

National Revenue Agency Act

Promulgated, State Gazette No. 112/29.11.2002, amended SG No. 114/30.12.2003, amended and supplemented, SG No. 105/29.12.2005, effective 1.01.2006, supplemented, SG No. 105/22.12.2006, amended, SG No. 109/20.12.2007, effective 1.01.2008, amended and supplemented, SG No. 12/13.02.2009, effective 1.05.2009, amended, SG No. 32/28.04.2009, supplemented, SG No. 42/5.06.2009, amended and supplemented, SG No. 95/1.12.2009, effective 1.01.2010, supplemented, SG No. 15/23.02.2010, amended and supplemented, SG No. 51/6.07.2010, effective 6.07.2010, supplemented, SG No. 54/16.07.2010, amended, SG No. 97/10.12.2010, effective 10.12.2010, SG No. 98/14.12.2010, effective 14.12.2010, supplemented, SG No. 99/17.12.2010, effective 1.01.2011, amended, SG No. 38/18.05.2012, effective 1.07.2012, SG No. 94/30.11.2012, effective 1.01.2013

*Note: An update of the English text of this Act is being prepared following the amendments in SG No. 109/20.12.2013

Text in Bulgarian: Закон за Националната агенция за приходите

Chapter One

GENERAL PROVISIONS

Subject

Article 1

This Act shall provide for the establishment, the status, the organization and the activity of the National Revenue Agency, as well as for the powers granted to its bodies.

Status

Article 2

(1) (Supplemented, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) The National Revenue Agency, hereinafter called "the Agency", shall be established as a specialized state body under the Minister of Finance for the purpose of establishment, securing and collection of statutory government claims and private state receivables specified by law.

(2) The Agency shall be a legal entity financed by the state budget, based in Sofia.

Functions and powers

Article 3

(1) The Agency shall:

1. Provide services to the tax-payers, the insurers, the insured and the self-insured persons, by providing them with necessary information, giving explanations about their rights and obligations; ensure the printing out and the free dissemination of tax and other returns containing instructions for their filling in, of forms and other documents which are required by or issued on the authority of a law, and shall publish them on the Agency's web-site too;

2. Establish the statutory government claims on taxes and compulsory insurance contributions, by legal grounds and amounts;
3. (Amended, SG No, 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) Secure and enforce collection of statutory government claims;
4. Collect voluntary payments of statutory government claims under item 2;
5. Ascertain administrative violations and impose administrative penalties under the tax laws, as well under the laws, which contain provisions for the compulsory insurance contributions;
6. Examine complaints against acts issued by its bodies or against refusals to issue acts, as well as against actions or refusals to take actions by its bodies or officers;
7. (Amended, SG No. 105/2005) Keep a register of the persons subject to registration in pursuance of the procedure laid down in the Tax and Social Insurance Procedure Code , of the individuals employed under a labour legal relationship, set up and maintain databases for them, which are required for the discharge of its operations and for the needs of mandatory social insurance, those of the Ministry of Finance and the municipalities;
8. (Amended, SG No. 105/2005) Analyze revenues and revenue performance;
9. (New, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) Establish and collect private state receivables specified by law;
10. (New, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) Represent the State in insolvency proceedings where the State is a creditor with statutory government claims or private state receivables specified by law;
11. (New, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) Organise, manage and take care of areas for public auctions and maintains updated information about property and rights for sale;
12. (New, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) Accept, keep, manage and sell property acquired by the State within insolvency proceedings;
13. (New, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) Accept, keep, manage and sell all properties which have been seized, forfeited and abandoned in favour of the State;
14. (New, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) Exchange information with the European Commission and other institutions when applying Article 256 of the Treaty establishing the European Community, and carry out the securitisation and enforced collection of receivables pursuant to decisions of the European Commission, the Council of the European Union, the European Court of Justice and the European Central Bank, which impose pecuniary obligations subject to enforcement on the grounds of Article 256 of the Treaty establishing the European Community;
- 15 (Renumbered from item 9, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) Make available and allocate the facilities for carrying out its work;
16. (new, SG No 15/2010) execute confiscation or seizure orders concerning property and decisions imposing financial penalties, issued in a Member State of the European Union and recognised and liable to execution in the Republic of Bulgaria
17. (Renumbered from item 10, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009,

renumbered from item 16, SG No. 15/2010) Perform other activities as entrusted to it by law.

(2) The Agency shall establish, secure and collect other statutory government claims too, when this is entrusted to it by law.

(3) The Agency shall not collect fees for issuing and certifying documents and certificates.

(4) (New, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) When the functions referred to in Paragraph 1(12) and (13) are performed, the provisions of the State Property Act shall not apply. Sales shall be carried out as per the procedure of the Tax and Social Insurance Procedure Code by officers from the Agency appointed by the executive director or persons authorised by the executive director. In the cases of auction sales, the award warrant shall be issued by the executive director or persons authorised by the executive director.

(5) (New, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) The property referred to in Paragraph 1(12) and (13) may be consigned to budget organisations, with a view to performing their relevant functions, by the Council of Ministers, in respect of real estates, and by the Minister of Finance, in respect of movable property.

(6) (New, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) Unfit movable property referred to in Paragraph 1(12) and (13) may be decommissioned and destroyed subject to the approval of the Minister of Finance.

(7) (New, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) The Agency shall collect the following private state receivables:

1. pursuant to the Act to Settle Non-Performing Loans Contracted by 31 December 1990;

2. under § 46 of the Transitional and Final Provisions of the Act Amending and Supplementing the Banking Act (promulgated, SG No. 54/1999; amended, SG No. 103/1999, Nos 1 and 92/2000, No. 33/2006; repealed, No. 59/2006);

3. (supplemented, SG No. 99/2010, effective 1.01.2011) under warranty agreements and temporary financial aids, the claims of the state against borrowers and beneficiaries of effective state guarantees, of state investment loans and other credits;

4. stemming from obligations towards the closed State Reconstruction and Development Fund and State Energy Resources Fund;

5. of the Agriculture State Fund, in respect of which writs of execution were issued as per the procedure of Article 27(2) of the Agricultural Producers Support Act;

6. of implementing agencies for pre-accession financial instruments, managing authorities of operational programmes and government bodies administering resources from European funds, for non-outstanding sums paid and overpaid, as well as illegally received or illegally utilised funds under projects financed by the pre-accession financial instruments, the Structural Funds and the Cohesion Fund of the European Union, the European agricultural funds and the European Fisheries Fund, the Schengen Facility and the Transitional Facility, including the relevant national co-funding, all arising on the grounds of a contract;

7. (new, SG No. 99/2010, effective 1.01.2011) the dividends and share of the profit of state enterprises and commercial companies with state participation in the capital, owed for the state;

8. (renumbered from Item 7, SG No. 99/2010, effective 1.01.2011) other private state receivables which the Agency is assigned to collect by law.

(8) (New, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) The receivables referred to in Paragraph 7, excluding the receivables under Paragraph 7(5), shall be established by a statement on establishing a private state receivable, which is issued by the executive director of the Agency or a person authorised by the executive director. Based on the statement on establishing a private state receivable, the Agency is entitled to request the issuance of an immediate enforcement order as per the procedure of Article 418 of the Code of Civil Procedure.

(9) (New, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) Subject to the permission of the Council of Ministers, the receivables referred to in Paragraph 7 may be recontracted by extending the payment period in respect of the principle and/or the interest, taking account of the financial condition of the debtor, but for no more than 15 years.

(10) (New, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) The Agency is entitled to file a request with the relevant regional court, with a view to opening insolvency proceedings for the receivables referred to in Paragraph 7.

(11) (New, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) The recovery plan or out-of-court settlement in respect of the insolvency proceedings cannot stipulate any reduction, deferral or rescheduling of the receivables referred to in Paragraph 7 without the prior consent of the Minister of Finance.

(12) (New, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) The collected private state and municipal receivables and any sums from the sale of property and rights forfeited in favour of the State shall be transferred to the relevant bank accounts of the central budget, municipalities and other budget organisations, upon deduction of the costs for search, transportation, storage and valuation of the items and realisation of their sale.

Chapter Two

BODIES OF ADMINISTRATION AND STRUCTURE

Bodies of Administration

Article 4

(1) The bodies of administration of the Agency shall be the Managing Board and the executive director.

(2) The Agency shall be managed and represented by the executive director.

(3) (New, SG No. 54/2010) The general management and control over the activity of the agency shall be exercised by the Minister of Finance or by a deputy minister, appointed by the Minister of Finance.

Managing Board

Article 5

(1) (Amended, SG No. 98/2010, effective 14.12.2010) The Managing Board shall consist of the Minister of Finance, the Director of the National Social Security Institute, the Director of the National Health Insurance Fund, a Deputy Minister of Finance appointed by the Minister of Finance and the executive director of the Agency.

(2) Chairman of the Managing Board shall be the Minister of Finance.

(3) (Supplemented, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) The Executive director shall submit to the Managing Board estimates and the plan for revenues from statutory government claims and private state receivables collected by the Agency.

(4) (Supplemented, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) The Minister of Finance shall submit the plan for revenues from statutory government claims and private state receivables collected by the Agency before the State Budget Bill for the respective year is submitted to the Council of Ministers.

(5) Upon proposition of the executive director the Managing Board shall consider and approve:

1. the Strategic Plan of the Agency;
2. (supplemented, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) the Financial Statement and the analysis of the performance of the plan for revenues from statutory government claims and private state receivables collected by the Agency;
3. the Annual Report on the Agency's Activity;
4. the draft budget of the Agency;
5. (amended, SG No. 105/2005) the territorial coverage, seats of business and scope of operation of regional offices;
6. (amended, SG No. 105/2005) the structure of the central administration;
7. the strategies for development of the human resources, the information system and the procurement of buildings and facilities of the Agency;
8. the scope of information under Article 3, Paragraph 1, item 7, as well as the terms and procedures for communicating this information between the Agency, the Ministry of Finance, the National Social Security Institute, the National Health Insurance Fund and the municipalities;
9. (new, SG No. 105/2005) decisions to write off receivables to be collected by the National Revenue Agency concerning liabilities of up to BGN 100, the collection costs for which exceed the amount of liability itself.

(6) The Managing Board shall consider other issues as well, submitted to it by its members or by the executive director. These issues shall relate to the work and the administration of the Agency or to ensuring the interaction of the Agency with the Ministry of Finance, the National Social Security Institute, the National Health Insurance Fund, the municipalities and other state and municipal authorities.

(7) The Managing Board shall adopt its decisions with the votes of two thirds of its members.

(8) The Managing Board shall adopt rules for its work.

Structure

Article 6

(1) (Amended, SG No. 105/2005) The Agency shall consist of a central administration and regional branches.

(2) The central administration shall provide support to the executive director in the planning, organization, management and control of the entire activity of the Agency, as well as in the execution

of the powers granted to the executive director under this Act.

(3) (Amended and supplemented, SG No. 105/2005, amended, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) The regional offices shall establish statutory government claims on taxes, compulsory insurance contributions, as well as other public receivables entrusted to them by law, and shall secure and collect such statutory government claims.

(4) (Repealed, SG No. 105/2005) .

(5) Directorates, including general directorates, divisions and sections may be created at the central administration of the Agency.

(6) (Repealed, SG No. 12/2009, effective 1.05.2009).

(7) Directorates, divisions and sections may be created at the regional offices.

(8) (Repealed, SG No. 105/2005) .

(9) (Amended, SG No. 105/2005) The number of staff of the Agency shall be determined by the Council of Minister upon proposal of the Minister of Finance and following approval of the Management Board.

Chapter Three

BODIES OF THE AGENCY: APPOINTMENT AND POWERS

Bodies of the Agency

Article 7

(1) (Amended, SG No. 105/2005) The revenue bodies shall be:

1. (supplemented, SG No. 12/2009, effective 1.05.2009) The Executive director and his/her deputies;
2. (amended, SG No. 105/2005) the Regional Directors and their deputies;
3. (new, SG No. 105/2005) the directors of directorates, the heads of departments and sectors;
4. (renumbered from Item 3 and amended, SG No. 105/2005, SG No. 12/2009, effective 1.05.2009) the servants holding the office of "state revenue expert", "state revenue inspector", "chief revenue expert", "senior revenue expert", "revenue expert", "chief revenue inspector", "senior revenue inspector" and "revenue inspector";.
5. (new, SG No. 105/2005, repealed, SG No. 12/2009, effective 1.05.2009).

(2) (New, SG No. 105/2005) The authorities of the Agency shall also be the servants holding office as "state public enforcement agent", "chief public enforcement agent", "senior public enforcement agent" and "public enforcement agent"

(3) (Repealed, renumbered from Pragraph 2 and amended, SG No. 105/2005) The executive director and regional office directors shall exercise the powers under Article 7(3) of the Tax and Social Security Procedure Code and may authorise by order their deputies or designate other Agency servants to exercise any of their powers.

(4) (Amended, SG No. 105/2005, SG No. 12/2009, effective 1.05.2009) When the holder of a position

under Paragraph 1, items 3-4 and Paragraph 2 and the servants holding office as state expert are officers with a university degree in Law, the time of service in this position shall be acknowledged as work experience in the field of law.

(5) (New, SG No. 105/2005, repealed, SG No. 12/2009, effective 1.05.2009).

Appointment

Article 8

(1) The executive director shall be appointed by the Council of Ministers upon proposition of the Minister of Finance.

(2) The executive director shall be assisted in his work by deputy Executive directors, who shall be appointed by the Minister of Finance upon proposition of the executive director.

(3) (Amended, SG No. 105/2005, repealed, SG No. 12/2009, effective 1.05.2009).

(4) (Amended, SG No. 105/2005, repealed, SG No. 12/2009, effective 1.05.2009).

(5) The remuneration of the executive director shall be determined by the Council of Ministers.

Requirements

Article 9

(1) (Amended and supplemented, SG No. 105/2005, amended, SG No. 12/2009, effective 1.05.2009) An Executive director or deputy Executive director may be a person who has full legal capacity as a Bulgarian national, complies with the conditions referred to in Article 19(6) of the Administration Act, and who:

1. has not been convicted of intentional indictable offence;
2. has not been denied the right, under the relevant terms and procedures, to hold a particular post;
3. has graduated from an institution of higher education with a Master's degree;
4. has no less than 10 years of professional experience in the field of economy, finance, law and/or social insurance;
5. is not a member of a managing or controlling body of a legal entity, unless otherwise stipulated by law;
6. has not been a member of a managing or controlling body of a company terminated due to bankruptcy in the last two years preceding the date of the decision to declare the bankruptcy, if there are remaining unsatisfied creditors;
7. does not hold any other paid office, unless otherwise stipulated by law;

(2) (Amended, SG No. 12/2009, effective 1.05.2009) The circumstances under Paragraph 1, items 5 - 7, as well as the circumstances under Article 19(6) of the Administration Act, shall be ascertained to the Minister of Finance with a declaration.

(3) The executive director shall be dismissed by the Council of Ministers upon proposition of the Minister of Finance in the following cases:

1. on the executive director's own request;

2. where an obstacle under Paragraph 1 occurs;
3. where there is gross or regular violation of his/her duties under this Act;
4. (new, SG No. 42/2009, amended, SG No. 97/2010, effective 10.12.2010) upon entry into force of an Act establishing conflict of interests under the Conflict of Interest Prevention and Ascertainment Act.

(4) (Amended, SG No. 105/2005, SG No. 12/2009, effective 1.05.2009) An officer of the Agency under a civil service relation may be any person who complies with the conditions of Article 7 of the Civil Servants Act. An officer of the Agency under an employment relation may be any person who has full legal capacity as a Bulgarian national and complies with the conditions of Article 107a of the Labour Code and the provisions referred to in Paragraph 1, item 1 and 2.

(5) (New, SG No. 105/2005) Agency servants may not:

1. be sole traders or members in commercial companies;
2. (supplemented, SG No. 12/2009, effective 1.05.2009) sit on management and control bodies of commercial companies, cooperatives, partnerships and other organisations that are trading entities;
3. (supplemented, SG No. 105/2006, amended, SG No. 12/2009, effective 1.05.2009) hold another paid office or carry out any paid activity, other than the activities referred to in Paragraph 9.

(6) (Previous Paragraph 5, amended, SG No. 105/2005) The circumstances under Paragraph 1(4) and (7) and Paragraph 5 for the persons under Paragraph 4 shall be ascertained to the employer with a declaration.

(7) (New, SG No. 105/2005) After being appointed and every year no later than 31 May, Agency servants shall be obligated to declare their property, including property held as marriage community, as well as property of their underage children, filing a model statement to be approved by the executive director.

(8) (New, SG No. 105/2005, amended, SG No. 12/2009, effective 1.05.2009) Incompatibility under Paragraphs 4 and 5, as well as failure to file a statement under Paragraph 7 before the relevant deadline shall constitute grounds for unilateral termination of the legal relations with servants of the Agency, without prior notice.

(9) (New, SG No. 12/2009, effective 1.05.2009) Officers in the Agency may carry out academic or teaching activities as provided for in the Copyright and Neighbouring Rights Act, as well as to be elected for municipal council members or be nominated for members of electoral commissions.

(10) (New, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) Officers in the Agency shall not be entitled to represent, directly or indirectly, debtors or potential buyers in deals related to the activities of the Agency, nor can they provide consulting services to such persons in respect of the activities of the Agency.

(11) (New, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) Officers in the Agency and their family members shall not be entitled to, directly or indirectly, acquire property which is subject to sale by the Agency.

Executive Director

Article 10

(Amended, SG No. 105/2005)

(1) The executive director shall:

1. organise, manage and control overall Agency operations;
2. plan, distribute and control the funds and resources set aside for the performance of Agency operations;
3. analyse the implementation of the annual plan for revenues from public receivables;
4. give mandatory instructions to Agency authorities concerning the uniform application of tax and social insurance legislation within the functions and powers of the Agency;
5. endorse methodical guidance and procedures for the performance of Agency operations which are binding on its servants;
6. resolve competence disputes between Agency authorities;
7. endorse mandatory forms and document models relating to the collection of revenues;
8. set the number of staff at headquarters and the regional offices within the overall Agency number of staff;
9. set the general policy for the management and qualification of servants;
10. (supplemented, SG No. 105/2006) organise the proper explanation of tax and social security legislation within the functions and powers of the Agency; by issuing of a booklet, bulletin or in any other relevant manner;
11. prepare drafts for international tax agreements;
12. give his opinion with regard to draft international agreements laying down taxation provisions;
13. give his opinion on proposed amendments to the tax and social insurance legislation within the functions and powers of the Agency;
14. (new, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) issue the statements on establishing private state receivables;
15. (new, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) represent the State in insolvency proceedings where the State is a creditor with statutory government claims or private state receivables specified by law; file requests with the relevant regional court, with a view to opening insolvency proceedings for the receivables referred to in Article 3(7).
16. (new, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) organise and supervise the activity referred to in Article 3(1)(12) and (13); appoints officers from the Agency to carry out the sales as per the procedure of the Tax and Social Insurance Procedure Code.
17. (renumbered from item 14, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) exercise other powers provided for by law.

(2) (Supplemented, SG No. 12/2009, effective 1.05.2009, amended, SG No. 94/2012, effective 1.01.2013) The executive director may assign some of the powers and operations under Paragraph 1 to deputy executive directors, the directors of the Appeals and Tax and Insurance Practice Directorate, the Secretary General, the directors of regional offices within their regional competence, or to other servants at headquarters. Where he is absent, the powers of the executive director shall be exercised by a deputy executive director designated by him.

(3) (Amended, SG No. 94/2012, effective 1.01.2013) The executive director shall determine the location and territorial competence of the Appeals and Tax and Insurance Practice Directorate at headquarters by an order which shall be published in the State Gazette.

(4) The executive director may assign, on the basis of a contract, the service of notices, the intake of returns, their processing, and receipt of the payments thereunder, as well as other functions within the competence of the Agency.

(5) (New, SG No. 51/2010, effective 6.07.2010) The instructions under para 1, item 4 shall be issued by the Executive Director of the National Revenue Agency following receipt of the stand of the Minister of Finance.

(6) (Renumbered from Paragraph 5, SG No. 51/2010, effective 6.07.2010) Instructions under Paragraph 1(4), which shall be binding on Agency authorities, may also be issued by the Minister of Finance, those being coordinated with the Minister of Labour and Social Policy with regard to matters concerned with mandatory social security contributions.

(7) (New, SG No. 105/2006, renumbered from Paragraph 6, SG No. 51/2010, effective 6.07.2010) When the executive director explains the tax and social insurance legislation by issuance of a bulletin according Paragraph 1(10), the price cannot exceed its cost.

(8) (New, SG No. 105/2006, renumbered from Paragraph 7, amended, SG No. 51/2010, effective 6.07.2010) When it becomes necessary for the execution of the functions assigned to the agency, the executive director or an officer authorized by him may direct that officers from one regional office relocate to another regional office, for the purpose of which the relevant regional office director shall second staff from the directorate under his subordination following the terms and conditions, established by the Labour Code.

Regional Office Director

Article 11

(Amended, SG No. 105/2005)

(1) The regional office director shall organise and manage:

1. a regional office;
2. the services and assistance for obligated persons in the discharge of their obligations under tax and social insurance legislation;
3. the intake and processing of tax and social security returns subject to filing or that have been filed with the respective regional office;
4. the assignment and performance of aspect enquiries and audits;
5. (amended, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009) the securitisation, collection and reporting of statutory government claims.

(2) The regional office director shall:

1. issue the acts provided for in the Tax and Social Insurance Procedure Code ;
2. examine and file with the respective court complaints against acts and refusals for issuance of acts of Agency authorities, as well as against the actions or omissions of Agency authorities and servants on the territory of the region, in pursuance of a procedure set forth in a law;

3. issue penal decrees in cases provided for by law;
4. exercise control over the operations of Agency bodies and authorities at the respective regional office;
5. accounts for his operations to the executive director;
6. also exercise other powers provided for in a law.

(3) The regional office director may assign by order the exercise of powers under Paragraphs 1 and 2, with the exception of those under Paragraph 2(2), to designated revenue authorities and servants with the regional office.

Representation in Court Proceedings

Article 12

(1) (Amended, SG No. 105/2005, No. 12/2009, effective 1.05.2009) Representation in court proceedings concerning acts and actions of the Agency and its bodies and officers shall be done by the Executive director, by legal counsellors or by other officers of the Agency with a university degree in Law and licensed competence to practice law, where authorization has been given by the Executive director.

(2) (Repealed, SG No. 105/2005).

(3) (Amended, SG No. 105/2005, repealed, SG No. 12/2009, effective 1.05.2009).

Chapter Four

LEGAL RELATIONS, RIGHTS AND OBLIGATIONS, LIABILITY

Employment And Labour Legal Relations

Article 13

(Amended, SG No. 12/2009, effective 1.05.2009)

(1) (Amended and supplemented, SG No. 105/2005, amended, SG No. 12/2009, effective 1.05.2009) The executive director is a body responsible for appointing civil servants in the Agency and the employer of staff working under employment relations in the head office.

(2) (Amended, SG No. 105/2005) Employment contracts with servants at regional offices shall be concluded, amended and terminated by the respective director of a regional office.

Obligations of the Bodies and Officers of the Agency

Article 14

(1) In fulfilling their duties the bodies and the officers of the Agency shall:

1. observe the organization of the work of the Agency;
2. (amended, SG No. 105/2005) keep secret any data constitutive of tax and social insurance information under the Tax and Social Insurance Procedure Code;

3. (new, SG No. 105/2005) comply with the requirements set for the creation, processing, storage and provision of access to information constituting an official secret.

(2) (Repealed, SG No. 105/2005) .

(3) (Amended, SG No. 105/2005) In relation to their obligations under Paragraph 1, item 2 the bodies and officers of the Agency shall sign a declaration in a format approved by the executive director which shall also explicitly provide for the obligation of professional secrecy.

(4) (New, SG No. 105/2005) Official shall be the following information:

1. information about the means of protection of tax and social insurance information and of information constituting an official secret;

2. information about the design, development and operation of information systems and networks for the transmission of tax and social insurance information;

3. passwords, codes and means for the cryptographic protection of devices that generate, process, store and transmit tax and social insurance information;

4. criteria for the selection and analysis of the risk in relation to the performance of audits and aspect enquiries;

5. data concerning the organisation pertaining to the exercise of tax and social insurance control of persons manufacturing or trading in military or special-purpose products, as well as of those who pose a risk to the economic security of the state;

6. information about any acts relating to the exercise of internal control and relating to internal security.

(5) (New, SG No. 105/2005) Data that have been designated as official secret in accordance with Paragraph 3 shall be created, obtained, processed, made available, stored and destroyed subjects to the terms and conditions of the Classified Information Protection Act .

Compulsory Insurance

Article 15

(Amended, SG No. 105/2005)

The Agency shall insure the servants against accident and shall make life insurance, at the expense of its own budget.

Vocational Training and Retraining

Article 16

(1) Vocational training and retraining of the bodies and officers at the Agency shall be carried out in centres for specialization and training. The Executive director shall determine the organization and the work of the centres for specialization and training.

(2) The vocational training and retraining shall include:

1. Initial vocational training for newly appointed bodies and officers with duration of up to 6 months;

2. Periodical retraining for maintaining and upgrading qualifications;

3. Training to acquire new vocational knowledge and skills necessary for taking up a higher position.

(3) The bodies and the officers at the Agency may be trained at similar training institutions of other countries.

(4) The terms and procedures, the scope and the method of executing the vocational training and retraining shall be determined by the executive director.

Material and Social Bonuses

Article 17

(1) (Amended, SG No. 105/2005) Agency bodies and authorities shall every year be paid certain amounts for clothing, subject to the terms and conditions specified by the Management Board.

(2) (Repealed, SG No. 114/30.12.2003).

(3) (Amended, SG No. 114/30.12.2003) The amount of the funds under Paragraphs 1 shall be determined on an annual basis by the Managing Board.

Additional funding

Article 18

(Amended, SG No. 105/2005, supplemented, SG No. 105/2006, amended, SG No. 109/2007, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009, repealed, SG No. 38/2012, effective 1.07.2012).

Liability

Article 19

(1) The Agency shall be liable for any damages caused to physical and legal persons due to illegal acts, actions or inaction of its bodies and officers, made or taken during or in relation to the fulfilment of their duties.

(2) Compensation for damages due to illegal acts, actions or inaction under Paragraph 1 may be claimed after they have been repealed. Where the damages have been caused by an invalid act of the bodies and officers of the Agency or by their illegal action or inaction, the invalidity of the act, the irregularity of the action or inaction, respectively, shall be ascertained by the court to which the compensation claim is submitted.

(3) The liability of the Agency shall cover all financial and non financial damages and missed earnings and shall be executed under the terms provided for in the Act on the Liability for Damage Incurred by the State and the Municipalities.

Scope of Liability

Article 20

(Amended, SG No. 105/2005)

Agency servants shall be liable to the Agency for any compensation paid by the Agency to liable persons who have suffered damage, only where their actions or omissions have been recognised as criminal offences within judicial proceedings or said damages have been wilfully caused. Liability shall be at the full amount of damages.

Execution of Liability

Article 21

The financial liability of the bodies and the officers of the Agency shall be executed through a lawsuit.

Chapter Five

(New, SG No. 105/2005)

Exchange of information and cooperation

Day-to-day provision of information

Article 22

(New, SG No. 105/2005)

(1) State and municipal authorities that are competent to register or issue licenses for certain types of trading shall notify the Agency about the registered persons or sites and about the licenses issued, as well as about the number of terminated registrations or withdrawn licenses by the 15th of the month following the end of the respective quarter.

(2) Authorities that are competent to register vehicles, including airborne vehicles and navigation vessels, shall notify the Agency of the number of registered, deregistered vehicles and vessels, as well as of the number of those suspended from use by the 15th of the following month.

(3) Recordation judges shall notify the Agency of any rights in real estates transferred, instituted, modified or terminated, as well as of the mortgages instituted, modified and deleted, by the 15th of the following month.

(4) Municipalities shall notify the Agency of any immovable properties, motor vehicles, inheritance estates, properties acquired gratuitously or onerously that have been declared under the Local Taxes and Fees Act , as well as of the registered commercial sites, by the 15th of the following month.

(5) (New, SG No. 95/2009, effective 1.01.2010) The National Institute of Statistics shall process the annual reports on the activities of those obliged to submit such reports in accordance with the Corporate Income Tax Act and the Income Taxes on Natural Persons Act, and shall provide the data from such reports to the National Revenue Agency for its purposes.

(6) (Renumbered from Paragraph 5, amended, SG No. 95/2009, effective 1.01.2010) The procedure for the provision of information under Paragraphs 1 - 5 shall be regulated by instructions to be jointly issued by:

1. the Minister of Finance and the respective Minister;
2. the executive director and the head of the respective administration, where the information is not to be provided by a Ministry.

(7) (Renumbered from Paragraph 6, SG No. 95/2009, effective 1.01.2010) The procedure for the provision of information by municipalities shall be regulated in an instruction of the Minister of Finance coordinated with the National Association of Municipalities in the Republic of Bulgaria.

Day-to-day exchange of information

Article 23

(New, SG No. 105/2005)

The procedure ensuring the day-to-day exchange of information between the Agency, the Ministries, Ministry of Finance control authorities, the National Social Insurance Institute, the National Health Insurance Fund, the Labour Inspectorate General Executive Agency and the municipalities shall be regulated by instructions to be issued by:

1. the Minister of Finance and the respective Minister;
2. the executive director and the head of the respective administration, where the information is not exchanged with a Ministry;
3. the Minister of Finance in coordination with the National Association of Municipalities in the Republic of Bulgaria.

Collection and provision of data

Article 24

(New, SG No. 105/2005)

(1) The courts and the municipalities, state and municipal authorities and the National Institute of Statistics shall provide the Agency with the information required for the performance of its functions and powers free of any charge.

(2) For the purposes of statistics, planning and the analysis of the implementation of tax and social insurance legislation the executive director shall designate the persons who will provide information based on a model endorsed in order to be published in the State Gazette.

Information from commercial banks

Article 25

(New, SG No. 105/2005)

(1) Commercial banks and foreign bank branch offices shall notify the Agency within 7 days of any bank accounts they opened or closed belonging to:

1. sole traders, local legal persons, including not-for-profit ones, and the branch offices of foreign persons;
2. unincorporated partnerships and insurance funds;
3. foreign legal persons that have a registered agency;
4. foreign legal persons carrying out economic operations in the country, including through a permanent establishment.

(2) Commercial banks and foreign bank branch offices shall provide information about the bank accounts opened or closed of persons not specified in Paragraph 1 based on a reasoned request of a regional office director within 7 days from receiving it.

Cooperation with other bodies

Article 26

(New, SG No. 105/2005)

(1) (Amended, SG No. 12/2009, effective 1.05.2009) The Agency, Ministry of Interior bodies and the Public Prosecution Office, Ministry of Finance control bodies, as well as other state and municipal bodies, shall take joint actions in relation to the discharge of their given functions.

(2) The procedure and modalities of cooperation shall be specified in a joint instruction of:

1. the Minister of Finance and the head of the respective institution;
2. the executive director and the head of the respective administration.

TRANSITIONAL AND FINAL PROVISIONS

§ 1. (1) By 31 December 2002:

1. The Council of Ministers, upon proposition of the Minister of Finance, shall appoint the chief tax director also as holder of the position of, and acting executive director of the Agency;
2. The Council of Ministers shall determine the number of staff of the central administration and shall allot for its needs a public state-owned real estate property.
3. The Chairman of the Managing Board shall convene its first meeting;

(2) Following the entry into force of the regulatory acts under § 3, Paragraph 1, the Council of Ministers shall appoint an executive director of the Agency.

§ 2. By 31 December 2003 the National Social Security Institute shall ensure that the collection, securing and collection of the compulsory insurance contributions are established as routines at the regional branches.

§ 3. (1) By 31 December 2003 the central administration of the Agency, in co-ordination with the National Social Security Institute and the tax administration, shall draft and submit to the Managing Board the regulatory acts related to the amendments in the tax and social and health insurance legislation and concerning the creation of integrated processes of registration, receipt of returns, reporting of revenues, carrying out control and audits of liabilities, complaints and collection of statutory government claims by the Agency.

(2) The central administration of the Agency in co-ordination with the National Social Security Institute and the tax administration, shall, within the time limit under Paragraph 1:

1. draft and submit to the Managing Board proposals for building up the organizational structure of the National Revenue Agency and for the organizational changes in the tax administration and in the National Social Security Institute in relation to the transfer of the activities under this Act to the Agency;
2. organize the setting up of the Agency's information system.

§ 4. After entry into force of the regulatory acts under § 3, Paragraph 1, the Council of Ministers shall provide for all legal relations with regard to the transfer of the statutory government claims activities from the tax administration and the National Social Security Institute to the National Revenue Agency.

§ 5. The National Social Security Institute and the tax administration shall provide the information necessary for the work of the Agency, including information that constitutes official secret. Article 242, Paragraph 1, item 3 of the Tax Procedure Code and Article 109, Paragraph 2 of the Compulsory

Social Insurance Code shall apply in relation to the officers of the Agency.

§ 6. Until entry into force of the regulatory acts under § 3, Paragraph 1 and the establishment of the regional branches of the Agency, the procedures of:

1. registration of taxpayers, establishment, securing and collection of tax and other statutory government claims, as well as the appeal of the related acts shall be done under the terms and procedures of the Tax Procedures Code by the tax authorities stipulated in this Code; after the transfer of the activities of establishment, securing and collection of statutory government claims to the regional branches of the Agency established as per the provisions of this Act - by the respective bodies of the Agency;

2. the collection and administration of the compulsory insurance contributions shall be done under the terms and procedures of the Compulsory Social Insurance Code and of the Health Insurance Act by the bodies of the National Social Security Institute; after the transfer of the activities of establishment, securing and collection of statutory government claims to the regional branches of the Agency established as per the provisions of this Act - by the respective bodies of the Agency;

§ 7. The number of staff and the maintenance costs of the Agency under Article 6, item 9 shall be at the expense of the number of staff and maintenance costs of the tax administration and the National Social Security Institute.

§ 8. In Article 7, Paragraph 5 of the Health Insurance Act (promulgated in State Gazette No. 70/1998; amended No. 93 and 153/1998, No. 62, 65, 67, 69, 110 and 113/1999, No. 1, 31 and 64/2000, No. 41/2001, No. 1, 54, 74 and 107/2002) a comma shall be inserted at the end and the following words shall be added: "one of which necessarily being the executive director of National Revenue Agency".

§ 9. In Article 35, Paragraph 1 the Compulsory Social Insurance Code (promulgated in State Gazette No. 110/1999, No. 55/200 - Ruling No. 5 of the Constitutional Court, dated 2000; amended No. 64/2000, No. 1, 35 and 41/2001, No. 1, 10, 45 and 74/2002) a comma shall be inserted at the end and the following words shall be added: "one of which necessarily being the executive director of National Revenue Agency".

§ 10. The following amendments shall be made to the Tax Procedure Code (promulgated in State Gazette No. 103/1999, No. 29/2000 Ruling No. 2 of the Constitutional Court, dated 2000; amended, No. 63/2000, No. 109/2001, No. 45/2002):

1. Article 12 shall be amended as follows:

a) in Paragraph 2, at the end, the after the words "in a law" the following words shall be added: "or upon the written request of the executive director of the National Revenue Agency and the Director of the National Social Security Institute";

b) in Paragraph 3 the words "by decision of" shall be replaced by "with an act of";

c) Paragraphs 4 and 5 shall be repealed.

2. Article 12a shall be created:

"Disclosure of Official Secret upon Request of the Authorities of Public Prosecution and Investigation and of the Ministry of Interior

Article 12a. (1) The Court may, besides the cases under Article 12, Paragraph 3, order disclosure of information that constitutes official secret, upon the substantiated request of:

1. a public prosecutor or investigator - in relation to an instituted preliminary examination or penal proceedings;

2. the Minister of Interior, the General Secretary of the Ministry of Interior, the Director of the National Security Office, the Director of the National Police Office, the Director of the National Office for Combating Organized Crime, the Director of a Regional Directorate of Interior - if necessary for executing the legally provided powers entrusted on them.

(2) The district court in the region under the jurisdiction of the regional tax directorate shall make a ruling on the request of the bodies under Paragraph 1 with a substantiated order at a closed hearing not later than 24 hours from the time of its receipt and shall specify the taxpayer in relation to whom/which an official secret shall be disclosed, the scope of the specific particular data about this person as per § 1, item 1 of the additional provision and the time period for the disclosure of the information. The order may not be appealed."

3. In Article 121, Paragraph 1 the words "Paragraph 4" shall be replaced by "Paragraph 5".

4. Article 249, Paragraph 2 shall be amended as follows:

a) in item 1, after the words "the tax administration", the words "and the National Revenue Agency" shall be added;

b) in item 2, after the words "the tax administration" the words "and the officers of the National Revenue Agency" shall be added.

§ 11. The implementation of this Act is hereby assigned to the Minister of Finance.

This Act was adopted by the 39-th National Assembly on 14 November 2002 and the State Seal of the National Assembly was affixed to it.

.....

Tax and Social Insurance Procedure Code

TRANSITIONAL AND FINAL PROVISIONS

(SG, No. 105/2005, effective 1.01.2006)

.....

§ 5. (1) The provisions of this Code shall also be applied by the bodies of the National Revenue Agency, respectively by the State Receivables Agency, in respect of procedural actions under administrative and enforcement proceedings under Chapter Seven of the Social Insurance Code not completed as at the date of entry into force of the Tax and Social Insurance Procedure Code.

(2) Proceedings under Chapter Eight and under Articles 349 - 350 of the Social Insurance Code launched prior to the date of entry into force of this Code shall be completed by the bodies of the National Social Security Institute in accordance with the hitherto applicable procedure. The directive issuance proceeding under Article 110(3) of the Social Insurance Code and the procedures of appealing against it shall be completed in accordance with the hitherto applicable procedure by the bodies of the National Social Security Institute where a deficit deed was issued prior to the entry into force of the Tax and Social Insurance Procedure Code.

(3) The provisions of this Code shall also be applied by the bodies of the National Revenue Agency, respectively by the State Receivables Agency, in respect of procedural actions under administrative and enforcement proceedings unfinished as at the date of its entry into force.

(4) Legal proceedings under the repealed Tax Procedure Code not completed as at the date of entry into force of this Code shall be completed in accordance with the hitherto applicable procedure, with the relevant body of the National Revenue Agency, respectively of the State Receivables Agency, being a party to the proceedings.

§ 6. (1) The National Revenue Agency shall, as of 1 January 2006, be the legal successor of the tax administration in respect of the latter's assets, liabilities, rights, obligations and archive, with the exception of real estate. Item 1 of Article 6a(1) of the Value Added Tax Act shall accordingly apply to such legal succession.

(2) By 1 April 2006 the Council of Ministers, respectively the Minister of Finance, shall grant the real estate being public state-owned property used by the tax administration to the National Revenue Agency in accordance with the procedure provided for by the State Property Act.

(3) The dealings pertaining to the transfer of the required information and archives from the National Social Security Institute to the National Revenue Agency shall be settled through an agreement between the Director of the National Social Security Institute and the Executive Director of the National Revenue Agency.

(4) The employment legal relations with the employees of the tax administration and the Collection Function of the National Social Security Institute shall be settled in accordance with the procedure provided for by Article 123 of the Labour Code. The length of service acquired by employees hired by the National Revenue Agency under an employment contract prior to 30 June 2006 which has been acquired in the tax administration system and the National Social Security Institute shall be regarded as work for a single employer in respect of Article 222(3) of the Labour Code.

(5) By 30 June 2007 the employment legal relations with the employees of the National Revenue Agency performing functions at positions designated for civil servants shall be transformed to official legal relations, and:

1. the hiring deed shall assign to the civil servant the minimum rank for the position occupied, as fixed in the Unified Classification of Positions in the Administration, unless the servant satisfies the conditions for assignment of a higher rank;

2. Article 12 of the Civil Servants Act shall not apply, except in the case of employees the employment legal relations wherewith are under a trial period;

3. paid leave entitlement under the employment legal relations shall be retained and not be subject to cash compensation.

(6) By 31 December 2006 the Council of Ministers shall table before the National Assembly the required legislative amendments resulting from Paragraph (5).

.....
§ 88. The Code shall enter into force as of 1 January 2006, except for Article 179(3), Article 183(9), § 10, Item 1, Littera "e" and Item 4, Littera "c", § 11, Item 1, Littera "b" and § 14, Item 12 of the Transitional and Final Provisions, which shall enter into force as of the day when the Code is promulgated in the State Gazette.

Act to Amend and Supplement the Civil Servants Act

(Promulgated, SG No. 38/2012, effective 1.07.2012)

TRANSITIONAL AND FINAL PROVISIONS

.....
§ 84. (Effective 18.05.2012 - SG No. 38/2012) Within one month after the promulgation of this Act in the State Gazette:

1. the Council of Ministers shall bring the Classifier of Positions in the Administration into conformity with this Act;
2. the competent authorities shall bring the organic acts of the respective administration into conformity with this Act.

§ 85. (1) The legal relationships with the persons of the administrations under the Radio and Television Act , the Independent Financial Audit Act , the Electronic Communications Act , the Financial Supervision Commission Act , the Access to and Disclosure of the Documents and Announcing the Affiliation of Bulgarian Citizens with the State Security Service and the Intelligence Services of the Bulgarian Popular Army Act , the Criminal Assets Forfeiture Act , the Conflict of Interest Prevention and Ascertainment Act , the Social Insurance Code , the Health Insurance Act , the Agricultural Producers Support Act and the Roads Act shall be settled under the terms established by § 36 of the Transitional and Final Provisions of the Act to Amend and Supplement the Civil Servants Act (State Gazette No. 24 of 2006).

(2) The act on appointment of the civil servant shall:

1. award the lowest rank designated in the Classifier of Positions in the Administration for occupation of the position, unless the servant holds a higher rank;

2. fix an individual monthly basic salary.

(3) The additional resources required for social and health insurance contributions of the persons referred to in Paragraph (2) shall be provided within the limits of the expenditures on salaries, remunerations and compulsory social and health insurance contributions under the budgets of the spending units concerned.

(4) The Council of Ministers shall effect the requisite modifications under the off-budget account of State Fund Agriculture arising from this Act.

(5) The governing bodies of the National Social Security Institute and of the National Health Insurance Fund shall effect the requisite modifications under the respective budgets arising from this Act.

(6) Any unused leaves under the employment relationships shall be retained and shall not be compensated by cash compensations.

§ 86. (1) Within one month after the entry into force of this Act, the individual monthly basic salary of the servant shall be fixed in such a way that the said salary, net of the tax due and the compulsory social and health insurance contributions for the account of the insured person, if they were due, would not be lower than the gross monthly salary received theretofore, net of the compulsory social and health insurance contributions for the account of the insured person, if they were due, and the tax due.

(2) The gross salary referred to in Paragraph (1) shall include:

1. the monthly basic salary or the monthly basic remuneration;

2. supplementary remunerations which are paid constantly together with the monthly basic salary or monthly basic remuneration due and which are contingent solely on the time worked.

§ 87. This Act shall enter into force as from the 1st day of July 2012 with the exception of § 84 herein, which shall enter into force as from the day of promulgation of the Act in the State Gazette.