

663.

By virtue of Article 88, subsection 2, of the Constitution of the Republic of Montenegro I enact a

DECREE
ON PROCLAMATION OF THE LAW ON REAL ESTATE TAX

The Law on Real Estate Tax, adopted by the Parliament of the Republic of Montenegro on December 27 at its second regular session in 2001, is hereby proclaimed.

Number: 01-3875/2
Podgorica, December 28, 2001

- (1) The real estate in the territory of the Republic of Montenegro, which is not specifically exempted by this law, is subject to the real estate tax.
- (2) The following shall be deemed as real estate under paragraph 1 of this Article:
 - land (construction, forest, agricultural and alike),
 - construction structures (business, residential, residential-business and other structures), special parts of residential building (apartments, business premises, basements, garages, i.e. garage places, etc.).
- (3) Buildings and other construction structures owned separately from land and separately owned units of buildings may be taxed separately.

Taxpayers

Article 4

- (1) The real estate taxpayer is owner of a real estate on January 1 of the year the tax is determined for.
- (2) When the owner of real estate is unknown or it has not been determined, the user of the real estate is the real estate taxpayer.
- (3) If several persons have partial ownership or joint ownership on the same real estate, a real estate taxpayer is each of those persons in proportion to own share. Taxpayers are jointly and severally liable for the real estate tax.

Tax Basis

Article 5

- (1) The market value of the real estate is the real estate tax base.
- (2) Market value of the real estate is the value of the real estate on January 1 of the year tax is determined for.

Criteria for Determination of Real Estate Market Value

Article 6

- (1) Basic criteria to determine real estate market value are:

- 1) Purpose of real estate;
 - 2) Size of real estate;
 - 3) Location of real estate;
 - 4) Quality of real estate and
 - 5) Other elements that might have influence on real estate market value.
- (2) More precise criteria and methodology for determining real estate market value shall be prescribed by the Government of Montenegro (hereinafter referred to as: the Government), on a proposal of the state administration authority competent for the finances affairs (hereinafter referred to as: the Ministry)..
- (3) The methodology from paragraph 2 of this Article is synchronized with market conditions, and at least once in three years.

Inception of Tax Liability

Article 7

- (1) The real estate tax liability comes into force on January 1 of the year the tax is determined for.
- (2) The real estate market value from paragraph 1 of this Article is determined

- 1) agricultural land which is not cultivated,
- 2) secondary residential structures, respectively apartment,
- 3) structure constructed contrary to the law
- 4) hospitality structure located in the zone of priority tourism location, based on the Government act on determining priority tourism location,
- 5) construction land which is not in compliance with land use according to planning documentation.

(2) For agricultural land under paragraph 1 point 1 of this Article tax rate may be increased for 50% in relation to determined tax rate.

(3) Detailed regulation on what is deemed to be cultivated agricultural land shall be enacted by the state administration authority competent for agricultural affairs.

(4) For secondary residential structure, respectively apartment under paragraph 1 point 2 of this Article tax rate may be increased 100% in relation to determined tax rate.

(5) Secondary apartment under paragraph 1 point 2 of this Article shall be deemed to be residential structure, respectively apartment which is not permanent residence of the real estate owner.

(6) For the structure under paragraph 1 point 3 of this Article tax rate may be increased in relation to determined tax rate as follows:

- for structure with building permit for which the investor has not obtained use permit according to the law 25%,
- for structure or special part of a structure which is not constructed according to building permit 50%,
- for structure which is not anticipated by spatial-planning documentation 100%,
- for structure constructed without building permit on the territory covered by detailed urban plan in which the structure is planned 100%,
- for structure on another's land 150%.

(7) For hospitality structure under paragraph 1 point 4 of this Article local self-government authority may stipulate tax rate as follows:

- hospitality structure with category 3*** from 2 to 2,5% of market value of the real estate;
- hospitality structure with category 2** from 3 to 3,5% of market value of the real estate;
- hospitality structure with category 1* from 4 to 4,5% of market value of the real estate, and
- hospitality structures which are not categorized from 5 to 5,5% of market value of the real estate.

(8) Hospitality facility under paragraph 1 point 4 of this Article shall be deemed to be structure in which hospitality activities are performed (hotel & resort, wild beauty resort, hotel, small hotel, boutique hotel, hotel garni, aparthotel, condohotel, hostel, boarding house, motel, tourist settlement, ethno village, ecolodge, villa, inn, mountain hut, camp and alike), and which is in the zone of priority tourism location.

(9) For construction land under paragraph 1 point 5 of this Article tax rate may be increased for 150% in relation to tax rate determined according to the Article 9 of this Law.

(10) Construction land under paragraph 1 point 5 of this Article shall be deemed to be land within borders of construction area of a settlement on which, according to the spatial plan, construction of structures is allowed, but no structure is constructed or procedure for obtaining building permit is not initiated.

(11) Regulation under paragraph 3 of this Article shall be enacted by a administration authority competent for agricultural affairs within six months from the day of entry into force of this Law.

Tax Exemptions

Article 10

- 7) Real estate owned by NGOs used for functions they are established for;
- 8) Public roads, streets, squares, and parks, ports, railroads, and airports, protected and protection forests, and national parks.

Tax Application

The supervision over the implementation of this law is performed by the Ministry.

Adequate Implementation of Provisions

Article 18

Provisions of the law defining tax procedure are accordingly implemented regarding the tax procedure and other issues not specifically regulated by this law (appeal procedure, enforcement, interests, guarantees...).

Regulations for Implementing the Law

Article 19

Regulations for implementing this law shall be enacted within nine (9) months from the day this law enters into force at the latest.

Temporary Provisions

Article 20

Taxation of real estate for 2002 shall be carried out in compliance with provisions of the Law on Property Tax ("Official Gazette of RoM", numbers 3/92, 30/93, 3/94, 42/94, 20/95, and 45/98) and regulations enacted on the basis of this law

Article 21

Department for Real Estate and Department for Public Revenues are obliged to make all the data kept within those authorities available to a local self-government unit within six (6) months from the day this law comes into force.

Article 22

- (1) The property (real estate) taxpayers as defined by the Law on Property Tax ("Official Gazette of RoM", numbers 3/92, 30/93, 3/94, 42/94, 20/95, and 45/98) are obliged to submit a tax application to the authorized taxation body of a local self-government unit within nine (9) months from the day this law comes into force.
- (2) The structure and contents of the tax application shall be determined by the taxation body from paragraph 1 of this Article.

Article 23

Provisions from Article 11 of this law shall be in effect until 2002.

Article 23a

Provisions under Article 9a paragraph 6 of this law shall apply as of 1 January 2012.

Provisions under Article 9a paragraph 7 of this Law shall apply as of beginning of third fiscal year starting from the day of enactment of Government Act on Determination of Priority Tourism Location and adequate planning documentation.

Provision under Article 9a paragraph 9 of this Law shall apply as of beginning of second fiscal year starting from the day of adoption of adequate planning documentation.

Final Provisions

Article 24

From the day this law enters into force, the provisions of the Law on Property Tax ("Official Gazette of RoM", numbers 3/92, 30/93, 3/94, 42/94, 20/95, and 45/98) and regulations passed on the basis of this law, which refer to taxation of real estate, shall be repealed.

Article 25

This law shall enter into force on the eighth day following that of its publication in the Official Gazette of Montenegro and it shall apply as of 1 January 2011.