REAL PROPERTY TRANSACTION TAX ACT (ZDPN-2)

Article 1

(Contents of the act)

This Act regulates the tax on real property transactions (hereinafter referred to as the tax).

Article 2

(Entitlement to tax proceeds)

All revenues from this tax shall form part of the budget of the community where the property is situated.

Article 3

(Object of taxation)

(1) The tax shall be payable on real property transactions and on establishment and transfer or letting out (hereinafter referred to as transfer) the right of superficies for a consideration according to the act governing the property relations.
(2) For the purposes of this Act a real property transaction shall mean any transfer of title to property for a consideration (hereinafter referred to as transfer of property).
(3) Transfer of property from the preceding paragraph shall also include the following:
   – real properties swaps;
   – financial lease of real property;
   – transfer of title on property for the purpose of recognizing the title or joint title as a result of construction beyond the property boundary according to the law governing property relations;
   – transfer of title on property for the purpose of recognizing the title or joint title as a result of increased value of real property according to the law governing property relations;
   – transfer of title on splitting of joint title, namely of the part exceeding the part of property held by individual joint owners and for which individual joint owners have received payment.
(4) According to this Act real property transactions shall also be considered the acquisition of title on property resulting from acquisition by prescription, unless no tax has been paid on entering the original legal transaction that served as a basis for bona fide possession.

Article 4

(Exclusion of objects of taxation)

(1) According to this Act transfer of title on property, for which value added tax has already been charged shall not be considered transfer of property.
(2) Pursuant to this Act establishment or transfer of the right of superficies for which value added tax has already been paid, shall not be subject to tax.

Article 5

(Taxable person)
(1) Taxable person (hereinafter: taxable person) shall be the seller of the real property.
(2) In establishment of the right of superficies the owner who first acquired the right of superficies shall be considered the taxable person, while in transfer of the right of superficies the owner who transfers the right of superficies shall be considered the taxable person.
(3) In case of real property swap, each participant shall be liable to pay tax for the value of the property disposed of by him.
(4) In case of sale of undivided interests of the property the taxable person shall be every seller individually.
(5) In case of financial lease of the property the lessor shall be the taxable person.
(6) The acquirer of the title to property by prescription shall be considered the taxable person.

Article 6

(Other party to the proceedings)

Buyer, lessee or right of superficies holder shall have the position of a party in the procedure for the assessment of the property transaction tax if he undertakes to pay the property transaction tax under the contract.

Article 7

(Arising of the tax liability)

(1) A tax liability shall be incurred on the conclusion of a contract on the basis of which the property is transferred or the right of superficies is established or transferred or with the finality of a court decision.
(2) Notwithstanding paragraph (1) of this Article, when the transfer of property or establishment or transfer of the right of superficies is subject to the authorization of a government body or to obtaining any other legal instrument, a tax liability shall arise when such permission has been served on the taxable person or when the legal instrument has become final, although the contract has been concluded beforehand.
(3) When acquiring the title to real property by prescription the tax liability shall arise on the date of signing the document defining the prescription; however, in the absence of such a document the tax liability shall arise on the acquisition of the title to property by prescription or when the court decision becomes final.

Article 8

(Tax base)

(1) Tax base (hereinafter: tax base) shall be the selling price of the real property.
(2) Selling price shall mean everything representing payment (money, objects, services, assumed debts of the previous owner, etc.) which a seller has received or is to receive from the buyer in return for the transaction of a property.
(3) Where the selling price from the preceding paragraph is by more than 20 % lower than the generalized market value of the real property determined under the act governing mass valuation of real property, the tax base shall amount to 80 % of the generalized market value of such real property.
(4) Notwithstanding the preceding paragraph, the taxable person shall, prior to the expiration of the time limit for appeal, have the right to request that instead of the generalized market
value the estimated individual market value of real property should be used as the tax base. In this case, the costs of real property valuation shall be borne by the taxable person.

(5) In the case of financial lease of the real property the costs of financing shall not be included in the tax base if shown separately from the real property value.

(6) In establishment or transfer of the right of superficies the tax base shall mean realized payment equaling the market value of the right of superficies.

**Article 9**

(Tax rate)

(1) The tax shall be payable at the rate of 2% of the tax base.
(2) The tax shall be assessed by the tax authority in accordance with the regulations in force on the date when the tax liability arose.

**Article 10**

(exemption from tax)

The tax shall not be charged on:
– transfer of property to diplomatic or consular missions accredited in Slovenia in case of reciprocity, and to international organizations if so stipulated by international treaties binding on Slovenia;
– transfer of property due to expropriation or other legal measures or based on a sales contract concluded instead of expropriation;
– transfer of property possessing the status of cultural monument on condition that the cultural monument is accessible to the public or intended for the activity in the field of culture, which shall be subject to an agreement concluded between the owner and the ministry responsible for culture for an unlimited period;
– transfer of agricultural land in the frame of land consolidation in compliance with the regulations on spatial planning and transfer of agricultural land and other agrarian operations under the regulations on agricultural land;
– transfer of property in compulsory collection proceedings of mandatory levies according to the law;
– transfer of property in the division of property between spouses and cohabiting partners on the termination or during marriage or common law marriage or registered same-sex civil partnership;
– transfer of property on rescission of property transfer contract;
– transfer of property in division of property – real property between partners or shareholders in winding-up proceedings;
– transfer of property within the frame of financial transformations as laid down by the Companies Act;
– transfer of property as non-cash contribution on the establishment of legal entity or its capital increase.
Article 11

Tax declaration

(1) A taxable person shall file a tax return within fifteen days of the tax liability arising with the competent tax authority on the territory of which the real property is situated. The tax return must include documents on the basis of which the title to property is transferred. If the real property has not been entered in the land register, the taxable person shall also provide evidence of the manner of acquisition of such property.
(2) The form of tax return from the preceding paragraph shall be laid down by the minister responsible for finance.

Article 12

(Payment of tax)

(1) The taxable person shall pay the assessed tax within thirty days after the tax assessment decision has been served on him.
(2) Notwithstanding the preceding paragraph, where the tax assessment relates to the establishment of the right of superficies and the agreed payment of compensation of such right of superficies is in the form of ground rent, the tax authority may authorize payment of the assessed tax for each annuity at the request of taxable person. In such case the tax office shall issue a decision specifying the time limit for payment of tax for each annuity. If the taxable person fails to pay the tax for three successive annuities, the tax shall become payable in full.

Article 13

(Tax assessment)

(1) Tax authority shall issue its tax assessment decision relating to property transactions within thirty days from receipt of tax refund or of final court decision to be submitted by the court to the tax authority on the territory of which the property is situated.
(2) The tax authority may issue the decision by affixing a stamp on the contract or document under the conditions laid down by the act governing taxation procedure for issuing decisions in simple matters.

Article 14

(Specifics of tax assessment for sale by public auction in the procedure of enforcement)

(1) Notwithstanding Article 8 of this Act, in sale of real property by public auction in execution proceedings the tax base shall be the achieved selling price less the property transactions tax included in the price.
(2) Notwithstanding Article 11 of this Act, the taxable person whose property has been sold by public auction in the procedure of enforcement, does not file a tax return. The tax shall be assessed by the tax authority by virtue of office within thirty days from receipt of final decision on the transfer of the title to the immovable property to be submitted by the court to the tax authority on the territory of which the property is situated.
(3) Notwithstanding the act regulating the tax procedure, penalty interest for late payment shall not be charged in sale by public auction in execution proceedings.

**Article 15**

(Consequences of non-payment of taxes)

In the absence of evidence of the payment of real property transactions tax or of the existence of statutory grounds for which no property transactions tax needs to be charged or that the contract is not subject to assessment, signatures on the title transfer agreement may not be legalized.

**Article 16**

(Special cases of tax refund)

(1) If the contract on real property transfer, financial lease of property or establishment or transfer of right of superficies is terminated before transfer to another acquirer or if it is voided by the court decision, the taxable person may request repeal of the decision on transfer tax assessment and reimbursement of the tax he paid.

(2) If the contract on real property transfer, financial lease of property or establishment or transfer of right of superficies can not be executed in full or is executed only in part, the taxable person may request reimbursement of the property transaction tax in full or in the appropriate amount.

(3) In the cases from paragraphs (1) and (2) of this Article the taxable person who undertook to pay the tax under the contract is also entitled to reimbursement of the appropriate amount of tax paid by him.

(4) In the cases specified in this Article, the taxable person or the person that undertook to pay the tax shall not be entitled to interest on the reimbursed tax amount.

**Article 17**

(Application of provisions of other laws mutatis mutandis)

With regard to any questions concerning the procedures and jurisdiction of a tax authority not regulated by this Act, the provisions of the act regulating taxation procedures and the provisions of the act regulating the tax service shall apply.

**Article 18**

(Violations)

(1) A fine of EUR 1,000 to EUR 50,000 shall be imposed on a legal entity, sole proprietor or self-employed person for violating the obligation to file a tax return within the time limit laid down by Article 11 of this Act.

(2) A fine of EUR 200 to EUR 4,100 shall also be imposed on the responsible person of a legal entity or a sole proprietor or a self-employed person for violations from paragraph (1) of this Article.

(3) A fine of EUR 100 to EUR 1,200 shall also be imposed on an individual for violations from paragraph (1) of this Article.
Article 19

(Real property, of which construction was completed before 1 July 1999)

Real property transaction tax shall also be payable on the first transfer of title to the newly built facilities or parts thereof which have been built or completed before June 30 1999, but have not yet been handed over provided that the seller has acquired a written consent of the buyer.

TRANSITIONAL AND FINAL PROVISIONS

Article 20

(Transitional arrangements for property transfer under property financial lease contracts)

Property transfer under property financial lease contracts concluded before 1 January 2007, for which no value added tax or property transaction tax has been charged on the conclusion of these contracts, shall be subject to taxation pursuant to previous regulations at the time of actual transfer of the title on the property.

Article 21

(Establishing the value of real property pending the setting up of data on the generalised value of real property)

If the achieved price of property falls short of the price that might be achieved in free circulation on the occurrence of tax liability, the tax base shall, pending the setting up of the generalized market value database, represent the property value established during the assessment procedure.

Article 22

(Termination)

On the effective date of this Act the Real Property Sales Tax Act (Ur.l. RS, Nos. 57/99, 67/02 and 21/06 – Constitutional Court Decision) shall cease to apply.

Article 23

(Entry into force and application)

This Act shall enter into force on 1 January 2007, with the exception of paragraph (2) of Article 11, which shall become effective on the next day following the publication of this Act in Uradni list Republike Slovenije.

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Ljubljana, 27 October 2006
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Vice President
of the National Assembly
of the Republic of Slovenia
Vasja Klavora, M.Sc., s.