

**RESOLUTION No. 49/2004**

**WHEREAS:** By Agreement No. 3944 of 19 March 2001, of the Executive Committee of the Council of Ministers, the objective and specific functions and powers of this Ministry were approved in a provisional capacity until such time as new legislation on the organization of the Central State Administration is adopted; among which are those dealing with directing, executing and monitoring the enforcement of the State and Government financial policy and that of directing and controlling the organization of the State Financial Administration.

**WHEREAS:** Resolution No. 59 of 9 December 1996, of this Ministry put into effect the procedures for the formation and use of the mandatory reserve for contingencies in state enterprises, basic cooperative production units agricultural production cooperatives and joint ventures and totally foreign capital companies under Laws No. 77 of Foreign Investment and No. 73 of the Taxation System and, given the time elapsed and the experiences accumulated in their application thereof, updating and improvements have become necessary.

**WHEREAS:** By Agreement of the Council of State adopted on 20 June 2003, the person resolving below was appointed Minister of Finance and Prices.

**WHEREAS:** In the use of the powers vested in me,

**I R e s o l v e:**

**FIRST:** State enterprises, totally Cuban capital companies, basic cooperative production units, agricultural production cooperatives, fortified credit and service cooperatives, Cuban and foreign investors parties in international economic association contracts and joint ventures and with totally foreign capital companies created under Law No. 77 of foreign Investment of 5 September 1995, are obliged to build and maintain a Losses and Contingencies Reserve based on their profits.

**SECOND:** The Losses and Contingencies Reserve is annually funded by up to five percent (5%) of real profits obtained at the close of each business year, provided this does not exceed the limits established in this resolution for the accumulation of resources in this reserve.

The subjects obliged to build and maintain a Losses and Contingencies Reserve in accordance with the First Section of this Resolution, whose approved business purpose includes agricultural, livestock and silvicultural productions, shall annually fund this reserve with up to ten percent (10%) of real profits obtained at the close of each business year, provided this does not exceed the limits established in this resolution for the accumulation of resources in this reserve.

**THIRD:** The accumulation of resources based on profits in the Losses and Contingencies Reserve shall have the following limits:

For state enterprises, up to five percent (5%) of the balance of the State Investment Account at the close of each business year.

Agricultural production cooperatives, fortified credit and services cooperatives and basic cooperative production units, up to ten percent (10%) of their assets at the close of each business year.

Joint ventures, totally foreign capital companies and totally Cuban capital companies, up to fifteen percent (15%) of the total of their tangible fixed assets and their working capital (Circulating Assets minus Circulating Liabilities), when dealing with an entity devoted to the production of goods and up to twenty percent (20%) when it is an entity devoted to trade or the provision of services, at the close of each business year.

**FOURTH:** The subjects obliged to build and maintain the Losses and Contingencies Reserve shall use its accumulated resources to reimburse the losses originating from their economic-financial outcomes at the close of the business year.

**FIFTH:** When at the close of the business year the resources accumulated in the Losses and Contingencies Reserve are used, according to provisions in the foregoing section, they may be restituted by the retention of up to an additional five percent (5%) of real profits obtained at the close of the following business year, above the percentages authorized in the First Section of this Resolution.

**SIXTH:** When at the close of each business year, the subjects obliged to build and maintain Losses and Contingencies Reserves confirm that the resources accumulated in said Reserve exceed the limits set in the Third Section of this Resolution, they shall proceed to decrease said reserve by the amount in excess and they shall consider said decrease to be a revenue in the taxable period in question.

**SEVENTH:** Upon dissolution and liquidation of agricultural production cooperatives, fortified credit and services cooperatives, basic cooperative production units, international economic association contracts, joint ventures and totally foreign capital companies, the constituted Losses and Contingencies Reserves, after deducting payment for the corresponding profit tax and after fulfilling all other legally contracted obligations, will be distributed in the same form that the contracting parties have established for the distribution of profits,.

In the case of state enterprises and totally Cuban capital companies, the amount of the constituted Losses and Contingencies Reserve will contribute to the State Budget by paragraphs 121050- Other transfers of public non-financial enterprises and 121051 – Other transfers of non-financial public enterprises, as the case may be, of the Classifier of Financial Resources of the State Budget in force.

**EIGHTH:** Resolution No. 59 of 9 December 1996 of this Ministry is hereby repealed as well as any and all other provisions contrary to the provisions in this Resolution.

**NINTH:** This Resolution shall enter into force on 1 March 2004.

**TO BE PUBLISHED** in the Official Gazette of the Republic.

**TO BE COMMUNICATED TO** the State bodies and organisms, the National Association of Small Farmers, the directorships of Finance and Prices of the Administrative Councils of the Provincial Assemblies of the People's Power, the general directorships of the Budget and Treasury, the directorships of Revenues and Organizations and Methodology, all of this Ministry, to the *Empresa Gráfica de Finanzas y Precios*, the National Taxation Administration Bureau and to as many other corresponding bodies as necessary, and to file the original at the Legal Department of this Ministry.

Done in the city of Havana, on the sixteenth day of the month of February of 2004.

**Georgina Barreiro Fajardo**  
Minister of Finance and Prices