

Tax and Social Insurance Procedure Code

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TITLE ONE

GENERAL RULES

Chapter One

SUBJECT MATTER AND FUNDAMENTAL PRINCIPLES

Subject Matter

Article 1. This Code shall set out proceedings for the ascertainment of obligations for taxes and compulsory social-insurance contributions, as well as for securing and collecting public claims, assigned to the revenue authorities and public enforcement agents.

Legality

Article 2. (1) The revenue authorities and public enforcement agents shall act within their statutory powers and shall apply the laws accurately and equally in respect of all persons.

(2) Where an international treaty, which has been ratified by the Republic of Bulgaria, has been promulgated and has entered into force, contains any provisions that diverge from the provisions of this Code, the provisions of the respective treaty shall prevail.

Objectivity

Article 3. (1) Revenue authorities and public enforcement agents shall be obligated to establish impartially the facts and circumstances of relevance to the rights, obligations and liability of liable parties in proceedings under this Code.

(2) Administrative acts under this Code shall be based on the actual facts of relevance to the case.

(3) The truth regarding facts shall be established according to the procedure and by the means provided for in this Code.

Autonomy and Independence

Article 4. Revenue authorities and public enforcement agents shall conduct the proceeding autonomously. In the discharge of their powers, they shall be independent and shall act solely in pursuance of the law.

Ex Officio Principle

Article 5. Revenue authorities and public enforcement agents shall, where there is no request on behalf of the parties concerned, ex officio be liable to elucidate the facts and circumstances of relevance to the ascertainment and collection of public claims, which also includes the application of the reliefs provided for in the law.

Good Faith and Right to Defence

Article 6. (1) Participants in the proceedings and their representatives shall be obligated to exercise their procedural rights in good faith and in compliance with good morals.

(2) All persons, who are interested in the outcome of the proceedings under this Code, shall have equal procedural opportunities to participate in the said proceedings for the defence of their rights and legitimate interests.

(3) Revenue authorities and public enforcement agents shall be obligated to afford participants in the proceedings an opportunity to exercise their procedural rights and their right to defence.

Chapter Two

COMPETENCE

Competent Authority

Article 7. (1) The instruments under this Code shall be issued by a revenue authority or by a public enforcement agent, as the case may be, from the competent territorial directorate.

(2) If the authority that has initiated the proceeding ascertains that the proceedings do not fall within its competence, it shall forward the case file to the competent authority within three days, notifying the parties concerned thereof.

(3) In cases where there are grounds for challenge or recusal, as well as in the cases of sustained inability to perform their official duties, a superior authority designated by the law may take over the examination and resolution of a specific matter or a case file from the competent revenue authority or from the public enforcement agent, as the case may be, and assign the powers to examine and resolve the said matter to another authority or public enforcement agent of equal rank to the authority or agent wherefrom the case file or matter has been taken over.

(4) In case of change in the circumstances conditioning territorial competence, the proceeding shall be completed by the authority that initiated them.

Competent Territorial Directorate

Article 8. (1) The competent territorial directorate of the National Revenue Agency with regard to proceedings under this

Code, unless otherwise provided for, shall be:

1. the territorial directorate exercising competence over the permanent address of any natural persons, including any sole traders;
2. the territorial directorate exercising competence over the address of the place of management of any unincorporated associations and contribution payment centres;
3. the territorial directorate exercising competence over the registered office of any resident legal persons;
4. the territorial directorate exercising competence over the registered office of a branch office or over the address of a representative office of any non-resident person;
5. the territorial directorate exercising competence over the place of conduct of the activity or of the management: applicable to any non-resident persons falling outside the scope of Item 4, who or which carry on business in the country, inter alia through a permanent establishment or a fixed base, or whose place of effective management is situated in Bulgaria;
6. the territorial directorate exercising competence over the location of the first corporeal immovable acquired: applicable to any persons who or which fall outside the cases referred to in Item 1 to 5;
7. the Sofia Territorial Directorate, where the competent territorial directorate cannot be established under the rules of Items 1 to 6;
8. (new, SG No. 105/2006) the territorial directorate exercising competence over the last permanent address of the antecessor or, respectively, over the registered office of the resident legal person, in the cases referred to in Article 126 herein.

(2) The address of the place of management of persons under Item 2 of Paragraph (2) shall be evidenced through a notarized transcript of their memorandum of incorporation; and where no address of the place of management is stated therein, the permanent address or, respectively, the address of the place of management of the first listed partner shall be presumed as such address of the place of management. In cases where no memorandum of incorporation has been submitted, the competent territorial directorate shall be the one that first performs a procedural step for ascertainment of the obligations for taxes or compulsory social-insurance contributions.

(3) Where a non-resident person carries on business in the country through more than one permanent establishment, the competent territorial directorate shall be the one exercising competence over the location of the permanent establishment that has emerged first. In case the non-resident person has failed to fulfil the obligation thereof to register in the BULSTAT Register, the competent territorial directorate shall be the one that first performs a procedural step for ascertainment of the obligations for taxes or compulsory social-insurance contributions.

(4) The Executive Director of the National Revenue Agency shall issue an order designating the competent territorial directorate in respect of any persons who or which fall within the territorial jurisdiction of more than one territorial directorate under the rules of Paragraph (1). The said order shall be promulgated in the State Gazette.

(5) Competence with regard to local taxes shall be determined according to the location of the municipality that is entitled to be credited with the relevant local tax in budget revenue according to the Local Taxes and Fees Act.

Chapter Three

PARTIES TO AND PARTICIPANTS IN PROCEEDING

General Definitions

Article 9. (1) A party (subject) to an administrative process under this Code shall be:

1. the administrative authority;
2. any natural or legal person, on behalf of or against whom an administrative proceeding under this Code has been instituted.

(2) In the proceedings under this Code, unincorporated associations and contribution payment centres shall be treated as

equivalent to legal persons. Coercive collection shall be levied against the participants in unincorporated associations and contribution payment centres according to their participation.

(3) Participants in an administrative proceeding shall be the subjects and all other persons who take part in the performance of procedural steps.

Full Capacity and Representation

Article 10. (1) All procedural steps in an administrative proceeding may be performed in person by natural persons of full capacity.

(2) Any infants and minors and any interdicted natural persons shall be represented by their parents, tutors or curators, as the case may be.

(3) Any legal persons shall be represented by the persons who represent them by law.

(4) Persons may be represented by authorized representatives by virtue of a written power of attorney.

(5) The revenue authority or the relevant official shall satisfy himself as to the presence of full capacity and a representative power to perform the relevant steps and if any of these is found missing, the said authority or official shall give the persons concerned a time limit to cure the irregularity.

(6) Where an irregularity under Paragraph (5) affects the performance of a procedural step, which is not a condition for the admissibility of the proceeding, and has not been cured within the time limit set, the action shall be presumed performed. If the action is a condition for admissibility of the proceedings and the irregularity has not been cured, the proceeding shall be terminated.

Appointment of Provisional or Special Representative

Article 11. (1) Where the revenue authority or the public enforcement agent has to perform any procedural steps that brook no delay in respect of a person lacking full capacity and/or lacking a legitimate representative, as well as in a conflict of interest between a representative and the person represented, the said authority or agent may motion the regional court exercising jurisdiction over the whereabouts of such represented person to appoint a provisional or a special representative, as the case may be. With regard to any procedural actions in respect of infants and minors, the provisions of the Child Protection Act shall apply as well.

(2) The court, sitting in camera, shall pronounce on any such motion by a reasoned ruling within three days after the receipt of the said motion, appointing the provisional or special representative, as the case may be, and the period of the appointment thereof. Any such ruling shall be unappealable.

Powers of Revenue Authority and Public Enforcement Agent

Article 12. (1) Observing the provisions of this Code, the revenue authority shall:

1. conduct examinations and audits;
2. ascertain administrative violations;
3. impose administrative sanctions;
4. have right of access to the facilities subject to control;
5. check the accounts of the facilities controlled;
6. check accounting, business or other papers, documents and data mediums with a view to ascertaining obligations and liabilities for taxes and compulsory social-insurance contributions, as well as establishing any violations of the tax and social-insurance legislation;
7. require and collect original documents, data, information, papers, items of property, statements of account, information sheets and other data mediums for the purpose of ascertaining obligations and liabilities for taxes and compulsory social-insurance contributions, and establishing any violations of the tax and social-insurance legislation; require certified copies