

MONTENEGRO

L A W
ON LOCAL SELF-GOVERNMENT
FINANCING

(Revised text)

Podgorica, December 2010

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ON LOCAL SELF-GOVERNMENT
FINANCING
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I GENERAL PROVISIONS

Article 1

(1) This Law stipulates resources, the way of financial equalization and the use of conditional grants, and financing their own affairs of local self-government (hereinafter referred to as municipalities) determined by the Constitution, law and other regulations.

(2) Provisions of this Law shall be referred to the financing of the Capital City and Historical Capital.

Article 2

(1) Funds to finance municipal own affairs shall be provided in the Municipal Budget.

11. Revenues from concession fee for performing communal affairs and revenues from other concession activities that a municipality concludes in compliance with law;
12. Revenues collected by municipal bodies, services, and organizations through their own activities;
13. Revenues from grants and subsidies; and
14. Other revenues set by the law.

(2) Municipalities shall be under obligation to inform Ministry of Finance on the implementation and use of the revenues referred to in Paragraph 1, Points 8 and 9 of this Article, in a way stipulated by this Law.

- (Law 74/2010) -

Article 6

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- (Law 74/2010) -

Surtax on Personal Income Tax Article 7

(1) A municipality may introduce the obligation of paying surtax on personal income tax at the rate up to 13% for persons and legal entities from its territory.

(2) Surtax on personal income tax shall be paid on personal earnings tax, self-employment tax, tax on property and property rights, and capital gains tax.

(3) Exceptionally from Paragraph 1 of this Article, surtax rate on personal income tax for the Capital City and Historic Capital may be up to 15% of the tax liability from Paragraph 2 of this Article.

Article 8

(1) Surtax on personal income tax shall be paid by rate that a municipality determines by its own regulation.

(2) Provisions of the law that regulates personal income tax shall be accordingly implemented on calculating and paying surtax on personal income tax.

(3) Legal entities and persons, banks and other financial organizations shall be under obligation to deliver data, or allow insight into their business books and records at the request of a competent municipal taxation Body for the purpose of ensuring control of tax calculation and payment.

Article 9

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- (Law 74/2010) -

Article 10

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Article 11

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Article 24

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2. Revenues Transferred by the Law

- (Law 74/2010) -

Article 25

(1) Municipality shall receive revenues from taxes and fees transferred by the law which shall be introduced by the State.

(2) The revenues transferred by the law referred to in Paragraph 1 of this Article shall be as follows:

- 1) Revenue from personal income tax;
- 2) Revenue from tax on real estate transfer;
- 3) Revenue from concessions and other fees for using natural resources awarded by the State;
- 4) Revenue from annual fees for the registration of motor vehicles, tractors and trailers;
- 5) Revenue from fees for use of motor vehicles and their trailers (eco-fee), which shall be paid upon the registration.

- (Law 74/2010) -

Revenue from Personal Income Tax

Article 26

(1) 12% of revenues from personal income tax collected at the territory of a Municipality shall be transferred to the Municipality.

(2) Exceptionally from Paragraph 1 of this Article, 16% of revenues from personal income tax shall be transferred to the Historic Capital and 13% to the Capital City.

(3) Funds from Paragraphs 1 and 2 of this Article shall be directly paid through an authorized agent for payment operations to the accounts of the Municipal Budget.

- (Law 74/2010) -

Revenue from Tax on Real Estate Transfer

Article 27

80% of revenues from the tax on real estate transfer collected at the territory of a Municipality shall be transferred to the Municipality.

- (Law 74/2010) -

Revenue from Concessions and Other Fees

Article 28

(1) 70% of concessions and other fees (hereinafter referred to as fees) for using natural resources of general interest located within its territory shall be transferred to the Municipality; except for revenue from the concession fee for the use of ports where 20% shall be transferred to the Municipality on whose territory the ports are located and revenue from the concession fee for the use of forests where 70% shall be transferred to the Municipality on whose territory the forests subjected to the concession are located.

(2) 20% of revenue of the fee for use of coastal resources collected at the territory of a Municipality shall be transferred to the Municipality.

(3) Natural resources referred to in Paragraph 1 of this Article shall consist of: forests, water, watercourses, mineral wealth, sand, gravel, stones and other natural resources in accordance with the law that regulates state property.

(4) If natural resources are located at territories of two or more municipalities, the revenue from the fee for use of natural resources shall be divided proportionally to the portion of municipalities in the area, or value of the natural resources subjected to the concession.

- (Law 74/2010) -

Revenue from Fees for Use of Motor Vehicles and Their Trailers
Article 28a

30% of the revenues of fees for use of motor vehicles and their trailers (eco-fee) shall belong to the Municipality.

- (Law 74/2010) -

III FINANCIAL EQUALIZATION OF MUNICIPALITIES

1. Equalization Fund

Article 29

(1) Financial equalization or balance of municipalities shall be performed through the Equalization Fund (hereinafter referred as "Fund").

(2) Fund's means shall be provided from following revenues:

- Personal income tax to the amount of 11% of revenues collected on that basis;
- Tax on real estate transfer to the amount of 10 % of revenues collected on that basis;
- Tax for use of motor vehicles, crafts, aircrafts and aero jets to the amount of 100% of revenues collected on that basis;
- Concession fees from games of chance in the amount of 40% of the revenues collected on that basis.

(3) Exceptionally from Paragraph 2 of this Article, means for the Equalization Fund may be provided by short-term loans from the State Budget.

(4) Means from Paragraphs 2 and 3 of this Article shall be earmarked on a special account of the Equalization Fund by an authorized agent for payment operations.

- (Law 74/2010) -

Right to Use Fund's Means

Article 30

(1) The right to use means from the Fund for current year shall belong to municipalities which average fiscal capacities per capita in three last fiscal years previous of the year of the allocation of Fund's means are lower than an average fiscal capacity per year of all municipalities for the same period.

(2) The fiscal capacities referred to in Paragraph 1 of this Article shall be determined through assessment of total local fiscal incomes which municipalities can realize from its own resources and transferred state revenues.

(3) The local fiscal incomes from its own resources referred to in Paragraph 2 of this Article shall include following revenues: municipal taxes, charges and fees, except of the fee for utility equipment of the construction land.

(4) The Ministry of Finance shall prescribe in details a manner of determine of the fiscal capacities of municipalities.

- (Law 74/2010) -

2. Criteria for Allocation of the Fund's Means

Article 31

Allocation of the Fund's means shall be made in accordance with following proportions:

- 1) 60% on the basis of the fiscal capacity, and
- 2) 40% on the basis of budgetary needs.

- (Law 74/2010) -

Article 32

(1) The Fund's means referred to in Article 31 Paragraph 1 Point 1 of this Law shall be allocated to municipalities based on estimated fiscal capacities of the municipalities determined in accordance with Article 30 of this Law.

(2) The amount of means determined in accordance with Paragraph 1 of this Article shall be increased:

- For the Historical Capital by applying coefficient of 2.50;
- For a municipality under 3.000 inhabitants by applying coefficient 2.00; and
- For a municipality with more than 3.000 and less than 6.000 inhabitants by applying coefficient 1.50.

- (Law 74/2010) -

Article 33

(1) Municipal budgetary needs shall be determined based on estimated budgetary needs per capita of the Municipality in relation to the estimated budgetary needs per capita of all municipalities.

(2) Allocation of the Fund's means referred to in Article 31 Paragraph 1 Point 2 of this Law shall be made in following amounts:

- 1) Accurate 20% in equal amounts to all municipalities entitled for the equalization means in accordance with Article 30 of this Law,
- 2) Rest of means shall be allocated in the amount of 60% based on territory and 40% based on number of inhabitants of the Municipality.

(3) The Ministry of Finance shall prescribe the methodology, elements and criteria for the estimation of the budgetary needs referred to in Paragraph 1 of this Article.

- (Law 74/2010) -

Article 34

(1) The Fund's means shall be allocated to municipalities during the year in monthly advance payments and after the end of the year after the final allocation.

(2) 90% of available Fund's means shall be allocated to municipalities during the year.

(3) A Pan of Advance Payments of Fund's means for next year shall be brought until the end of October of a current year.

(4) The final allocation of the Fund's means for previous year shall be made until the end of March of next year. - (Law 74/2010) -

(5) The Ministry of Finance shall decide upon the allocation of means referred to in Paragraphs 3 and 4 of this Article.

(6) Decisions on the allocation of means referred to in Paragraph 5 of this Article shall be published in the "Official Gazette of Montenegro".

(7) The Ministry of Finance shall prescribe in details a methodology for the allocation of the Fund's means and methodology for use of non-allocated Fund's means. - (Law 74/2010) -

1. Committee for Monitoring Development of the System of Fiscal Equalization of Municipalities

Article 35

(1) The Committee for Monitoring Development of the System of Fiscal Equalization of Municipalities (hereinafter referred as the "Committee") shall be establish in order to monitor development of the system of fiscal equalization of municipalities, and especially in order to provide the equity, efficiency and transparency of the system.

(2) Competences of the Committee referred to in Paragraph 1 of this Article shall be as follows:

- To monitor the implementation of the criteria for fiscal equalization;
- To give recommendations for overcoming notices disadvantages in the implementation of the criteria for fiscal equalization;
- To give opinions on documents of the Ministry of Finance related to the allocation of Fund's means;
- To prepare reports on development of the system of fiscal equalization of municipalities and to give proposals for its improvement.

(3) The Committee shall consist of seven members. Five of them shall be appointed by the Association of Municipalities of Montenegro, and per one by the Ministry of Finance and ministry in charge for local self-government issues.

(4) The Committee shall be appointed for a period of five years.

(5) The Committee shall elect a President of the Committee among representatives of the Association of Municipalities at its constitutive session. The President of the Committee shall be elected for a period of a year.

(6) Rules of Procedures of the Committee shall regulate the issues important for its work.

(7) The Committee's work shall be financed by the Fund's means.

(8) The Ministry of Finance shall provide vocational and administrative tasks for the needs of the Committee.

IV *CONDITIONAL GRANTS FROM THE STATE BUDGET*

Article 36

(1) A municipality shall be entitled to use conditional grants from the State Budget for financing investment projects that are of special interest for one or several municipalities.

(2) The grants referred to in Paragraph 1 of this Article may be used for co-financing projects which shall be financed by donors.

- (Law 74/2010) -

Article 37

(1) The right to use conditional grants from Article 36 of this Law shall have a municipality that has adopted perennial capital investment plan.

(2) The Perennial Capital Investment Plan defines especially: capital requirements (the list of all needs to achieve optimum level of public services), capital procurement (supplies and equipment), priorities of the environmental impacts, and the impact on the Budget, financial resources and justification for each project from the Plan.

(3) The Perennial Investment Plan shall be adopted for a period of five years.

Article 38

(1) A Municipality may be given, in form of conditional grants, a maximum 50% of the funds envisaged for realization of an investment project.

(2) The amount of conditional grants shall be determined depending on the level of realized revenues from the fee for utility equipment of the construction land per capita in relation to the average realized revenues of all municipalities in the year preceding the year for which conditional grants are awarded, as follows:

- 1) If the revenues of a municipality per capita are lower than 50% in comparison to the average realized revenues of all municipalities, the Municipality shall be eligible for the conditional grant to the amount of 50% of the value of the investment project;

Article 42

(3) The permanent budget reserve may be used for temporary execution of budget liabilities created due to lower revenues and for covering budget deficit.

(4) No more than 2% of the total revenues in a budget year shall be allocated to the permanent budget reserve.

(5) The Municipal Assembly shall make decision on utilization of the funds from the permanent budget reserve.

4. Final Budget Statement

Article 55

(1) Upon the expiry of the year the budget is adopted for, the Municipal Assembly shall adopt the final budget statement.

(2) The final budget statement shall include:

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Article 59a

(1) When a municipality is in financial difficulties for more than 90 days, it shall be under obligation to prepare a Rehabilitation Plan with a Program of Measures for Overcome Financial Difficulties within 30 days of a warning from the Government.

(2) The term of financial difficulties referred to in Paragraph 1 of this Article means the inability of a Municipality to settle obligations to its employees, the State, legal entities and other creditors, more than 90 days.

(3) If a Municipality do not prepare or do not implement the Rehabilitation Plan referred to in Paragraph 1 of this Article in a deadline longer than six months from the warning, the Government may undertake measures stipulated by the Constitution and the law regulating the local self-government, on a proposal of state administration body in charge for local self-government issues, and upon an obtained opinion of the Ministry of Finance

- (Law 74/2010) -

VI BORROWING

Article 60

(1) A municipality may be indebted by issuing securities or taking out loans.

(2) Municipalities shall issue securities in accordance with a law.

Article 61

(1) Municipalities may take short-term loans intended for satisfying short-term needs for liquidity.

(2) A short-term loan, in a sense of Paragraph 1 of this Article, means any credit where the principal repayment schedule does not extend beyond 12 months.

(3) The Decision on Borrowing shall be published in the "Official Gazette of Montenegro".

Article 62

(1) A Municipality may raise long-term loans and give guarantees.

(2) Long-term loan, in sense of Paragraph 1 of this Article, is any credit where the principal repayment schedule extends beyond 12 months.

(3) A Municipality may take long-term loans only for the purposes of financing capital infrastructure projects or for the purchase of capital assets, in compliance with approved Perennial Capital Investment Plan.

(4) Long-term loans may not be used to finance current expenditures.

(5) The Decision on Borrowing shall be published in the "Official Gazette of Montenegro".

Article 63

(1) Contracts on borrowing shall be concluded by Mayor, on the basis of Assembly's decision.

(2) A local administration body in charge of finance shall keep a record on the existing debt of a municipality, and short-term and long-term loans.

Article 64

(1) A municipality may be indebted in a such way that the total payments of principal and interest, payments under a leasing contract, repayment of obligations for prior period and any other obligations that have the character of the debt may not exceed 10% of the realized current income in a year preceding the year of borrowing, with the previous approval of the Government.

(2) The provision from Paragraph 1 of this Article shall not be implemented on the municipal borrowing intended for the implementation of the Rehabilitation Plan for Overcoming Financial Difficulties.

(3) More detailed guidance on the content of the borrowing of municipalities and information on eligibility for their borrowing shall be prescribed by the Ministry of Finance.

- (Law 74/2010) -

Article 65

(1) Public enterprises, institutions, and other legal entities founded by a municipality can be indebted only with the approval of the founder.

(2) The approval referred to in Paragraph 1 of this Article shall be given by the Municipal Assembly.

(3) Restrictions from the Article 73 of this Law shall also include possible borrowing of public companies and institutions founded by the municipality.

VII LOCAL SELF-GOVERNMENT TREASURY

1. Consolidated Treasury Account and General Treasury Ledger

Article 66

(1) Local administration body in charge of finance activities shall open a consolidated treasury account.

(2) Financial means of the budget shall be deposited on the consolidated treasury account.

(3) No payment shall be done from the consolidated treasury account without being approved in the budget.

(4) Local administration body in charge of finance activities shall be authorized to approve opening of sub-accounts, or other accounts as an integral part of the consolidated treasury account.

(5) Local administration body in charge of finance activities shall regulate in details the way of using funds from the account referred to in Paragraph 4 of this Article.

(6) Local administration body in charge of finance activities shall manage the consolidated treasury account, sub-accounts and other accounts.

(7) Local administration body in charge of finance activities shall keep the General Treasury Ledger.

(8) Separate records for every user of the budget means shall be kept in the General Treasury Ledger.

(9) Transactions and events recorded in the Ledger Book of users of budget means must at any moment be in compliance with the transactions in the General Treasury Ledger and in align with the local consolidated bank account.

2. Treasury Activities

Article 67

Local administration body in charge of finance activities shall perform the treasury duties by executing the following functions:

1) Financial planning, which includes:

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Article 73

A Mayor shall present the report on control in relation to Article 72 of this Law to the Municipal Assembly and s/he shall inform within 30 days the ministry in charge of finance about the taken measures.

Article 74

(1) Municipalities shall be under obligation to present to the ministry in charge of finance the

(2) The average fiscal capacities of municipalities referred to in Article 30 of this Law for years 2012, 2013 and 2014 shall be determined based on fiscal capacities of municipalities from the previous fiscal year.

- (Law 74/2010) -

Article 76d

Provisions from Article 41 Paragraphs 3, 4 and 5 of this Law shall be implemented from January 1st, 2012. - (Law 74/2010) -

Article 77

(1) The Local Self-Government Finance Commission shall be established within 60 days after this Law comes into force.

(2) The Minister of Finance shall call for the consultative session referred to in Paragraph 1 of this Article.

Article 78

When this Law comes into force, the Law on the System of Public Revenues ("Official Gazette of the Republic of Montenegro", no. 30/93, 3/94, 42/94, 13/96 and 45/98) and provisions from Articles 1, 14, 15, 17, 19, 20, 21, 22 and 23 of the Law on Communal Charges and Fees for firm name posting and pay of fee for use of communal goods of general interest shall cease to be valid.

Article 79

This Law shall come into force within eight days from the day of its publishing in the "Official Gazette of the Republic of Montenegro", and it shall be implemented from January 1st, 2004.

Provisions of the Amending Law to the Law on Local Self-Government Financing ("Official Gazette of Montenegro", No 5/08), Which have not be Included in the Revised text of the Law

Article 34

(1) The Commission for Monitoring the Development of the Fiscal Equalization System of Municipalities shall be constituted within a deadline of 30 days after this Law comes into force.

(2) The Minister of Finance shall call for the first session of the Commission referred to in Paragraph 1 of this Article.

Article 35

This Law shall come into force a day after its being published in the „Official Gazette of Montenegro“, and it shall be implemented starting from January 1st, 2008.

***Provisions of the Amending Law to the Law on Local Self-Government Financing
("Official Gazette of Montenegro", No 74 /2010),
Which have not be Included in the Revised text of the Law*** *W h i c h f t*