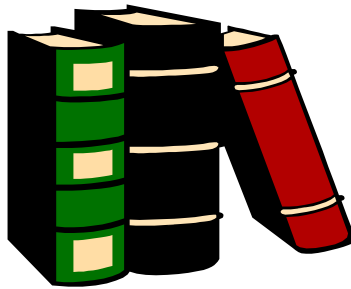




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## Department for Legal Affairs



# LAW ON INDIRECT TAXATION SYSTEM IN BOSNIA AND HERZEGOVINA

“Official Gazette of Bosnia and Herzegovina”, 44/03

**NOTE:** The High Representatives Decisions Enacting the Law on Amendments to the Law on the Indirect Taxation System in Bosnia and Herzegovina, published in the “Official Gazette of Bosnia and Herzegovina”, 52/04 , 34/07 and 4/08 and the Law on Changes and Amendments to the Law on Indirect Taxation System , published in the “Official Gazette of Bosnia and Herzegovina”, 49/09 and 32/13 are not included in this translation.

Based on Article IV (4) (a) of the Constitution of Bosnia and Herzegovina the Bosnia and Herzegovina Parliamentary Assembly had, at the House of Representatives session held December 29, 2003 and the House of Peoples session held on December 29, 2003, enacted the

## **LAW ON INDIRECT TAXATION SYSTEM IN BOSNIA AND HERZEGOVINA**

### **I - GENERAL PROVISIONS**

#### **Article 1 Scope**

This Law establishes the institutional and organisational basis for a single indirect taxation system in Bosnia and Herzegovina in order to contribute to the overall macroeconomic stability and fiscal sustainability of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina (hereinafter: the Federation), Republika Srpska, and the Brcko District of Bosnia and Herzegovina (hereinafter: the District), as well as to support the functioning of a single economic space in Bosnia and Herzegovina.

For the purpose of this Law, the term “indirect tax” refers to import and export duties, excise taxes, value added tax and all other taxes levied on goods and services, including sales taxes and road tolls.

#### **Article 2 Purpose**

This Law provides for the development and implementation of indirect taxation policy in Bosnia and Herzegovina, as well as the efficient collection and distribution of indirect taxes.

This Law provides for the uniform implementation of indirect taxes throughout Bosnia and Herzegovina.

This Law establishes a system for the collection of indirect tax revenue, as well as the distribution of indirect tax revenue, to the budgets of Bosnia and Herzegovina, the Federation, the Republika Srpska, and the District, in a transparent manner.

#### **Article 3 Institutional Structure**

This Law provides for an Indirect Taxation Authority (hereinafter: Authority) as an independent administrative organization under the *Law on Ministries and Other Administrative Bodies of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, 5/03)* (hereinafter: *Law on Ministries*) and the *Law on Administration of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, 32/02)* (hereinafter: *Law on Administration*), which shall implement legal and other provisions on indirect taxation and the policy as determined by the Council of Ministers at the proposals of the Governing Board (hereinafter: Board).

### **II – INDIRECT TAXATION AUTHORITY**

#### **Article 4 Duties**

The Authority is the sole body in Bosnia and Herzegovina responsible for the implementation of legislation on indirect taxation and the policy as determined by the Council of Ministers at the proposal of the Board”, as well as for the collection and distribution of indirect taxes in the territory of Bosnia and Herzegovina.

The Authority is responsible for such other matters as may be entrusted to it by law.

**Article 5**  
**Seat and Seal**

The Authority has its Seat in Banja Luka.

In accordance with the *Law on Seals of the Institutions of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, 12/98, 14/03)* the Authority has a seal.

**Article 6**  
**Structure**

The Authority has branch offices and sub-offices throughout the territory of Bosnia and Herzegovina. The seat and responsibilities of such offices shall be organized on economic principles, designed to maximize the efficiency of the Authority as a whole, ensure taxpayer convenience and support the functioning of a single economic space in Bosnia and Herzegovina.

**Article 7**  
**Director**

The Authority has a Director who is responsible for the management of the Authority.

The Director represents the Authority.

The Director is not subject to the Law on Civil Service in the Institutions of Bosnia and Herzegovina (hereinafter: Law on Civil Service) (“Official Gazette of Bosnia and Herzegovina, 19/02).

National representation shall be taken into consideration during the recruitment process for the managerial positions.

The Authority has no Deputy Director.

**Article 8**  
**Duties of the Director**

The Director ensures the uniform implementation of indirect taxes throughout Bosnia and Herzegovina.

The Director is responsible for establishing and maintaining a bookkeeping and reporting system to provide regular and detailed reports on collection and distribution of indirect taxes to the Board. The reports shall contain information on all aspects of collection and distribution, including arrears, fraud, significant problems with the collection of revenue and the results of control and enforcement activities.

The Director reports to the Council of Ministers of Bosnia and Herzegovina (hereinafter: Council of Ministers) on the activities of the Authority through the Board.

The Director is responsible for advising the Board of any impediments to the implementation of policies or legislation on indirect taxation and, where applicable, proposing appropriate amendments to legislation in this regard.

The Director is responsible for preparing the annual budget, as well as the long-term budget framework, for the Authority. The Director is also responsible for implementing the annual budget of the Authority and for regularly reporting to the Board thereon. The Board shall approve the annual budget of the Authority proposal before it is placed in the regular State budget procedure.

The Director is responsible for preparing an annual report of the finances and activities of the Authority, which shall be submitted to the Board. The Board shall review the annual report and arrange for its publication in the Official Gazette of Bosnia and Herzegovina after the end of each financial year.

The Director is responsible for preparing an annual work plan, which is subject to the approval of the Board. The Director is also responsible for preparing a Book of Rules on Internal Organization and, subject to the approval of the Board, the publishing thereof. The Book of Rules shall set out the framework organizational structure of the Authority. Notwithstanding the *Law on Ministries* and the *Law on Administration*, the Book of Rules shall not be subject to approval of the Council of Ministers.

The Director appoints and relieves of functional heads of the Authority as necessary in order to ensure effective implementation of this Law in accordance with the Book of Rules on Internal Organization. Functional heads of the Authority report solely to, and receive instructions solely from, the Director. Their respective areas of authority are delineated along functional lines to include customs, tax, enforcement, and business services. The functional reporting lines extend across the Headquarters, all branch offices and sub-offices of the Authority.

The Director is responsible for providing statistical data to relevant bodies including the Agency for Statistics of Bosnia and Herzegovina.

The Director is responsible for establishing an internal audit function for the Authority.

### **Article 9 Selection and Appointment of the Director**

The Director is appointed by the Council of Ministers in accordance with the *Law on Ministerial Appointments, Appointments of the Council of Ministers and other Appointments of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, 07/03)*. Notwithstanding Article 9 of the said Law, the Board shall serve as the Selection Committee for appointment of the Director.

The appointment criteria for the Director shall include a requirement that the Director has expertise in a relevant field and has demonstrated a standard of honesty and integrity in the conduct of his/her work.

The Director is dismissed by the Council of Ministers, on the proposal of the Board. The Director may only be dismissed if s/he permanently loses the capacity to execute his/her duties; seriously fails to implement measures for managing the Authority; abuses his/her office or exceeds his/her authority; breaches a state or an official secret; or if he/she is charged with criminal offence which makes him/her unworthy of executing his/her duties.

### **Article 10 Conflict of Interest**

The Director is subject to the *Law on Conflict of Interest in Governmental Institutions of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, 16/02)*.

### **Article 11 Term of Office**

The Director is appointed for a period of four years.

At the expiry of the four-year period, the outgoing Director may run as a candidate for a single further four-year period.

### **Article 12 Employees of the Authority**

*The Law on Civil Service* applies to the employees of the Authority with the following exemptions:

- (i) Article 19 (2) does not apply;
- (ii) Chapter V does not apply; and
- (iii) Chapter VIII does not apply.

Notwithstanding item (ii) of the previous paragraph Article 42 of the Law on Civil Service shall apply.

The Director shall prepare regulations for approval by the Board, which establish the pay structure for calculation of salaries of Authority employees and the various salary grades into which such employees shall be categorised. In determining the salary grades, the Director shall take into account the specific skills and experience required to fulfil the responsibilities of the Authority. In determining employee remuneration additional to base pay, the Director shall establish a system that links reward to employee performance. The Director shall also prepare regulations for approval by the Board, which establish a disciplinary procedure for employees of the Authority.

### **Article 13 Budget**

The Authority has its own annual budget, adopted in accordance with the *Law on the Treasury of the Institutions of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, 27/00)* and the Law on Execution of the Budget of the Institutions of Bosnia and Herzegovina and International Liabilities. Special provision shall be made in the budget of the Authority for the expenses of the Board.

The adopted annual budget shall also be the operational budget of the Authority.

## **III – GOVERNING BOARD**

### **Article 14 Duties**

The Board is responsible for the following:

- (i) The determination of the proposals on the indirect taxation policy for the implementation in the entire Bosnia and Herzegovina. The policy shall be determined by the Council of Ministers of Bosnia and Herzegovina.
- (ii) Advising the Council of Ministers of Bosnia and Herzegovina, as well as the Governments of the Federation, Republika Srpska, and the District, on policy and implementation regarding indirect taxes and the resulting implications for public finances, in order to facilitate the preparation of fiscally responsible budgets;
- (iii) Defining the strategic objectives of the Authority and appraising the performance of the Authority against such objectives;
- (iv) Approving the budget proposal of the Authority pursuant to Article 13 of this Law;
- (v) Approving the annual work plan and Book of Rules on Internal Organization prepared by the Director pursuant to Article 8, paragraph 7 of this Law;
- (vi) Making decisions in disputed cases on distribution of revenues;
- (vii) Any other tasks as provided for by law.

The Board is responsible for initiating the preparation of legislation and amendments on indirect taxation, including legislation on tax rates and structures, as it deems necessary for the purpose of implementing this Law.

The Board is responsible for issuing regulations for the implementation of the activities set forth in this Article.

The Board, on a proposal from the Director, adopts instructions specifying information or documents as official secrets in the operations of the Board and the Authority. In so doing, the Board shall pay due regard to applicable legislation of Bosnia and Herzegovina, as well as applicable legislation of the Federation, Republika Srpska and the District.

The Board shall be responsible for its operation to the Council of Ministers of Bosnia and Herzegovina.

### **Article 15 Status**

The Board is a legal person.

### **Article 16 Organisation**

The Board consists of six members.

The members are:

- (i) the Minister of Finance and Treasury of Bosnia and Herzegovina, and the Ministers of Finance of the Federation and Republika Srpska or the individual(s) acting in this capacity; and
- (ii) three experts for indirect taxation.

The members of the Board, by consensus, choose a Chairman from amongst the members who will hold the position for a five-year term.

The Director of the Authority, a representative from the District and a representative of the Central Bank are observers to the Board.

The Board meets once each calendar month or more often, as the Chairman deems necessary.

The Board shall be provided by the Authority with adequate resources and personnel support, so as to enable it to carry out its duties under this Law.

The Chairman convenes Board meetings by communicating the time, venue and agenda of the meeting to all members of the Board and observers to the Board at least one week before the date set for the meeting.

The Board shall prepare Rules of Procedure in order to regulate its working methods.

### **Article 17 Appointment of the Members of the Board**

The officials referred to in Article 16, paragraph 2(i) of this Law are members of the Board *ex officio*.

The Council of Ministers and the Governments of the Federation and Republika Srpska each appoint one of the members of the Board referred to in Article 16, paragraph 2(ii) of this Law. The appointments shall take place in accordance with the *Law on Ministerial, Council of Ministers and other Appointments of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, 7/03)*, the *Law on Ministerial and Government Appointments of the Federation of Bosnia and Herzegovina (Official Gazette of the Federation, 12/03)* and the *Law on Ministerial, Government and other Appointments of the Republika Srpska (Official Gazette of*

*Republika Srpska, 25/03*) as applicable. The appointment criteria must include recognized integrity and relevant professional experience.

The Mayor of the District appoints the observer from the District referred to in Article 16, paragraph 4 of this Law in accordance with the *Law on Ministerial, Council of Ministers and other Appointments of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, 7/03)*.

The Governor of the Central Bank shall appoint the observer from the Central Bank referred to in Article 16, paragraph 4 of this Law.

### **Article 18** **Term of Service**

Apart from the persons referred to in Article 16, paragraph 2(i), who are members of the Board during their respective mandates, each member serves on the board for five years, with the possibility of a single reappointment.

In the event of a member not fully serving her/his term, a new member is appointed for a five-year term in accordance with Article 17 of this Law.

The observers from the District and the Central Bank are appointed to the Board for five years, with the possibility of a single reappointment.

### **Article 19** **Voting Methods and Quorum**

The Board reaches decision by consensus.

It is the responsibility of the Chairman to declare whether consensus has been achieved.

In the event of a lack of consensus, decisions of the Board are adopted in the following manner:

For decisions regarding establishment of import and export duties, and any changes to such duties, a simple majority of votes cast by members of the Board, including the vote of the Minister of Finance and Treasury of Bosnia and Herzegovina, is required.

For decisions regarding other indirect taxes, including the rates and structures of such taxes, a simple majority of votes cast by members of the Board, including the votes of the Ministers of Finance of Republika Srpska and the Federation, is required. This voting procedure shall also apply to any decisions regarding exemptions from or changes to indirect tax rates and structures.

For decisions regarding the distribution of indirect tax revenue, a simple majority of votes cast by members of the Board, including the votes of all members provided for in Article 16, paragraph 2 (i), is required.

The quorum shall be a majority of all members of the Board.

### **Article 20** **Legislation Initiated by the Board**

Where the Board deems necessary to ensure the effective implementation of this Law, it may initiate the preparation of draft legislation and legislative amendments in the area of indirect taxation for presentation to the Council of Ministers. The budget and finance committees of the legislatures of the Federation and Republika Srpska and the Assembly of the District and, where deemed necessary, the House of Representatives of the Federation, the Republika Srpska National Assembly and the Assembly of the District, shall be given the opportunity to comment on such legislation before it is presented to the Council of Ministers, and must provide any comments or suggestions on the draft legislation or legislative amendments

to the Board within 15 days after the request for comments has been made by the Board. The Board shall consider the comments or suggestions.

The establishment of indirect taxes, indirect tax rates and structures, and any changes to indirect tax rates and structures, must be provided for by law.

When proposing legislative changes to indirect tax rates and structures pursuant to this Article, the Board shall take into account the need for timely development of the budgets of Bosnia and Herzegovina, the Federation, Republika Srpska and the District.

#### **IV – COLLECTION AND DISTRIBUTION OF INDIRECT TAX REVENUE**

##### **Article 21**

##### **Single Account and Distribution of Indirect Tax Revenue**

The Authority holds a Single Account.

All indirect tax revenue collected by the Authority is paid to the Single Account.

The Authority ensures that the balance in the Single Account is the minimum necessary to allow it to clear all obligations related to the indirect taxes it collects, and that distributions to the State budget and the budgets of the Federation, Republika Srpska and the District are made on a regular basis in accordance with the following:

- (i) the amount transferred to the State budget is based on the amount in the current year State budget;
- (ii) the share of the remaining amount transferred to the Federation, Republika Srpska and the District is determined by their share in final consumption, as revealed by value added tax returns; and
- (iii) the amount needed to finance international debt obligations is deducted from the shares of the Federation and Republika Srpska, and is paid directly to the State budget.

The distribution system and the method for calculating shares of collected revenue pursuant to this Article shall be specified in a law on allocation and distribution of indirect tax revenue, as provided for in Article 24, paragraph 1, item (ii) of this Law.

#### **V – OFFICIAL CO-OPERATION**

##### **Article 22**

##### **Obligation to Co-operate**

All public bodies throughout Bosnia and Herzegovina are obligated to co-operate with the Board and the Authority when carrying out operations and duties within the scope of the responsibilities set forth in this Law.

#### **VI - TRANSITIONAL AND FINAL PROVISIONS**

##### **Article 23**

##### **Value Added Tax**

Within one year of the entry into force of this Law, the Board shall prepare a draft i.e. proposal of the Law establishing a single Statewide value added tax. The value added tax, which shall be administered by the



Authority, must be consistent with European Union standards. Within two years of the entry into force of this Law the Authority shall develop an operational system that enables the implementation of the value added tax.

#### **Article 24** **Adoption of Legislation and Regulations**

Within six months of the entry into force of this Law, the Board shall “shall be required to complete” legislation regulating the following:

- (i) the rights and duties of employees of the Authority;
- (ii) the allocation and distribution of indirect tax revenue;
- (iii) methods of payment into the single account; and
- (iv) customs policy.

The Board “shall be required to complete” a law regulating administrative procedures related to indirect taxation with a view to ensuring that the said Law will be in force prior to, or as of, the adoption of the Law referred to in Article 23 of this Law.

Within 60 days of the entry into force of this Law, the Director “shall be required to complete” the Book of Rules on Internal Organization referred to in Article 8, paragraph 7 of this Law.

Within 60 days of the entry into force of this Law, the Board “shall be required to complete” the Rules of Procedure referred to in Article 16, paragraph 8 of this Law.

Within 60 days of the entry into force of this Law, the Board shall adopt the instructions referred to in Article 14, paragraph 4 of this Law. Until such instructions apply, the laws, regulations and internal rules on official secrets applicable in the Federation, Republika Srpska and the District on the day before the entry into force of this law continue to apply.

#### **Article 25** **Transfer of Responsibilities to the Authority**

Notwithstanding Article 4, paragraph 1 of this Law, the Authority shall not be responsible for the collection and distribution of the following indirect taxes:

- (i) sales tax, including railroad fees in Republika Srpska, on goods and services with the exception of:
- (ii) sales tax, including railroad fees in Republika Srpska, on alcohol and alcoholic beverages, beer, wine, non-alcoholic beverages, coffee, and oil and oil derivatives that shall be collected during the import of such products; and
- (iii) sales tax on the import of goods for final consumption;
- (iv) sales tax, including railroad fees in Republika Srpska, on tobacco products on which the sales tax or railroad fee is accounted for during the purchase of tax stamps;
- (v) excise tax on alcohol and alcoholic beverages, beer, wine, non-alcoholic beverages, coffee, and oil and oil derivatives except for excise duties that shall be collected during the import of such products;

- (vi) excise tax on tobacco products on which the excise tax is accounted for during the purchase of tax stamps;
- (vii) road toll (in the Federation), fees on petroleum products (in Republika Srpska), and the road fee and fees on petroleum products (in the District) except for revenues that shall be collected during the import of such products.

The taxes that are not collected by the Authority pursuant to the previous paragraph shall be collected and distributed in the manner performed prior to the entry into force of this Law until the Law from Article 23 enters into force, at which time the Authority will take over the administration of all indirect taxes.

Upon entry into force of the Law introducing a single, Statewide value added tax pursuant to Article 23 of this Law, the following taxes, if still in existence, shall be abolished:

- (i) sales tax on goods and services in the Federation;
- (ii) sales tax on goods and services and the railroad fee in Republika Srpska; and
- (iii) sales tax on goods and services in the District.

As of the entry into force of this Law, the introduction of any additional indirect taxes in Bosnia and Herzegovina, as well as the promulgation or amendment of legislation on indirect taxation by the Federation, Republika Srpska or the District must be approved by the Board. The Board must approve all discretionary decisions concerning exemptions from and/or changes to indirect tax rates and structures, which are made pursuant to legislation of the Federation, Republika Srpska or the District.

#### **Article 26** **Continuity of Functions**

As of the date of entry into force of this Law, the Indirect Taxation Administration established under the *Interim Law* shall become the Authority set forth in this Law.

The Director appointed pursuant to the Interim Law shall be the Director of the Authority referred to in Article 7 of this Law. For the purpose of Article 11, paragraph 1 of this Law, the date of appointment of the Director under the *Interim Law* shall be considered to be the first date of his/her five-year term. If no appointment has been made pursuant to the *Interim Law*, but an appointment procedure has been initiated, the appointment procedure shall continue as set forth in that Law.

The Directors of the former Entity Customs Administrations and the District Customs Service shall exclusively report to and shall exclusively take instructions from the Director of the Authority.

#### **Article 27** **Single Account and Distribution of Revenue**

Before the Single Account becomes operational, indirect tax revenue collection and distribution shall be conducted according to the procedures performed prior to the entry into force of this Law.

Within six months of the entry into force of this Law, the Director shall make preparations for the establishment of the Single Account.

The Single Account shall not be operational until the entry into force of a law regulating methods of payment into the single account pursuant to Article 24, paragraph 1, item (iii) of this Law.

Once the Single Account becomes operational, but prior to the entry into force of the law referred to in Article 23 of this Law, Article 21 of this Law shall apply, except that the share of the remaining amount transferred to the Federation, Republika Srpska and the District shall be determined by their share in final consumption, as revealed by sales tax data

The Federation, Republika Srpska and the District shall provide the Authority with timely and accurate sales tax data in order to determine their share of the collected revenue. Prior to operationalization of the Single Account, the Board shall issue instructions that further define the method for calculating the shares of collected revenue and the distribution system until the adoption of the law regulating allocation and distribution of indirect tax revenue from Article 24, paragraph 1, item (ii) of this Law.

The Board shall conduct a review every six months until the entry into force of the law referred to in Article 23 of this Law, with a view to determine whether amendments to this Law or to other legislation are needed in order to ensure the effective functioning of the revenue distribution system.

Nothing in this Law shall be understood as repealing or amending laws and regulations regarding internal allocation of revenue within the Federation, Republika Srpska or the District.

## **Article 28**

### **Initial Chairman of the Board**

“Notwithstanding Article 16 of this Law, the first Chairman shall be an additional member of the Board. The first Chairman” may be a citizen of Bosnia and Herzegovina or one of the successor States of the Socialist Federal Republic of Yugoslavia. The first Chairman may have previously held citizenship of the Socialist Federal Republic of Yugoslavia or its successor States.

The first Chairman shall serve a single four-year term. In the event that the first Chairman does not serve the full term, another individual meeting the conditions referred to in paragraph 1 of this Article shall be appointed for the remainder of the term.

The first Chairman is appointed by the Council of Ministers in accordance with the *Law on Ministerial Appointments, Appointments of the Council of Ministers and other Appointments of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, 07/03)*. The Council of Ministers is the Responsible Public Official for the purpose of appointment of the first Chairman.

The appointment criteria for the first Chairman shall include a requirement that the first Chairman has expertise in a relevant field and has demonstrated a high standard of honesty and integrity in the conduct of his/her work.

The first Chairman shall be relieved of duty by the Council of Ministers. The first Chairman may only be relieved of duty if he/she permanently loses the capacity to execute his/her duties; seriously fails to implement measures for managing the Board; abuses his/her office or exceeds his/her authority; breaches a state or an official secret; or is charged for criminal offense which makes him/her unworthy of executing his/her duties.

## **Article 29**

### **Voting Procedure During the Initial Chairmanship**

The Board reaches decision by consensus.

It is the responsibility of the Chairman to declare whether consensus has been achieved.

In the event of a lack of consensus, decisions of the Board are made in the following manner:

For decisions regarding establishment of import and export duties, and any changes to such duties, a simple majority of votes cast by members of the Board, including the vote of the Minister of Finance and Treasury of Bosnia and Herzegovina, is required.

For decisions regarding other indirect taxes, rates and structures, a simple majority of votes cast by members of the Board, including the votes of the Ministers of Finance of Republika Srpska and the Federation, is required. This voting procedure shall apply to any decisions regarding exemptions from or changes to indirect tax rates and structures.

For decisions regarding the distribution of indirect tax revenue, a simple majority of votes cast by members of the Board, including the votes of all members from Article 16, paragraph 2(i), is required.

For all other matters, the initial Chairman shall make the decision. Prior to the completion of the term of the initial Chairman, the Board shall decide on a voting mechanism for all other matters, which shall include a procedure for overcoming deadlock.

The quorum shall be a majority of all members of the Board.

### **Article 30 Regulation of the Status of Employees**

Through 31 December 2003, relevant provisions of employment legislation and subsidiary regulations of the Federation, Republika Srpska and the District, including legislation regulating salaries and benefits, shall apply to employees of the former customs administrations.

As of 1 January 2004, employees of the former customs administrations shall be employees of the State, subject to the *Law on Civil Service in the Institutions of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, 19/02)* with those exceptions listed in Article 12, paragraph 1, items (i) (ii) and (iii) of this Law. Employees shall also be subject to the following exceptions:

- (i) Article 15, paragraph 1(a) and (d) do not apply;
- (ii) Chapter IV does not apply; and
- (iii) Chapter VII does not apply.

Along with the pay structure, pay grades and disciplinary procedure to be established by the Director pursuant to Article 12 of this Law, the Director shall prepare regulations for approval by the Board, which establish the structure of severance payments for employees of the Authority with the approval of the Board.

Employees shall be regulated in the manner prescribed in paragraphs 2 and 3 of this Article until such time as a final decision regarding their status and future employment in the Authority has been reached through the process of organisational restructuring in Article 31 of this Law.

For the purpose of this Law and as a consequence of the transfer of Federation, Republika Srpska and District employees to State employment, employees of the former customs administrations shall not be eligible for severance payments until a final decision regarding their status and future employment in the Authority has been made pursuant to the preceding paragraph.

### **Article 31 Organisational Restructuring Plan**

Within 90 days of the entry into force of this Law, the Director shall prepare an Organisational Restructuring Plan. The Plan shall prescribe measures necessary to meet the requirements of this Law, in particular with regard to: organisational structure; rationalization of staffing at the headquarters, branch offices and sub-offices; and the establishment of taxpayer service standards. The Director shall submit the Plan to the Board for approval, and the process of approval shall be completed within 30 days from the date of submission.

The Plan shall be based on a comprehensive analysis of the capital, technical and human resources required by the Authority, in undertaking its duties pursuant to Article 4 of this Law and with due regard to Article 6 of this Law. It shall further take into account the current and future volume and types of work to be undertaken by the Authority in accordance with this Law.

The Plan shall contain the strategic objectives of the Authority, and shall provide for the achievement of these objectives.

The Plan shall provide for the restructuring of the headquarters, based on the need for adequate premises, the identification and relocation of employees, as well as the need to ensure that the headquarters is able to function in an effective and efficient manner. Until such time as the headquarters is fully restructured, the headquarters of the former customs authorities shall be an integral part of the headquarters of the Authority. The Plan shall provide for rationalisation of branch offices according to Article 6 of this Law, in 4 operative regions with the seat in Banja Luka, Tuzla, Mostar and Sarajevo to be completed within two years after Plan has been adopted by the Board".

### **Article 32 Property and Assets**

As of the entry into force of this Law, all movable and immovable property of the former customs administrations, obligation rights of the former customs administrations, and items in the lawful possession of the former customs administrations, including archives, files and other documents, may be directly used, controlled and modified by the Authority, as the Director sees fit to meet the needs of the Authority.

Within 60 days of the entry into force of this Law, the Director "shall be required to finish" an inventory to be made of all movable and immovable property of the former customs administrations. Within 6 months s/he shall "issue a plan" for transfer of property rights to the Authority where necessary in order to provide for the effective and efficient work of the Authority, as well as a plan for reviewing the debts and liabilities of the former customs administrations. The Director shall submit the plans to the Board for approval, and the process of approval shall be completed within 30 days from the date of submission.

Within 60 days after the approval of the plan by the Board, "the Director shall realise the framework agreement" regarding the transfer of property rights held by the former customs administrations, where necessary, and shall submit it for conclusion by the Council of Ministers and the Governments of the Federation, Republika Srpska and the District.

In the interim period prior to conclusion of the said framework agreement, the legal status of such property may only be changed with the written approval of the Director and the Board.

Archives, files and other documents related to customs that are held by the Ministries of Finance in the Federation and Republika Srpska shall remain with the said Ministries. Upon the request of the Director, the Ministries shall provide the Authority with unrestricted access to such documents and/or transfer such documents to the Authority.

### **Article 33 Arbitration**

The Council of Ministers shall issue any further instructions or decisions necessary to ensure the effective implementation of Article 32 of this Law and shall, at the request of the Board, appoint one or more arbitrators where necessary to solve specific problems.

### **Article 34 Budget**

Through 31 December 2003, the Federation, Republika Srpska and the District shall defray all operational expenses for customs operations, as well as all necessary expenses for maintenance, replacement of equipment of the former customs administrations in their respective territories, and costs for salaries and benefits of the employees of the former customs administrations.

During this period, the Authority shall also be provided with sufficient funds from the State budget in order to allow the Director to perform his/her tasks under this Law.

In the event that the annual budget for the Institutions of Bosnia and Herzegovina for 2004 is not adopted by 1 December 2003, the Minister of Finance and Treasury shall separately submit the budget proposal of the

Authority for adoption, with the aim of ensuring that the budget proposal will be adopted by 1 January 2004. The Federation, Republika Srpska and the District shall, in accordance with the adopted budget of the Authority, transfer funds for the operation of the Authority.

A budget of the Authority adopted in the manner set forth in the preceding paragraph shall be incorporated into the full annual budget for the Institutions of Bosnia and Herzegovina for 2004, and transfers to the Authority from the Federation, Republika Srpska and the District shall become part of the transfer for the funding of the Institutions of Bosnia and Herzegovina.

Once the Single Account is made operational, the Authority shall be funded as part of the State budget pursuant to Article 21, paragraph 3, item (i) of this Law.

### **Article 35**

#### **External Review**

For each completed year after the entry into force of this Law, an audit of the Authority's operation shall be conducted by the Audit Office of Bosnia and Herzegovina.

For a period of five years after the entry into force of this Law, the Board shall engage the services of an independent external professional body to conduct an annual performance review of the Authority, as well as an examination of the collection and distribution of revenues by the Authority. This process shall be conducted with the full assistance of the public audit institutions of Bosnia and Herzegovina, the Federation, and Republika Srpska.

At the expiration of the five-year period, the Board shall decide whether to continue the process set forth in the preceding paragraph.

Expenses connected with the external audit shall be covered by the budget of the Authority.

All reports issued by the professional body shall be available to the public.

### **Article 36**

#### **Repeal of Legislation**

As of the date of entry into force of this Law, the *Interim Law Merging the Customs Administrations and Establishing the Indirect Taxation Authority (Official Gazette of Bosnia and Herzegovina, 18/03)* (hereinafter: *Interim Law*) ceases to apply.

### **Article 37**

#### **Continued Application of Existing Legislation**

Until the adoption of relevant laws regulating indirect taxes in Bosnia and Herzegovina, existing laws in the Federation, Republika Srpska and the District of Brcko on indirect taxation continue to apply to the extent that they are not inconsistent with this Law.

### **Article 38**

#### **Publication and Entry into Force**

This Law shall enter into force 8 days after publication in the Official Gazette of Bosnia and Herzegovina.

Publication shall take place immediately after the entry into force of an agreement by the Federation and Republika Srpska by which they transfer responsibility under Article III.5 (a) of the Constitution of Bosnia and Herzegovina so as to allow for the establishment of a single indirect taxation system in Bosnia and Herzegovina, or immediately following the adoption of this Law, whichever occurs later.

This Law shall also be published in the Official Gazettes of the Federation, Republika Srpska and the District.

Parliamentary Assembly of Bosnia and Herzegovina, No: 132/03

Date: 29 Dec 2003

Sarajevo

Chair of the House of Representatives  
Dr. Nikola Spiric

Chair of House of Peoples  
Mustafa Pamuk