



USAID
FROM THE AMERICAN PEOPLE

PROTOTYPE REAL ESTATE TAX LAW FOR THE FEDERATION OF BOSNIA AND HERZEGOVINA

June 2006

This publication was produced for review by the United States Agency for International Development. It was prepared by Mark Gallagher, Development Alternatives, Inc.

PROTOTYPE REAL ESTATE TAX LAW FOR THE FEDERATION OF BOSNIA AND HERZEGOVINA

The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

.....

GUIDE TO CHAPTERS OF THE LAW

Chapter 1. General provisions.....	2
Chapter 2. Taxpayers	3
Chapter 3. Tax Rates.....	4
Chapter 4. Tax exemptions and reliefs	5
Chapter 5. Responsibilities of authorized bodies.....	8

PROTOTYPE

Introduction

This prototype tax law was developed with the intent to help officials in the Federation of BiH develop an ad valorem real estate tax that would generate revenues for municipalities in the Federation and that would, for the most part, leave implementation of the tax to municipalities. The prototype law assigns duties for overall real estate tax system regulation, and supervision to the Federation Ministry of Finance, but assigns significant duties to Federation Tax Administration, as well.

This is one set of proposals presented in a single draft tax law. The issues related to the institutional establishment and implementation of this law that must be reconciled relate to:

- Who will be responsible for maintaining the Real Estate Tax Registries?
- Who will be responsible for performing assessments?
- Should municipalities be restricted by a range of rates that they would be allowed to apply?
- Is there a need for a certification process and who would be responsible for this?
- Can or should the current Entity Tax Administrations have a role in the new RE tax?
- Who should receive the revenues produced from the Real Estate tax?
- Who should issue bills of collection?

This prototype tax law assigns all real estate tax revenues to municipalities and makes municipalities responsible for collecting these taxes. It authorizes municipalities to establish Municipal Tax Offices that would be responsible for implementing this tax.

For discussion

LAW ON REAL ESTATE TAX

Chapter 1. General provisions

Article 1

Establishment of the Federation of BiH real estate tax law

- (1) This law regulates basic elements of the real estate tax.
- (2) A municipality (opsina) introduces the real estate tax by own regulation.

Article 2

Assignment of revenues

Revenues from real estate tax belong to the municipality on whose territory the real estate is located.

Article 3

Definition of terms

Pursuant to the Law certain terms have the following meaning:

- a. Assessed Value: The officially established market value of real estate for the purposes of applying this law.
- b. Market Value: The price for which real estate would sell and be purchased in a free market transaction between two non-related persons.
- c. Tax base: The officially established market value of real estate for the purposes of applying this law.
- d. Assessment: An official declaration of the tax owed by a taxpayer for a specific piece of real estate, based on the law and the assessed value.
- e. Owner: The person on record as having full ownership rights over a real estate.
- f. Real estate: Land and all immoveable property or assets attached thereto.
- g. Refugee: Person who has been displaced from his land or real estate during the conflicts of the early 1990s, and as established in Annex VII of the Dayton Agreement.
- h. Taxpayer: The person responsible for paying the tax.
- i. Person: Physical person – citizen or legal person.

Article 4
Subject of taxation

- (1) Real estate in the territory of the Federation of BiH, which is not specifically exempted by this law, is subject to the real estate tax.
- (2) Real estate, from paragraph 1 of this Article, includes land, buildings, units of buildings, and other construction structures.
- (3) The subject of taxation also includes the sale or transfer of real estate on another basis, to other person or persons.
- (4) Buildings and other construction structures owned separately from land and separately owned units of buildings may be taxed separately.

Article 5
Market value basis of the tax

- (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 for which the tax liability is determined.

Chapter 2. Taxpayers

Article 6
Taxpayer

- (1) The real estate taxpayer is any person (legal or physical) who owns the real estate on January 1 of the year for which the tax is determined.
- (2) In the event of a sale or any other form of transfer of the real estate the new acquirer is the taxpayer for the real estate transfer tax.
- (3) Except for the provisions of the paragraph (1) of this Article 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.
- (4) If several persons have partial ownership or joint ownership of the same real estate, the taxpayer is each of those persons. However, taxpayers are jointly and severally liable for the payment of real estate tax.

Article 7
Responsibilities of the taxpayer

Those subject to the real estate tax have the following responsibilities:

- a. Taxpayers, citizens and legal entities are obliged to file the declaration to the Municipal Tax Office for all real estate located in the municipal jurisdiction within 60 days, as of the day of issuing of the Law. The contents and format of the tax declaration will be regulated pursuant to the Book of Rules on the application of this Law.
- b. Buyers or acquirers of the real estate are obliged to file a declaration on the transaction to the Municipal Tax Office within 15 days as of the day of occurrence of the tax liability.
- c. Taxpayer is obliged to make timely payments of the tax, interest, and fines in accordance with this Law.
- d. Sales or any other transaction of real estate is to be registered with the Municipal Tax Office. The parties in the transaction are obliged to settle tax liabilities upon registration of the transaction with the Municipal Tax Office.
- e. The registration of the real estate with the Real Estate Register of the Federation of BiH is to be made after the registration with the respective Municipal Tax Office. The acquirer of the real estate is responsible for ensuring that his/her real estate is recorded in the Federation of BiH real estate registry, in accordance with the current laws.
- f. Agreements entered into among individuals or individuals and organizations with regard to the payment of the real estate tax are not of relevance to the Municipal Tax Office.
- g. The real estate tax will be paid by the taxpayer in accordance with the Law on Tax Administration of the Federation of BiH and the municipal regulation on real estate taxation.
- h. In case of non-payment of the tax, regardless of any agreements existing between the given parties, the enforced collection will be made according to the provisions of the Law on Tax Administration of the Federation of BiH.

Chapter 3. Tax Rates

Article 8
Tax rates

- (1) The tax rates for real estate are proportional.
- (2) Real estate tax is paid at the rate of between 0.40% and 0.80% of the market value of the real estate.
- (3) Real estate tax imposed on the sale of transfer of real estate shall be paid at a rate not to exceed 0.50%.

- (4) The local self-government unit shall establish the specific rate of taxation within its own jurisdiction by its own regulation, in agreement with paragraphs (1), (2), and (3) of this article.

Chapter 4. Tax exemptions and reliefs

Article 9 **Tax exemptions**

The following are not subject to the real estate tax:

- a. Property of the State of Bosnia and Herzegovina, Federation of Bosnia and Herzegovina, Republika Srpska, Brcko District, or other local government authorities;
- b. Property of religious communities, such as temples, mosques, and churches, and the residential property for their clergy, owned by religious communities;
- c. Those properties that comprise environmentally sensitive areas that are not open to development, as may be decreed or ordered by the Assembly and the Mayor of the unit of local self-government, such as: hydrographical basins, certain watersheds, forest reserves, and parks, and such like;
- d. Those belonging to or used by accredited consular and diplomatic missions, in case the real estate is used for such purposes and under the condition of reciprocity. Real estate owned by international organizations, if so stipulated under multilateral and bilateral agreements signed by the Federation of BiH and Bosnia and Herzegovina, which call for such an exemption.
- e. Tax on sales or transfer of real estate is not paid in the following cases:
 - i. During sales or transfer of real estate to a person in the first line of heirs in relation to the seller, i.e. receiver of the real estate;
 - ii. During first sale or transfer of real estate – for the newly built facility with land (sold or transferred) by the construction companies, where value added tax is paid.

Article 10 **Relief for owner-occupied residences**

A home where the owner resides shall benefit from a reduction in its tax base of KM 30,000. This relief is available only in the case where the person occupying the home can demonstrate that he or she is the official owner of record, as recorded with the proper authorities. This relief is applicable only for one single property belonging to any specific owner.

Article 11
Tax relief for refugees

Real estate belonging to refugees, as defined in Annex VII of the Dayton Accords, who have not returned to reclaim their real estate nor rented it out, shall be exempt from the tax.

Chapter 5. Assessment of the Tax

Article 12
Assessments

- (1) Real-estate market value, as the base for taxation in accordance with this Law, is established by the Commission comprised of professionals from various fields, appointed by the Municipal Tax Office.
- (2) Harmonization of the market values with the conditions referred to in Paragraph 1 of this Article is to be made every 3 years.
- (3) Tax assessment is the official determination of the real estate tax to the base established in accordance with this Article. The tax assessment is made by the Municipal Tax Office.
- (4) The Municipal Tax Office will make the tax assessment for all taxpayers, every year, by March 31 for the current year, in accordance with this Law and the Law on Tax Administration of the Federation of BiH. Exceptionally from the provision of this paragraph, the tax assessment for the 2007, as the first year of the application of this Law, will be made by June 30, 2007.

Article 13
Requested reassessments

The real estate owner - user may request the Federation Tax Administration to revalue or reassess a property when it has suffered damage beyond the cause or responsibility of the owner or right holder. Such damages may occur from drought, flood, fire, earthquake, war, or other catastrophes.

Article 14
Reassessments based on infrastructure improvements.

The Municipal Tax Office shall reassess real estate when substantial improvements to public services have been made. These may include, but are not limited to, new roads, highways, significant improvements to roads, sewers, water systems, and other infrastructure systems.

Article 15
Other reassessments

Real estate shall be reassessed by the Municipal Tax Office when:

- a. The real estate is sold,
- b. The real estate is transferred or gifted to another owner,
- c. The real estate is inherited,
- d. The real estate is foreclosed by a financial institution or an individual or groups of persons, due to default,
- e. The real estate is annexed to joining properties,
- f. The real estate is divided into smaller, individual parts, some or all of which may or may not be sold,
- g. New construction or improvements are carried out on the property.

Article 16
Appeals

With regards to filing and solving of objections and appeals the provisions of the law on Tax Administration of the Federation of BiH and the Law on Administrative Procedure of the Federation of BiH shall be applied.

Article 17
Determining and paying the tax

- (1) The real estate tax is determined by the decision of the municipal body by May 31 of the current year.
- (2) The real estate tax is paid in two equal installments of which the first is due on June 30 and the second on November 30 of the year the tax is determined for.

Chapter 5. Responsibilities of authorized bodies

Article 18

Responsibilities of the Federation of BiH body authorized to control real estate records

The Federation of BiH body authorized for the real estate is obliged to deliver to a municipal unit data on real estate ownership that are kept within that authority, by end of November of the year that precedes the year tax is determined for.

Article 19

Responsibilities of the Federation Ministry of Finance

1. The Federation Ministry of Finance authorizes real estate tax rule book.
2. The Federation Ministry of Finance is responsible for defining the forms and revenue reporting requirements for municipalities.

Article 20

Responsibilities of the Federation Tax Administration

1. The Federation Tax Administration is responsible for providing technical assistance to municipalities that decide to issue their municipal regulations for the creation of the municipal real estate tax within their territorial jurisdiction.
2. The Federation Tax Administration is responsible for maintaining the Federation-wide real estate tax registry and for providing complete access to this registry to municipalities that enact their own real estate tax regulations consistent with this law.
3. The Federation Tax Administration shall establish an office of real estate tax appeals.
4. The Federation Tax Administration shall establish the standards for real estate tax assessment and advise municipalities on the application of the standards for assessment.
5. The Federation Tax Administration shall maintain and continually improve the standards of assessment.
6. The Federation Tax Administration shall supervise and report on the implementation of the real estate tax by municipalities.

Article 21

Responsibilities of municipal governments

- 1) Municipal governments that implement the real estate tax are responsible for establishing a Municipal Tax Office within their department of finance.
- 2) The functions of this Municipal Tax Office include:
 - a) Determining the market value of real estate for taxation purposes

- b) Issuing official real estate tax assessments;
 - c) Performing activities of control and collection of real estate tax;
 - d) Maintaining the municipal real estate tax register;
 - e) Harmonizing regularly the state of its real estate register with the real estate register kept by the Federation body in charge of real estate and the Federation Tax Administration;
 - f) Presenting data that refer to determining and collecting real estate tax to Federation Finance Ministry when necessary, and at least once in a year.
- 3) The Minister of Finance prescribes the structure and contents of the register from paragraph 2, item f, of this Article.

Article 22
Supervision

Overall system supervision over the implementation of this law is performed by the Federation Finance Ministry.

Article 23
Regulations for Implementing the Law

Regulations for implementing this law shall be enacted within six (6) months from the day this law enters into force.

Chapter 8. Final Provisions

Article 24
The Application of Tax Law

For all issues not regulated under this Law and with regards to assessment, interest rate, limitation period, enforced collection, penal provisions, and such like, the Law on Tax Administration of Federation of BiH shall be applied.

Article 25
Modification of Legislation

Specific language and citations of cantonal and other laws should be prepared for the elimination of the current property tax legislation, as well as for the following:

1. Fee on using construction land- “renta”

FBiH Law on land for construction (OGFBiH 25/03),
Various Canton and Municipality decisions.

2. Fee for Priority rights for usage of land for construction

FBiH Law on land for construction (OGFBiH 25/03,),
Various Municipality decisions

3. Charge for usage of agricultural land in non-agricultural purposes

The following laws should be amended:
FBiH Law on Agricultural Land (OG FBIH 2/98)
Cantonal Decisions

4. Tax on transfer of real estate

Various cantonal laws should be amended. In Sarajevo Canton the Law on transfer of real estate is issued in the OG 10/99,7/00,20/01,33/01,10/05.

Article 26
Enter into Force

This law shall enter into force within eight (8) days from the day of its publishing in the “Official Gazette of the Federation of BiH” and it shall be effective from January 1, 2007.