for employees and dependents;

• education and training;

• donation and sponsorship for humanitarian, health, education, religious, scientific, cultural, environmental protection and sports, up to 10% of taxable income (with an additional 10% if special deduction is provided in a specific law);

• representation, advertisement and promotion expenses (to the limit of 1% of the gross annual income);

• bad debt expenses (under certain conditions);

• depreciation of buildings and other constructed structures (5% rate), vehicles, office furniture, equipment and instruments, livestock (20% rate), plants and machinery, rolling stocks and locomotives, airplanes, ships, etc. (10% rate);

• repairs or improvements of 1,000 euros or less for any asset (repair or improvement greater than 1,000€ euros, if it extends the lifespan of the asset for at least one year, shall be capitalized and added to the basis of the asset);

• amortisation (depreciation) of intangible assets for their useful life or, if not determined, for 20 years;

• amortisation (depreciation) of research and development costs in respect of natural resources;
• capital loss, which means the loss incurred from the sale or other alienation of capital property, including movable (personal) property, real estate and securities. Capital losses are recognised as business losses (as opposed to capital gains, which are realised from the same transaction, and are recognised as business income).

• tax losses, which occur when, under tax reporting rules, expenses are greater than revenue. Tax losses may be transferred as a deduction for up to 4 successive tax periods. If the business changes its type of business organization or has an ownership change of more than 50%), the transfer will no longer be applicable.

• etc.

The Law on CIT explicitly excludes from deduction expenses such as the cost of acquisition and improvement of land; fines, penalties, costs interest imposed by a public authority; income taxes and deductible VAT; tax loss from transactions between related persons, (unless in compliance with the open market value); pension contributions above the maximum amount allowed; expenses on gifts (except those with the name and logo of the business); expenses for entertainment and recreation; etc.

Provisions for expected losses are generally not deductible, except under specific conditions and limitations, such as expected losses from loans for Bank, Microfinance, and non-bank financial institutions, which can be deducted up to 80%. Within specified limits, financial insurance and reinsurance institutions can deduct their expenses for technical and mathematical provisions.

5.1.5. *Transfer Pricing*

The *transfer price* is the pricing for multinational enterprises of intra-group, cross-border transfer of goods, intangibles and services. Such transactions are referred to as “controlled transactions”. Kosovo Transfer pricing taxation rules are based on OECD guidelines and are set in the Administrative Instruction on Transfer Pricing No 02/ 2017, which purpose is to establish rules and procedures for the management and implementation of transfer pricing in line with the Law on CIT.

Kosovo CIT taxpayers are taxable for their controlled transactions between related parties. Parties are considered to be related if one person holds or controls 50% or more of the other; or controls the other directly or indirectly; or both persons are controlled by a third person, or when persons are relatives.

Depending on the circumstances, different methods are used to set the transfer price (comparable uncontrolled price method; resale price method; Cost Plus Method; transaction net margin method and the profit split method).

Taxpayers with control transactions exceeding 300,000 euros are required:

• to submit the Transfer pricing documentation, prepared according to the requirements of the Code of Conduct of the European Union on Transfer Pricing Documentation for Associated Companies (2006/C176/01); and

• to submit to TAK the annual controlled transactions form at the latest on the date for annual CIT declaration (March, 31st).

Under 300,00 euros, taxpayers:

• must also prepare documentation but are considered to meet the requirements for transfer pricing documentation, even if in the case of using foreign comparable transactions;

• are not subject to submission of annual controlled transaction form.

5.1.6. Payment

Taxpayers in Kosovo are required to make advance tax payments every quarter on the following dates: April 15th, July 15th, October 15th, and January 15th.

For taxpayers with an annual gross income not exceeding 30,000 euros who have not chosen to submit a tax declaration, the quarterly payments are determined as follows:

• 3% of the gross income derived from trade, transport, agricultural, and similar commercial activities, with a minimum payment of 37.5 euros.

• 9% of the gross income from services, professional activities, craftsmanship, entertainment, and similar activities, with a minimum payment of 37.5 euros.

• 10% of the net rental income, reduced by any previously withheld amounts for the quarter.
Other taxpayers who are required to submit (with gross income exceeding 30,000 euros) or opt for tax declaration shall make quarterly payments as follows:

A quarter of the total tax liability for the current tax period based on estimated taxable income, reduced by any amounts already withheld for the quarter.
For the second and subsequent tax periods, at least a quarter of 110% of the total tax liability from the previous tax period, reduced by any amounts withheld for the quarter.

5.2. PERSONAL INCOME TAX

Personal Income Tax ("PIT") is regulated in Kosovo by the Law No 05/L-028 on Personal Income Tax ("Law on PIT").

5.2.1. Taxpayers

The taxpayers are resident and non-resident natural persons, personal business enterprises, partnerships and associations of persons.

Residents are taxable for their income from Kosovo and foreign sources. Non-residents are taxable for their income from Kosovo.

5.2.2. PIT Rates

The PIT rates are as follows:

• 960 euros or less: 0%;

• 961 to 3,000 euros: 4% of the amount over 960 euros;

• 3,001 to 5,400 euros: 81.6 euros + 8% of the amount over 3,000 euros.

• Over 5,400 euros: 273.6 euros + 10% of the amount over 5,400 euros

5.2.3. Taxable Income

Taxable income is the difference between gross incomes received and accrued and the allowable deductions.

Taxable incomes include

• wages, including wages for work, bonuses, commissions, health and life insurance paid by the employer, forgiveness for employee debt, compensation for personal expenses, and benefits in kind. Gross income from wages does not include reimbursement for business travel expenses, indemnity for work accidents, gains in kind in the form of meals and transport, reimbursement and benefits for transportation from residence to the workplace (under conditions).

• rents generated by immovable property and rented equipment and vehicles;
• the use of intangible property;
• interest, from loans, bonds and accounts (but not interest from pension funds);
• capital gains, including those resulting from the sale of a capital asset;
• pensions;
• lottery and game of chance winnings;
• gifts for a value exceeding 5,000 euros per tax period
• income from Business activities;

Any other income not exempted.

5.2.4. Exempted Income

Are exempted from PIT:

• wages of representatives, officials and personnel of international organisations, foreign countries and their agencies; donor agencies or their contractors.
• compensation for damage or destruction of property;
• life insurance policies payable as the result of the death of the insured person
• interest on financial instruments issued or guaranteed by a Public Authority of Kosovo;
• Wages of persons with disabilities;
• Pensions and social welfare assistance;
• Assets inherited;
• gifts between spouses, a parent to their children, or from children to their parents, regardless of their value;
• educational and training program expenses paid by an employer on behalf of an employee (under certain conditions and limitations);
• scholarships;
• expropriation compensation;
• Mandatory contributions paid by the employer for health insurance for the employee;
• Compensations received through courts decisions;
• grants, subsidies and donations;
• dividends;

5.2.5. Payments Obligations

Taxpayers earning income from business, rent, or intangible property are required to make quarterly payments to an account specified by the Tax Administration of Kosovo (TAK).

Business Income:

For taxpayers with an annual gross income from business activities not exceeding €50,000, who have chosen not to maintain detailed books and records, the quarterly payments are determined as follows:

• 3% of the gross income from trade, transport, agriculture, and similar commercial activities, with a minimum payment of €37.5.

• 9% of the gross income from services, professional activities, craftsmanship, entertainment, and similar activities, with a minimum payment of €37.5.

Other taxpayers, including those with gross incomes exceeding €50,000 or those who have opted to maintain detailed books and records, are required to make quarterly payments as follows:

• One-quarter of the total tax liability for the current tax period, based on estimated taxable income, reduced by any amount withheld during the quarter,

• For the second and subsequent tax periods, at least one-quarter of 110% of the total tax liability from the previous tax period, reduced by any amount withheld during the quarter.

Rental Incomes:
Quarterly payments for rental incomes should be calculated as 10% of the taxable rental income received during the preceding quarter, after adjusting for any amounts withheld during the quarter in accordance with the Corporate Income Tax legislation.

Intangible Property Incomes:
Quarterly payments for income from intangible property should be calculated as 10% of the taxable income received from intangible property during the preceding quarter, after adjusting for any amounts withheld as royalties.

Other Sources of Taxable Income:
Taxpayers with taxable incomes from other sources, including capital gains, are required to make their tax payments on or before March 31st of the year following the end of the tax period.

5.2.6. Declaration

Taxpayers are required to prepare and submit an annual tax declaration on or before March, 31st of the year following the tax period.

Are not required to submit an annual declaration, taxpayers receiving income from:

• wages;

• business activities, for taxpayer with annual not exceeding 50,000 euros or who did not opt to keep books and record (cf. above) - taxpayers may however opt for annual declaration;

• rent, where full payment has been made quarterly (cf. above) - taxpayers may however opt for annual declaration;

• interest;

• lottery winning;

• income from intangible property; and

• income from special categories (farmers, collectors of recycling materials, berries, herbs and similar).

5.3. VALUE-ADDED TAX

Value Added Tax (VAT) in Kosovo is regulated by Law No. 05/L-037 on Value Added Tax, aligned with EU Directives. VAT is applicable to goods and services produced in Kosovo by taxable persons or imported into Kosovo.

5.3.1. Taxable Persons

Taxable persons are those who independently engage in economic activities, whether regularly or irregularly. Economic activities include manufacturing, trading, and the supply of goods and services, encompassing mining and agricultural activities. This also covers the exploitation of tangible or intangible assets to generate regular income.

Foreign entities conducting economic activities in Kosovo are considered taxable from the commencement of their operations in Kosovo.

The following are not considered taxable:

- Non-profit organizations, except when they receive payments as a result of economic activities.
- International organizations, foreign countries, and their agencies.
- Public authorities at central and local levels and other entities defined by law. However, if these entities engage in specific activities to a significant extent, such as telecommunications, water and energy supply, and transportation services, they become taxable.

5.3.2. Registration

Taxable persons must register with the Tax Administration of Kosovo (TAK) when their annual turnover exceeds €30,000 within a calendar year. Registered entities receive a registration certificate, which must be displayed at their place of business. Individuals conducting multiple economic activities in different locations within Kosovo are identified by a single VAT number. Partnerships and groups of persons are assigned a single VAT registration number.

Entities not established in Kosovo must register for VAT at the commencement of their activities in Kosovo. They should appoint a tax representative and register under the representative's name within five days of the representative's appointment and before commencing operations. However, entities not established in Kosovo are not required to register if they exclusively supply goods or services to VAT-registered entities in Kosovo.

For entities not obligated to register, voluntary registration with TAK is an option.

5.3.3. VAT Rates

Kosovo applies a standard VAT rate of 18%. A reduced rate of 8% is applicable to the supply and import of specific goods and services, including water (except bottled water), electricity (including transmission and distribution services), grains and grain-based products for human consumption, certain dairy products, salt for human consumption, eggs, textbooks, serial publications, and more.

5.3.4. Exemptions

Exemptions without the right to deduct VAT (zero-rated supplies) apply to activities in the public interest, such as hospital services, medical care, and services for children and young people. Exemptions also include education, Trade Unions, NGOs, political and religious organizations, public media, newspapers, electronic media, public transportation services, and more.

Exemptions with the right to deduct VAT are applicable to specific importations, including the supply of precious metals and banknotes to the Central Bank of Kosovo, import of gas and electricity, machinery and raw materials for production, IT equipment, and more.

5.3.5. Deduction

The right to deduct input VAT arises when VAT becomes chargeable. Input VAT is deductible if it is related to purchases of goods and services used or intended for use in the taxpayer's taxable transactions. VAT cannot be deducted for certain assets like yachts, private aircraft, cars, and motorcycles used for non-business purposes. For cars used for both private and business purposes, input VAT can be deducted up to 50%. Costs related to real estate property used for both business and private purposes are only deductible for business use.

When goods and services are used for both deductible and non-deductible transactions, only the non-deductible portion is excluded. Taxable persons can calculate the proportion of the deduction when authorized by TAK and with adequate justification.

5.4. CUSTOMS DUTIES AND EXCISE TAXES

5.4.1. Customs Duties

Customs duties in Kosovo range from 0% to 10%. Imports from countries that are members of CEFTA (Central European Free Trade Agreement) are typically duty-free. Furthermore, since April 1, 2016, several agricultural goods, fish, and fishery products from the European Union have also become exempt from customs duties in Kosovo.

As per the Turkey-Kosovo Free Trade Agreement (FTA), some goods already face reduced customs duties. Kosovo is committed to eliminating all customs duties on goods specified in the FTA within a 9-year period starting from the FTA's entry into force on September 1, 2019.

For countries that do not have a free trade agreement with Kosovo, most goods are subject to a 10% customs duty.

5.4.2. Excise Taxes

Excise taxes are imposed in Kosovo on specific manufactured goods. These taxes apply to items such as cigarettes, liquor, water, soft drinks, and oil. They are calculated as a fixed amount for a certain quantity of the goods.

The current excise tax rates can be found in Law No. 03/L-220, which amends and supplements Law No. 03/L-112 regarding excise tax rates in Kosovo.