

International Assignment Services

Taxation of International Assignees Country – Gabon

*Human
Resources Services*

*International
Assignment
Taxation Folio*



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Introduction – International assignees working in Gabon

This booklet is intended to assist foreign nationals sent to work in Gabon with their tax planning. It gives a broad background to taxation in Gabon and other important aspects to be considered by a foreign national working in Gabon on a temporary basis.

This booklet is not intended to be a comprehensive guide. It merely attempts to give an overview of the issues involved. Accordingly, professional advice should be sought before making important decisions.

For further information or assistance contact information can be found in Appendix E.

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Step 1 – Understanding basic principles

The scope of taxation in Gabon

1. Personal Income Tax is due by any person considering Gabon as their habitual residence.
2. Individuals are liable to the Personal Income Tax in Gabon on all wages, salaries, annuities, fees and allowances received as remuneration for any activity carried out in Gabon.
3. Individuals who have their habitual residence abroad are liable to the Personal Income Tax for the whole of their revenues having origin in Gabon.

However, nonresident individuals who benefit from the provisions of a double tax treaty may be exempt from the Personal Income Tax in Gabon.

4. The reimbursement of personal taxes such as Personal Income Tax and Complementary Tax on Treatments and Wages (T.C.T.S.) of the employees and managers, by companies, whatever the conditions and denomination of the tax compensation on wages' elements may be, is strictly forbidden.

The tax year

5. The tax year runs from January 1 to December 31.

Method of calculating Gabon tax

6. The Personal Income Tax is calculated on the global net income received by the taxpayer during a calendar year (January 1 - December 31).
7. The global net income corresponds to the sum of the following income groups: land profits; non-trading profits; industrial, commercial and craft profits; wages and stock and shares profits.
8. The Personal Income Tax is due by the head of the family for his revenues, those of his wife, and of his dependant children.
9. Employees benefit from a 20% deduction on their income before taxation to Personal Income Tax with a limit of 10,000,000 XAF (i.e. Personal Income Tax is calculated on 80% of the salary).

Husband and wife

10. The marital status of the taxpayer is taken into account for calculating the Personal Income Tax.

Residence

11. Article 74 of the General Tax Code provides that any person having their habitual residence in Gabon is liable for the Personal Income Tax in Gabon.

The Tax Authorities regard as having a habitual residence in Gabon:

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- People who have a house in Gabon as owner, tenant or beneficial owner;
 - People who, without having a residence in Gabon, have their main place of residence in Gabon.
12. No precision is given by the Tax Authorities concerning the definition of "main residence place", but it should be possible to consider, subject to a different interpretation by the Courts and/or Administration, that this notion implies a stay in Gabon for more than 6 months per year.
 13. Individuals having their residence in Gabon are subject to Personal Income Tax on their worldwide revenues.

Nonresidents

14. Nonresident individuals originating from countries which have not concluded a double tax treaty with Gabon (Countries other than France, OCAM convention's members, CEMAC (former UDEAC) convention's members, Belgium), are subject to the payment of the Personal Income Tax for revenues originating from Gabon.

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Step 2 – Understanding Gabon's tax system

Taxation of employment income

15. Article 90 of the General Tax Code provides that "Wages, salaries, annuities, fees and allowances linked to an activity carried out in Gabon are liable to the Personal Income Tax in Gabon".

Regular income

16. The revenues coming from the different categories of income are liable to Personal Income Tax whatever the frequency of their payment may be.

Irregular income

17. The whole revenues coming from the different categories of income are liable to Personal Income Tax whatever the frequency of their payment may be.

Nontaxable allowances

18. The following allowances do not have to be taken into account in the Personal Income Tax basis:
- Allowances awarded for fees inherent in the office and employment insofar as they are used in accordance with their subject and are not exaggerated ;
 - Family allowances paid by the employer to its employees (within the limit of 20,000 XAF per month and per dependant child);
 - Travel fees actually paid for annual vacations, within the limit of a ticket value at normal rate, from the workplace to the country of origin, in a direct way;
 - The following bonuses which are restrictively listed are also exempted from Personal Income Tax and Complementary Tax on Treatments and Salaries within the global and annual limit of 4,000,000 XAF:
 - Productivity bonus;
 - Reversionary bonus;
 - End of year bonus;
 - Performance bonus;
 - Profit bonus;
 - "Additional month's salary" bonus.

Interest income

19. According to the General Tax Code, interest income may be subject to a withholding tax in full discharge of Personal Income Tax. The rate varies depending on the nature and the origin of the said income.

Capital gains

20. The following are considered as taxable: capital gains carried out during the sale, exchange, share, expropriation, contribution of capital or company's liquidation, on personal properties or real estate, or on duties of any nature.
21. The following are subject to taxation on capital gains:
 - Private individuals, as part of the management of their personal assets;
 - Partnerships subject to Personal Income Tax which does not carry out neither industrial and commercial profits nor craft and non-trading profits.
 - Taxpayers subject to the lump sum regime, who stop their activity.
22. Capital gains are exempt from taxation in the following cases:
 - Transfer of the taxpayer's principal residence;
 - Transfer of buildings carried out by a taxpayer taxed according to the lump sum regime on condition that the transfer occurs more than five years after the creation or the purchase of the business, of the office or of the customers and on condition that the said building had been used as principal residence by the owner;
 - Net profits resulting from the transfer of movables, household appliances, cars, and lands for craft purposes;
 - Net profits resulting from the collection of insurance allowances following from a partial or total damage on a personal property.
23. Capital gains' taxation basis:

Taxable capital gain = Transfer price (or market value) – purchase price

A 15% deduction is to be applied on the taxable gain. The net capital gain is subject to a flat tax at the rate of 20%.

A specific regime applies to capital gains realized on the sale of certain shares.

Double taxation relief

24. Double Taxation Treaties have been signed with France, Belgium, the CEMAC (former UDEAC) (which is an organization formed between Cameroon, Chad, Congo, Equatorial Guinea, Gabon and the Republic of Central-Africa) and the OCAM (which is an organization formed between Benin, Burkina Faso, Cameroon, Chad, Congo, Equatorial Guinea, Gabon, Ivory Coast, Mauritius, Niger, the Republic of Central- Africa, Rwanda, Senegal and Togo). Although the OCAM organization does not exist anymore, some countries such as Congo, Gabon and Senegal keep on applying its provisions.

These Tax Agreements provide for rules preventing double taxation.
25. In the absence of Tax Agreements rules, the global amount of the wages received by foreign employees during their stay in Gabon is subject to Personal Income Tax whatever the duration of the stay.

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Step 3 – What to do before you arrive in Gabon

Work permit/visa

26. The regime of admission and stay of foreign workers in Gabon is regulated by the law n°5/86 dated June 18th, 1986 which determines the regime of admission and stay of foreign workers in Gabon and the Labor Code.
27. According to article 25 of the law n°51/86, foreign workers have to present, for their entry in Gabon, the following documents:
 - A valid passport;
 - An individual work authorization;
 - An entry authorization;
 - A repatriation commitment or, if any, a return ticket convertible in guarantee;
 - A lodging commitment signed by the employer and certified by the administration.
28. According to articles 104 to 107 of the Labor Code, the recruitment of a foreign worker must be preceded by an individual work authorization delivered by the Labor Minister and is subject to a work contract certified by said Minister.
29. The request of said authorization must be made by the employer on behalf of the employee.
30. This request shall justify the reason why the employer has to recruit a foreign employee instead of a Gabonese employee as there are quotas on the proportion of expatriates hired by a Gabonese employer.
31. According to article 4 of the Decree 277/PR-MT of May, 31, 1968, the proportion of foreign workers subject to the employment authorization regime shall not exceed 5% of the total personnel or 10% of the personnel corresponding to the following categories: employees, highly qualified workers as well as higher categories. Derogations may nonetheless be granted to employers when specific occupational qualifications are sought.
32. In principle, this authorization must be obtained before the entry of the employee in Gabon.
33. This authorization is valid for one employee, one job and one company.
34. The initial duration of the authorization should not exceed two years and may be renewed.
35. The Minister of Labour may terminate, before the end of the authorized period, the employment authorization.
36. When the employment authorization is terminated or not granted on the basis of the application made or not renewed, the employment contract is deemed null and void and the repatriation of the employee shall be made at the employer's cost.

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37. According to article 259 of the Labor Code, any employee has to obtain a foreign work card from the Labor Minister. The validity of this card is two years and complies with the employment authorization and the ministerial visa duration.
 38. An entry authorization which may not exceed three months is required to employ a foreign employee. The application must be filed with the General Director of Documentation with a copy of the work authorization obtained.

Employment contract

39. Once the work authorization and the entry authorization have been obtained, the employer has to conclude with the employee a written work contract complying with the Gabonese labor law which will be submitted to the visa of the Labor Minister.
40. Employees sent on secondment to Gabon for less than three months do not have to conclude a work contract in Gabon. Therefore, the employer is not required to obtain an individual work authorization.
41. However, it has to be stressed that as entry authorization can not be obtained without an individual work authorization, so a business visa will be required.
42. The Labour Code provides for two categories of employment contracts: a permanent contract which can be concluded verbally, and a fixed term employment contract which must be written.

Structuring the remuneration package

43. The remuneration package includes:
 - The basic wage
 - and
 - All of the allowances granted in addition to the basic wage.
44. The taxable basis is established as follows:
 - Wages, salaries, annuities, fees, allowances;
 - Plus benefits in kind evaluated as follows:
 - Lodging: 6% of the net basic salary (however, the portion of the free housing benefit in cash which exceeds XAF 250,000 or 40% of the gross monthly salary is fully included in the taxable revenue);
 - Water, electricity: 5%;
 - Home maid: 5%;
 - Food: 25% of the salary within the monthly limit of XAF 120,000 per person.
 - Less the employee's contributions for Social Security, pension fund and contingency;
 - Less complementary tax on treatments and wages ("TCTS");
 - Less a 20% lump-sum deduction for professional expenses (within a XAF 10,000,000 limit).

Effective tax rates

45. The Tax Authorities publish an annual/monthly computation table providing the amount of tax due by direct reading. The most recent published table is applicable from January 1st, 2010. The maximum rate is fixed at 35%. (Please refer to appendix A).

Calculation of taxable income

46. The Personal Income Tax is established according to a progressive scale drawn up considering the taxpayer's dependants (with a maximum of 6 dependant children), and following the income groups (rates from 0% to 35%). (Please refer to appendixes A and B).

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Step 4 – What to do when you arrive in Gabon

Registration

47. At their arrival in the foreign country, expatriate people must be registered with the Consulate of their country of origin.

Residence

48. According to the Law on entry of foreign people and immigration, employers must provide accommodations to their expatriate employees, at their arrival at the workplace.

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Step 5 – What to do at the end of the year

Tax return

49. All taxpayers subjected to Personal Income Tax must subscribe each year a detailed return of their incomes and profits.
50. The return is established according to a file and must contain all the useful indications concerning the status and dependants of the taxpayer, its incomes classified by groups and the deductible charges.
51. The returns duly filed must be forwarded to the Tax Authorities before March 1st of the following year.
52. Before January 15th, employers shall deliver to the Tax Authorities detailed statement of the wages paid to each employee the previous fiscal year as the Personal Income Tax is withheld monthly by the employers.
53. Commissions, brokerages, discounts, fees and remuneration of directors and auditors must be stated on the back of their statement (otherwise these amounts are not deductible).
54. The counterfoil of the individual forms is given back to the employees for their personal tax return.

Payment of tax due

55. For salaries, the tax is withheld monthly by the employer. It is then paid monthly over (before the 15th of the following month) to the Tax Revenues Office.
56. If the employees receive other income, then the additional tax assessed by the tax authorities on the basis of their annual return will have to be paid upon request of the Tax administration (notice of payment).

Tax Penalty

57. The late payment penalty is 10% for the first month and 3% for each subsequent month.
58. Employers who do not withhold the tax are personally and jointly responsible for the taxes plus penalties (50% of the amount of the tax which was not withheld).
59. Article 80 of the General Tax Code provides that companies shall be liable to the personal income tax in proportion with the total amount of the sums they pay directly (or indirectly) and whatever their form, to persons whose identity is not disclosed. In that case the tax is reassessed at the maximum rate (50%) irrespective the situation of the employee who receive the income.
60. In the case of partial withholding, the applied penalty is 50% of the amount not withheld.
61. The employer is responsible for the unpaid taxes of the employee who has definitively left Gabon if the departure has not been declared and when legal proceedings against the taxpayers have failed.

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Step 6 – What to do when you leave Gabon

Transfer of wages abroad

- 62. The taxpayer leaving Gabon, who transfers his residence out of Gabon is liable to the Personal Income Tax for all revenues received during the fiscal year of his departure, until his effective departure, for all his income since the end of the last taxed fiscal year, and for all the revenues obtained before his departure (even if he did not effectively receive them before the departure).
- 63. A temporary return of taxable incomes must be provided at least 30 days before the taxpayer's departure to the authorities.
- 64. This return is subject to the regulation and penalties applicable to annual returns.
- 65. The return must be filed before the end of the two first months of the fiscal year following the fiscal year of the departure.
- 66. For lack of an amended return subscribed in this period, the temporary return is considered as approved by the taxpayer.

Transfer of assets abroad

- 67. See above.

Notification of departure

- 68. Any taxpayer who leaves Gabon can not obtain his exit visa if he has not provided the justification of payment of all taxes due with regard to the income received during his stay in Gabon.
- 69. Indeed, Article 166 of the Gabonese Tax Code provides that any taxpayer leaving Gabon definitely must justify before the Tax Authorities that he has paid all the taxes relating to the income received during all the previous fiscal years before limitation. The taxpayer must also provide a commitment by either his employer or a bank (when he is not a salaried employee) to pay on his behalf all taxes that he could be liable for or consign sufficient guarantees permitting the collection of the taxes due.

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Step 7 – Other matters requiring consideration

Owning property

- 70. All buildings set up on a brick-built basement located in Gabon are subject to land taxes on built properties.
- 71. The land tax basis is set up to 75% of the property's rental value (lease amount or comparison with a rented similar building).
- 72. The land tax rate is 15% of the basis mentioned above.

Personal effects

- 73. Personal effects are not liable to Personal Income Tax.

Social security & health insurance

- 74. Expatriate employees and their Gabonese employer (i.e. people staying in Gabon more than 3 months and therefore having a Gabonese labor contract) have to contribute to the national social security and health insurance according to provisions contained in their expatriation contract.

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Appendix A – Individual income tax rates

Personal income tax rates

Tax rates applicable to individuals in 2011 are as follows (in XAF):

Taxable income over	Not over	Tax rate (%)	
0	1,500,000	0%	
1,500,001	1,920,000	5%	75,000
1,920,001	2,700,000	10%	171,000
2,700,001	3,600,000	15%	306,000
3,600,001	5,160,000	20%	486,000
5,160,001	7,500,000	25%	744,000
7,500,001	11,000,000	30%	1,119,000
More than	11,000,000	35%	1,669,000

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Appendix B – Individual key rates and limits

Individual key rates and limits for 2011

Rates	Employee	Employer
Family Allowances	-	8.0%
Industrial injury	-	3.0%
Old age, disability & death pension	2.5%	5.0%
Sewage disposal	-	0.6%
Free distribution of medicine	-	2.0%
Free hospitalization	-	1.5%
Total	2.5%	20.1%

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Appendix C – Typical tax computation

Typical tax computation for 2011 for a married individual with 2 children (unemployed spouse)

Tax computation	XAF	XAF
Basic Salary	60,000,000	
Less (complementary tax on wages and CNSS employee part)	(3,671,250)	
Taxable income (gross)		56,328,750
<i>Less – specific deductible expenses:</i>		
Less 20% deduction (limited to 10,000,000)	(10,000,000)	
Net taxable income		46,328,750
<i>A person married with two children, is entitled to 3 "fiscal parts"</i>		
Taxable basis		15,442,916
Calculation of tax for 1 part (35 % x Q – 1,669,000):		3,736,020
Personal income tax due (3,736,020 x 3 parts)		11,208,060

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Appendix D – Double-taxation agreements

Countries with which Gabon currently has double-taxation agreements (other than for shipping and air transport only):

Belgium	Congo (1) (2)	Niger (1)
Benin (1)	Equatorial Guinea (1) (2)	Republic of Central Africa (1) (2)
Burkina Faso (1)	France	Rwanda (1)
Cameroon (1) (2)	Ivory Coast (1)	Senegal (1)
Chad (1) (2)	Mauritius (1)	Togo (1)

(1) OCAM Convention's members

(2) CEMAC (former UDEAC) Convention's members

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Appendix E – Gabon contacts and offices

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