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Corporate Taxes 2018/19

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Corporate Taxes 2018/19

All information in this book, unless otherwise stated, is up to date as of 1 June 2018.

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Foreword

Welcome to the 2018/19 edition of *Worldwide Tax Summaries – Corporate Taxes*, one of the most comprehensive tax guides available. This year's edition provides detailed information on tax rates and rules in 152 territories worldwide.

As governments across the globe are looking for greater transparency and with the increase of cross-border activities, tax professionals often need access to the current tax rates and other major tax law features in a wide range of territories. The territory summaries, written by our local PwC tax specialists, include recent changes in tax legislation, as well as key information about income taxes, residency, income determination, deductions, group taxation, credits and incentives, withholding taxes, indirect taxes, and tax administration. All information in this book, unless otherwise stated, is up to date as of 1 June 2018.

Our online version of the summaries is available at *www.pwc.com/taxsummaries*. The Worldwide Tax Summaries (WWTS) website also covers the taxation of individuals and is fully mobile compatible, giving you quick and easy access to regularly updated information anytime on your mobile device.

Some of the enhanced features available online include Quick Charts to compare rates across jurisdictions. You may also access WWTS content through Tax Analysts at *www.taxnotes.com*.

If you have any questions, or need more detailed advice on any aspect of tax, please get in touch with us. The PwC tax network has member firms throughout the world, and our specialist networks can provide both domestic and cross-border perspectives on today's critical tax challenges.

Colm Kelly
Global Tax &
Legal Services Leader

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Lazhar Sahbani
PricewaterhouseCoopers Algérie
01, Rue Ammar Mahasri
Hydra 16035 - Alger
Tel: +33 1 56574913
Email: lazhar.sahbani@pwcavocats.com

Significant developments

The Finance Law for 2018 was introduced in a complex economic context, marked by sluggish economic growth, strong tensions over the state's budget, as well as volatility of oil and ordinary taxation revenues. The government's main goal is balancing the budget by increasing local tax resources and limiting importation and currency devaluation. The main new tax provisions are as follows:

- Reform the tax preferential regime for export operations: This measure provides for a corporate income tax (CIT) exoneration of income resulting from transactions generating foreign currency revenues in particular export transactions of goods and services. However, it excludes from the above exoneration maritime, aviation, and inland transportation services, banks, and reinsurance companies.
- Higher taxation of dividends distributed to resident individuals: Article 5 of the Finance Law for 2018 provides for an increase of the withholding tax (WHT) rate applicable to dividends distributed to resident natural persons. The WHT rate levied for personal income tax (PIT) purposes, will be increased from 10% to 15%.
- Adjustment of the tax regime for capital gains on real estate disposals: As a reminder, the Finance Law for 2017 reinstated the taxation of capital gains on the sale of real estate, at a rate of 5%. However, the legislature exempted capital gains realised on properties held for more than ten years. In this context, article 3 of the Finance Law of 2018 has limited the above-mentioned exemption to the capital gains generated on the disposal of collective dwellings constituting the sole property and the main dwelling of the transferor, and which must have been held for more than ten years.
- Directorate of Large Companies (*Direction des Grandes Entreprises* or DGE) eligibility: Article 55 of the Finance Law of 2018 provides for an amendment of the criteria of eligibility to the DGE. In this context, the new criteria of eligibility to this tax administration were set as follows: companies or groups of companies operating in the hydrocarbon sector, and which are governed by the legislation relating to hydrocarbons; and foreign companies operating temporarily in Algeria in a contractual framework, and which are followed under the real profits regime, when the amount of the contract(s) is equal to or higher than 1 billion Algerian dinars (DZD).
- The concept of abuse of law in the Algerian taxation regime: Article 41 of the Finance Law of 2018 introduced an important measure relating to the concept of abuse of law in the Algerian tax legislation system.

Taxes on corporate income

Corporate entities are taxed on activities performed in Algeria via the following two regimes:

Algeria

Standard tax regime

Resident companies

The standard tax regime is applicable for all tax resident companies, which are taxed in Algeria on their worldwide income. The standard tax regime includes the following taxes:

- *Impôt sur le Bénéfice des Sociétés (*IBS) at the rate of:
  - 19% for manufacturing activities.
  - 23% for building activities, public works, and hydraulics, as well as tourist and thermal activities, excluding travel agencies.
  - 26% for all other activities not mentioned above.

  For mixed activities, companies should keep management accounts to determine the portion of each activity performed. Failing this, the highest rate (i.e. 26%) will be applicable for all of the taxable profits.

  Nil corporate annual tax returns include the payment of a minimum corporate tax amounting to DZD 10,000.

- Tax on business activity (TAP) at the rate of 1% for manufacturing activities, without any reduction. However, this tax is fixed at 2% for all other activities, with a reduction of 25% for building and public works and hydraulic activities, and computed based on the invoiced turnover. However, the TAP rate is increased to 3% in respect of the turnover from the hydrocarbon pipeline transport activity.
- Value-added tax (VAT) at the rate of 19% or 9% (except any specific exemption). *See VAT in the Other taxes section for more information.*
- Branch tax set at the rate of 15% calculated on net profits after IBS. *See the Branch income section for more information*.

Non-resident companies

In the absence of a double tax treaty (DTT), the basic principle that governs taxation of non-resident entities is that such entities are taxable in Algeria on their Algerian-source income whatever the way and wherever the location the work is carried out, provided only that the same are rendered or used in Algeria.

As a consequence, an entity will be liable for IBS via the WHT regime (*see below*) in Algeria through the execution of a related contract (services contract) to be performed in Algeria. From an Algerian point of view, such a contract is not an investment and is, by nature, temporary. Note that it is possible to execute several contracts under the same permanent establishment (PE).

In the presence of a DTT, a foreign company will be taxed in Algeria if it has a PE only.

Withholding tax (WHT) regime

Non-resident entities performing service contracts in Algeria are subject to the WHT regime. The 24% WHT, which encompasses the IBS, the TAP, and the VAT, is required to be levied on services only. The calculation base is the gross amount of the services invoiced.

Please note that, since 2017, contracts that had been taxed under the 24% WHT are also subject to the Algerian VAT when its basis of calculation benefited from a reduction in the rate or rebates as provided for by the local tax legislation or the DTTs (i.e. software licence contracts, international lease agreements, etc.).

Local income taxes

There are no local or provincial taxes on income in Algeria. The TAP is being distributed for each district/location where there is a principal or secondary establishment.

Corporate residence

According to the provisions of Article 137 of the Algerian Tax Code, a company is considered as an Algerian tax resident entity in cases where it is incorporated under the Algerian law and is realising (i) commercial, industrial, or agricultural activities (physical presence obligation) or (ii) taxable profits through dependent agents. However, please note the existence of the PE concept, which can also refer to permanent place of business.

Permanent establishment (PE)

The Algerian legislation introduces the PE concept in Article 137 of the Algerian Tax Code, relating to territoriality rules of IBS. This Article provides that IBS is due in Algeria on:

- Profits made by companies, which, without owning in Algeria an establishment or designated representatives, directly or indirectly perform an activity in Algeria resulting in a complete cycle of commercial operations.
- Profits made by companies using the assistance of representatives in Algeria that don’t have a separate professional personality from these companies.

Based on the above, a PE is created under Algerian law if a professional activity is performed in Algeria by a foreign entity and this activity is generating a complete business cycle, or in the case whereby a foreign company is making profits in Algeria through a dependent agent.

Other taxes

Value-added tax (VAT)

VAT is applied on the supply of goods or services in Algeria. It includes all economic activities conducted in Algeria. The zero rate is also applied to all exports and sales to exempted sectors under specific regimes. The standard VAT rate is 19%. The reduced rate is 9%, applying to various basic items listed by law.

Monthly VAT returns and payments are due by the 20th day of the following month.

Customs duties

Algerian imports are subject to payment of customs duties in the following increments: duty-free, 5%, 15%, 30%, or 60%.

A list of banned equipment for importation has been published in January 2018.

Algeria

Specific customs exemptions and temporary admission regimes are granted to the oil and gas sector and to investments under the incentives tax regime of the National Agency of Investment (ANDI in French).

Excise taxes

All tobacco products are subject to excise tax.

Property taxes

An annual property tax is levied on real estates in Algeria. Rates depend on the location of real estate.

Wealth tax

Wealth tax is calculated as follows:

Value of the holdings (DZD)	Rate (%)
Less than 100,000,000	0
100,000,001 to 150,000,000	0.50
150,000,001 to 250,000,000	0.75
250,000,001 to 350,000,000	1.00
350,000,001 to 450,000,000	1.25
More than 450,000,000	1.75

Transfer taxes

A transfer tax is applicable to land, buildings, and ongoing business at a rate of 5% for registration fees, plus 1% tax applicable for publication formalities of land and building transfer of ownership. Additionally, registration duties are due on the transfer of shares or movable assets and on the merger, demerger, increase, or decrease of the share capital of existing companies.

Stamp taxes

Stamp duty is levied at varying rates on transactions, including the execution of various documents and deeds.

Payroll taxes

PIT is withheld on salary and assimilated income (minus employee social security contributions) by applying the progressive scale rates (with a maximum rate of 35%). Additionally, training tax and apprenticeship tax are each levied at the rate of 1% of the payroll cost.

Social security contributions

Social security contributions are levied at the rate of 35% on the gross salary (26% borne by the employer and 9% borne by the employee).

Bank domiciliation tax

A 3% tax (*Taxe de domiciliation bancaire*) applies on the importation of services.

This tax is reduced to 0.3% for the importation of goods or merchandise, without the amount of the tax being less than DZD 20,000.

Pollution tax

Assets that may cause environmental damage are subject to a pollution tax.

Branch income

Branch tax is levied at the rate of 15%. Note that, since 2010, it is no longer possible to register a legal branch in Algeria. However, under certain conditions, a foreign company could operate in Algeria by registering its contract with the local tax authorities by registering a tax branch/PE. Under this scenario, a 15% tax rate applies on the deemed distribution of profits after tax, which may be reduced or removed by the applicable DTT provisions.

Income determination

Taxable income is determined using the accounting profits and adding back non-deductible expenses and deducting the allowable non-taxable incomes.

Inventory valuation

The inventory valuation method for tax purposes must match the accounting method as defined by the Algerian Financial Standards (SCF).

Capital gains

Capital gains realised on the sale of assets are taxed as ordinary income when realised by a company subject to IBS. For certain assets, 30% relief is given where the assets have been held for up to three years, and 65% relief is given where the movable assets have been held longer. Capital gains on the disposal of assets can be exempted if the company commits to re-invest them within a three-year period.

Dividend income

Dividends to non-resident shareholders are subject to WHT at source of 15%, which may be reduced or neutralised by an applicable DTT. Starting with fiscal year (FY) 2018, dividends to resident shareholders are subject to a WHT at source of 15% (previously, 10%). If the dividends are received by a parent entity resident in Algeria, they are not included in the taxable profits for IBS purposes.

Interest income

Interests paid are subject to 10% WHT and are included in the income of the beneficiary and subject to IBS if the beneficiary is a legal entity. Interests paid to a non-resident are generally subject to a 10% WHT. The rate may be reduced under an applicable DTT.

Rental income

Rental income is subject to IBS when received by a taxable corporate entity in Algeria. Rental income paid to non-residents is subject to 24% WHT, except for international lease agreements, where a reduction of 60% on the taxable basis is applicable, making the effective tax rate 9.60%. However, since January 2017, international lease agreements having benefited from the 60% taxable base reduction are subject to the Algerian VAT, which must be self-assessed by the local payer.

Royalty income

Subject to DTT provisions, royalties are subject to 24% WHT. A reduction of 80% on the taxable basis is applicable for software, making the effective tax rate 4.80%. Since January 2017, the royalties on software having benefited from the 80% taxable base reduction are subject to the Algerian VAT, which must be self-assessed by the local payer.

Furthermore, the 24% WHT rate could change in presence of a DTT.

Unrealised gains/losses

Realised gains and losses are subject to IBS. However, unrealised gains and losses are not subject to IBS. There are specific provisions relating to the free re-evaluation of assets.

Foreign currency exchange gains/losses

Foreign realised currency exchange gains/losses are subject to IBS.

Foreign income

Subject to DTT provisions, income from other countries is liable to IBS in Algeria, except exportation revenues and revenues realised in hard currency by resident legal entities, which are exempted.

Deductions

Depreciation and amortisation

The depreciation rates are determined according to tax administration instructions and common usage, for example:

- The depreciation rate for office items is 10% or 20%.
- The depreciation rate for industrial buildings is 5%.
- The depreciation rate for cars is 20% or 25%. The depreciation base for cars is limited to DZD 1 million.

Accelerated depreciation rates, when justified, can be used, depending on the activity sector and the economic use of the assets.

Goodwill

Under the SCF, goodwill is registered in the local books as a non-current/intangible asset of the balance sheet and cannot be amortised. Consequently, the accounting of goodwill has no fiscal impact for companies.

Start-up expenses

Start-up expenses are deductible when paid and cannot be capitalised and depreciated.

Interest expenses

Interest expenses are deductible when paid.

Bad debt

A bad debt provision becomes deductible when legal action has been taken to recover the debt or when evidence is provided that the receivable has become irrecoverable.

Charitable contributions

Charitable contributions are deductible, up to a limit of DZD 1 million.

Pension expenses

Pension expenses are deductible when paid.

Payments to directors

Payments to directors are deductible.

Research and development (R&D) expenses

R&D expenses are fully deductible when paid by the entity bearing the expenses and when justified. Revenues derived from R&D activities are exempted from IBS, up to a limit of 10% of the taxable benefit or DZD 100 million. The exempted amount has to be reinvested in R&D activities.

Bribes, kickbacks, and illegal payments

Bribes, kickbacks, and illegal payments are non-deductible from the IBS basis.

Fines and penalties

Fines and penalties are non-deductible from the IBS basis.

Taxes

Taxes duly paid are deductible, except for the IBS itself, which is not deductible. Also non-deductible for IBS purposes are the tax on apprenticeship and training and tax on passenger cars.

Net operating losses

Carryforward losses are permitted until the fourth fiscal year following the year of loss. Carryback losses are not permitted.

Payments to foreign affiliates

Payments to foreign affiliates are deductible.

Group taxation

When an Algerian company holds 90% or more of the shares of one or more Algerian companies, the group may choose to be taxed as a single entity. Hence, IBS is payable only by the parent company. Under this system, the profits and losses of all controlled subsidiaries in Algeria are consolidated. The consolidated group may also benefit from other tax advantages, such as exemption from VAT and TAP on the inter-group transactions.

Transfer pricing

An arm's-length approach to transfer pricing applies. All entities registered with the tax department responsible for large-sized companies (*Direction des Grandes Enterprises*), in addition to the other foreign companies established in Algeria, must submit their transfer pricing documentation along with their annual tax returns (before 30 April of each year). Failing this, and should the documentation to support one's transfer pricing practices not be provided within 30 days after a first request is made by the Algerian tax administration, a fine of 25% of the deemed transferred benefits on top of the late payment penalties of 25% are applicable.

Please note that, since 2017, related companies should keep management accounts in order to justify their transfer pricing policies, which should be provided upon tax administration request. Moreover, since 2018, related companies are required to present the consolidated accounts, upon request of the tax administration, if these entities keep consolidated accounts.

Thin capitalisation

There are no thin capitalisation provisions in Algeria.

Controlled foreign companies (CFCs)

There are no CFC rules in Algeria.

Tax credits and incentives

Investment incentives

Tax incentives can be granted to new investors, subject to the application of a specific request with the ANDI. The tax incentives can be granted for the investment phase and for the exploitation phase. They can be granted for a period of three years or five years, depending on the kind and the size of the business.

Other incentives can be granted for start-up businesses to encourage youth investment.

Many tax regimes and tax holidays/incentives are available to attract foreign direct investors in Algeria. For example, there is a temporary exemption from IBS for investing companies creating 100 jobs or more. VAT and custom duties exemptions are also available during the investment phase.

There is also a temporary exemption from IBS for companies that invest in certain strategic sectors, such as advanced technologies, the food industry, mechanics, and the automotive sector.

There is a five-year reduction of IBS for companies whose securities are introduced on the stock exchange.

Foreign tax credit

Algerian tax law does not provide for unilateral tax relief. A DTT, however, may provide for bilateral relief.

Withholding taxes

As explained in the Taxes on corporate income section, The WHT levied on services is 24%, which covers IBS, TAP, and VAT (i.e. three taxes in one). The calculation base is the gross amount of the services invoiced. In principle, it could be reduced or removed by a DTT.

The WHT levied on dividends (10% for residents and 15% for non-residents) and the 10% WHT levied on interest can be reduced in the presence of a DTT.

The WHT levied on royalties is 24%. In the presence of a DTT, the WHT cannot exceed 5%, 10%, or 12%, depending on different cases.

Double tax treaty (DTT) rates

	WHT (%)		
Recipient	**Dividends**	**Interest**	**Royalties**
Non-treaty	15	10	24 (1)
Treaty:			
Arab Maghreb Union	15	10	24
Austria	5/15 (17)	0/10	10
Bahrain	0	0	(2)
Belgium	15	0/15	5/15
Bosnia	10	10	12
Bulgaria	10	10	10
Canada	15	0/15	15
China	5/10 (19)	7	10
Egypt	10	5	10
France	5/15 (3)	10/12 (4)	5/10/12 (5)
Germany	5/15 (16)	10	10
Indonesia	15	15	15
Iran	5	5	5
Italy	15	15	5/15
Jordan	15	15	15
Kuwait	0	0	15
Lebanon	15	10	10
Mauritania	10	10	15
Portugal	10/15 (9)	15	10
Qatar	0	0	5
Romania	15	15	15
Russia	5/15 (11)	15	15
Saudi Arabia	0	0	7
South Africa	10/15 (10)	10	10
South Korea	5/15 (11)	10	2/10 (12)
Spain	5/15 (13)	5	7/14 (14)
Sultanate of Oman	5/10 (18)	5	10
Switzerland	5/15 (15)	10	10
Turkey	12	10	10
Ukraine	5/15 (11)	10	10
United Arab Emirates	0	0	10
United Kingdom (6)	5/15 (7)	0/7 (8)	10

Notes

1. Equipment rental may be considered as royalties, or remuneration of services entering in the scope of industrial and commercial benefits, or other remuneration. Royalties paid for the use of industrial equipment in the frame of an international leasing contract is subject to a tax allowance of 60% applied on the basis of such WHT. Thus, the effective tax rate of WHT will be 9.6% = 24% * (1 - 60%). For software, a reduction of 80% is applicable, making the effective tax rate 4.80%. VAT should be self-assessed in this case.
2. Domestic rate applies. There is no reduction under the treaty.
3. 5% if the beneficial owner is a company that directly or indirectly holds at least 10% of the capital of the company paying the dividends. 15% in all other cases.
4. 10% if the beneficial owner is resident in Algeria and interests sourced from France and 12% if the beneficial owner is resident in France and interests sourced from Algeria.

5. 5% for royalties paid for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films, or films, tapes, and other means of image or sound reproduction. In other cases, 10% if royalties sourced from France and 12% if royalties sourced from Algeria.
6. DTT provisions entered into force on 1 January 2017 in Algeria for WHTs and other taxes.
7. 5% if the beneficial owner is a company (other than a partnership) that directly holds at least 25% of the capital of the company paying the dividends. 15% in all other cases.
8. 0% if the interests are paid: (i) to the United Kingdom (UK) state, its central bank, a political subdivision, or a local authority, (ii) by the Algeria state, its central bank, a political subdivision, a local authority, or a statutory body, (iii) if the interests are paid in respect of a loan, debt-claim, or credit that is owed to, or made, provided, guaranteed, or insured by, Algeria, or a political subdivision, local authority, or export financing agency in Algeria. 7% in all other cases.
9. 10% of the gross amount of the dividends if the beneficial owner is a corporation that, for a consecutive period of two years, prior to the payment of the dividends, directly holds at least 25% of the share capital of the company paying the dividends. 15% of the gross amount of the dividends in all other cases.
10. 10% of the gross amount of the dividends if the beneficial owner is a (non-contracting) company that directly owns at least 25% of the capital of the company paying the dividends. 15% of the gross amount of the dividends in all other cases.
11. 5% of the gross amount of the dividends if the beneficial owner is a (non-contracting) company that directly owns at least 25% of the capital of the company paying the dividends. 15% of the gross amount of the dividends in all other cases.
12. 2% of the gross amount of royalties that are paid for the use of, or right to use, any industrial, commercial, or scientific equipment. 10% of the gross amount of the royalties in all other cases.
13. 5% of the gross amount of the dividends if the beneficial owner is a company that directly or indirectly holds at least 10% of the capital of the company paying the dividends. 15% of the gross amount of the dividends in all other cases.
14. 14% of the gross amount of the royalties paid for the use of, or the right to use, a copy of a literary, artistic, or scientific work, including motion pictures or films, tapes, and any other means of image or sound reproduction. 7% of the gross amount of royalties in other cases.
15. 5% of the gross amount of the dividends if the beneficial owner is a corporation (other than a partnership) that directly owns 20% of the capital of the company paying the dividends. 15% of the gross amount of the dividends in all other cases.
16. 5% of the gross amount of the dividends if the beneficial owner is a company (other than a company of persons) that directly owns at least 10% of the capital of the company paying the dividends. 15% of the gross amount of the dividends in all other cases.
17. 5% of the gross amount of the dividends if the beneficial owner is a corporation (other than a partnership) that directly holds at least 10% of the capital of the corporation that pays the dividends. 15% of the gross amount of the dividends in all other cases.
18. 5% of the gross amount of the dividends if the beneficial owner is a (non-contracting) company that directly owns at least 15% of the capital of the company paying the dividends. 10% of the gross amount of the dividends in all other cases.
19. 5% of the gross amount of the dividends if the beneficial owner is a (non-contracting) company that directly owns at least 25% of the capital of the company paying the dividends. 10% of the gross amount of the dividends in all other cases.

Tax administration

Taxable period

The taxable period is the fiscal year, which corresponds generally to the calendar year. For periodic activity, the fiscal year could be different from the calendar year.

Tax returns

Companies are required to file an annual tax return before 30 April of the following year together with a detailed statement of proceeds paid to third parties with respect to subcontracted services, hiring of personnel and equipment, leases, and technical assistance services, as well as transfer pricing documentation. Monthly tax returns, which include VAT, IBS instalments, WHTs, PIT, and payroll taxes, should be filed within 20 days of the following month.

Payment of tax

IBS is paid when the tax return is submitted after offsetting the corporate income instalments already paid before the IBS liquidation. Three IBS instalments are due on

20 March, 20 June, and 20 November, each equal to 30% of the IBS of the previous year.

Tax audit process

As a general rule, the tax administration informs the company when a tax audit has to be performed. The tax audit notification indicates the audited taxes (in all cases: IBS/TAP/VAT) and the concerned period. The company can be assisted by an expert, and it can ask the tax administration about several issues subject to audit. The tax audit is concluded by sending a final tax reassessment notification.

Some discounts or moderations can be granted to a debtor that is usually punctual in meeting its tax obligations and honouring its debts. For this purpose, taxpayers may, if indigent or hinders introduce a release request to the tax administration, seek remission or moderation of direct taxes properly established. A payment schedule may be granted to a company or to an individual in order to honour, progressively, their liabilities.

Taxpayers may also apply for some reconsideration by the tax administration. There are two alternatives:

- Applications for reconsideration by the tax administration (*recours gracieux*). The application may refer to direct and assimilated taxes, related penalties, recovery penalties, and fiscal fines.
- Conditional rebate (*remise conditionnelle*). Conditional rebate could relate to penalties and fiscal fines. It may concern tax penalties applied under direct taxes, turnover taxes, registration fees, stamp duties, indirect taxes, and non-codified taxes. In order to enjoy these arrangements, the taxpayer must make a written application to the competent authority to which the conditional rebate is requested.

Statute of limitations

Subject to some exceptions, the fiscal statute of limitations is four years.

Topics of focus for tax authorities

The tax administration will focus on non-deductible expenses, the declaration of turnover, and, more often, on transfer pricing issues.

Other issues

Exchange controls

A non-resident foreign company can open a non-resident account in local currency (i.e. dinars), called an 'INR account', based on the contract to be performed and on its registration to tax. An INR account can be used only for the object (purpose) for which it is opened.

A non-resident foreign company can also open a CEDAC (*Compte Etranger en Dinars Algériens Convertible*) account, which must be credited only from abroad in foreign currency.

The CEDAC account allows payment in dinars as well as in hard currency. Furthermore, there is no restriction or limitation for transferring any remaining sum in the CEDAC account back abroad in foreign currency or for drawing any foreign payment instrument. The exchange rate that will be used for converting dinar to foreign currency is the official rate at the date of the debit.

Please note that a non-resident foreign company will not be able to transfer any balances from INR accounts to its CEDAC account or abroad without the express authorisation of the central bank, except in case of reimbursing temporary funding from the CEDAC account (such reimbursement must be for the exact same amount).

Please note that trading companies cannot pay any dividends to their foreign shareholders.

Choice of business entity

Foreign companies can run a business in Algeria through various forms of legal entities (e.g. joint stock company [SPA], limited liability company, partnership company), a joint venture or consortium, or PE. As for legal entities, the foreign companies should comply with the local shareholding requirement. Indeed, the foreign company cannot hold more than 49% of joint venture share-capital in Algeria.

Angola

PwC contact

Jaime Carvalho Esteves
PricewaterhouseCoopers (Angola), Limitada
Edificio Presidente
Largo 17 de Setembro n.º 3 , 1º andar - Sala 137
Luanda – República de Angola
Tel: +244 227 286 109
Email: jaime.esteves@pwc.com

Significant developments

The major recent tax changes were the following:

- New Customs Tariff was published by means of the Presidential Legislative Decree No. 3/18, of 9 of May 2018, and will enter into force on 7 August 2018. The new Customs Tariff includes a reduction of the Consumption Tax and Customs Duties rates applicable to the importation of various goods, such as:

  - Malt beer: Consumption tax is reduced to 30% (formerly, 60%).
  - Tobacco: Consumption tax is reduced to 30% (formerly, 80%).
  - Sheep and goat meat: Customs duties are reduced to 10% (formerly, 20%).

  The new Customs Tariff foresees an exemption from consumption tax and customs duties on several goods, including raw materials for the agriculture sector, such as wheat, rye, oat, barley; medicines; and paper and cardboard products; amongst other goods.

  It also foresees an exemption for any items that are imported in order to be incorporated in an industrial process, provided that the final product is substantially different from the product that was imported (according to the customs table) and provided that there is no product available in the Angolan market that is similar to the imported product.

  The exportation of goods that are not produced in Angola is subject to customs duties at the rate of 20% computed on the customs value, with the exception of goods covered by the Customs Regime Applicable to the Petroleum and Mining Sectors.

- The State Budget for 2018 was approved by Law No. 3/18, of 1 March 2018. The State Budget for 2018 grants a legislative authorisation to the government. This legislative authorisation aims to amend the Customs Code, the Investment Income Tax (Code, the Consumption Tax Code, and the Stamp Duty Code.

  Additionally, the State Budget foresees that the special contribution on foreign exchange transactions applicable to cash transfers made under contracts for the provision of foreign technical assistance and management services remains applicable without changes during 2018.

- On 28 February 2018, the government approved a new draft of the Private Investment Law. The revision of Private Investment Law has the purposes of establishing new principles and rules aimed at facilitating, promoting, and accelerating private investment operations in Angola. The draft law is still pending approval by the National Assembly.

- On 8 February 2018, Angola and the United Arab Emirates signed a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income. Although signed, the Double Tax Treaty is not yet in force.
- Presidential Legislative Decree No. 1/17, of 7 December 2017, enacted the financial information reporting for the Foreign Account Tax Compliance Act (FATCA).
- Presidential Decree No. 258/17, of 27 October 2017, approved the Interim Plan containing the Policies and Action Measures to improve the country's economic and social situation to be introduced during the months of October 2017 to March 2018. One of the implementations the Angolan authorities plans is to introduce value-added tax (VAT) in the 2019 General State Budget.
- Executive Decree No. 456/17, of 2 October 2017, published the new tax returns templates.
- Order No. 678/17, of 25 September 2017, created the Transfer Pricing Unit.
- Law No. 18/17, of 17 August 2017, amends articles of the General Tax Code (*Código Geral Tributário*) relating to the extinction of the tax obligation (extinction resulting from payment or compensation of tax credits with non-fiscal debts).
- Executive Decree No. 366/17, of 27 July 2017, approved the Legal Framework of the Tax Identification Number.
- Order No. 316/17, of 17 July 2017, which updates the Large Taxpayers List, revoking the previous Order No. 599/14.

Taxes on corporate income

Corporate income tax (CIT) is levied, currently at a 30% rate, on the profits deriving from business activities carried out in Angola by resident entities or non-resident entities with a tax permanent establishment (PE), as defined by Angolan domestic legislation.

Tax residents are taxed on worldwide profits, while PEs are liable to taxation on the profits attributable to the PE, sales in Angola of goods or merchandise of the same or a similar kind to that sold by the PE, and to any other business activity that is of the same or similar kind to that conducted by the PE.

There are two CIT payer groups:

- Group A: Public companies, private companies with a share capital above 2 million Angola kwanza (AOA), private companies with annual profits above AOA 500 million, and branches of foreign companies.
- Group B: Taxpayers not included in group A.

Special tax regimes apply to the oil and gas industry and to the mining industry.

Exemptions from CIT are provided for non-resident shipping and airline operators (as long as reciprocity exists in the foreign jurisdiction).

Investment income tax (Imposto sobre a Aplicação de Capitais or IAC)

The IAC is due on interest, dividends, royalties, and other income of a similar nature. In Angola, the IAC Code divides such income into two sections, as follows:

Section A

Section A includes:

- Interest on credit facilities.
- Interest on loans.
- Income derived from deferred payments.

The tax is due at the moment that the income starts to be due or is presumed to be due.

A minimum annual interest rate of 6% is deemed on loan agreements and credit facilities, except if another rate is proven through a written and stamped contract.

Section B

Section B includes (amongst others):

- Dividends.
- Repatriation of profits attributable to PEs.
- Interest, premiums on the amortisation, reimbursement, and other forms of remuneration of: (i) bonds and securities or other financial instruments issued by any company, (ii) treasury bills and treasury bonds, and (iii) Central Bank Securities.
- Interest on shareholder loans (or other shareholder financing). A deemed minimum annual interest rate equal to the rate used by the commercial banks is imposed.
- Indemnities paid to entities for the suspension of their business activity.
- Capital gains on shares and other financial investments.
- Royalties.

The concept of royalties includes payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematograph films, or films or tapes used for radio or television broadcasting, any patent, trademark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment or for information concerning industrial, commercial, or scientific experience.

Exemptions

The following income is exempt from IAC:

- Interest on deferred payments regarding commercial transactions.
- Payment of dividends to Angolan CIT payers that hold a participation higher than 25% for more than one year.
- Interest from financial products approved by the Ministry of Finance that intend to encourage savings, capped to capital invested of AOA 500,000 for each person.
- Interest from housing saving accounts intended to encourage savings for main permanent dwelling.

IAC rate

The IAC rate is 15%, except for certain income, for which the rate is 10% or 5%.

The tax rate is 10% for the following income (amongst others):

- Dividends and repatriation of profits.
- Bond interest.

- Interest from shareholder loans.
- Capital gains.
- Royalties.

The tax rate is 5% for the following income (amongst others):

- Interest and capital gains on bonds, securities, or other financial instruments issued by any company, Treasury Bills and Treasury Bonds, and Central Bank Securities, when these instruments are traded on a regulated market and have a maturity equal to or in excess of three years.
- Dividends and capital gains on shares when traded in a regulated market.

Assessment and payment

Generally, for section B, the IAC is withheld by the payer entity.

On Section A, the IAC is paid and assessed by the receiving entity, through the filing of a tax return in January of the following year the tax relates to. If the income is paid to a foreign entity, then the obligation shifts to the Angolan resident paying entity.

Local income taxes

There are no provincial or local taxes on income in Angola.

Corporate residence

Business entities with a head office or effective management in Angola are considered resident entities and are taxed on worldwide income.

Permanent establishment (PE)

Angola has not signed any double tax treaties (DTTs); consequently, its domestic tax provisions apply with regards to PE.

The Angolan concept of tax PE is inspired in the United Nations (UN) Double Tax Treaty Model. A foreign entity is deemed to create a PE in Angola if it:

- has a branch, an office, or place of management in Angola
- has a construction or installation site, or provides supervision over such site, only when such site or activities exceed a period of 90 days in any given 12-month period, or
- carries out services in Angola, including consulting, acting through employees or other personnel contracted for that end, when such services are provided for a period of at least 90 days in any given period of 12 months.

Other taxes

Consumption tax

Consumption tax is due on imported or locally produced goods at rates varying from 2% up to 80%. The consumption tax is also due on some services, as follows:

Type of service	Consumption tax rate (%)
Hotel services and similar services	10
Services relating to electronic communications and telecommunications, regardless of its nature	5
Water supply	5
Electricity supply	5
Lease of areas designated for collection and parking of vehicles	5
Leasing of machinery and other equipment, if not subject to the IAC	5
Leasing of areas used for conferences, colloquiums, seminars, exhibitions, showrooms, advertising, or other events	5
Consultancy services, namely legal, tax, financial, accounting, audit, information technology (IT), engineering, architecture, economic, and real estate	5
Photographic services, film processing and imaging, IT services, and construction of web sites	5
Private security services	5
Tourism and travel services promoted by travel agencies or equivalent tour operators	5
Canteen, cafeteria, dormitory, real estate, and condominium management services	5
Car rental	5

Assessment and payment

The consumption tax is assessed by:

- The manufacturers, in the case of goods produced in Angola.
- Customs services, in the case of imports.
- The service provider, in the case of services liable to tax. However, if the service providers are non-resident entities in Angola, the obligation will revert to the resident acquiring entity.

Service providers are exempt from consumption tax if the services are provided to oil and gas companies, under certain conditions.

The consumption tax amount supported by oil and gas companies is deductible for petroleum income tax purposes.

Customs duties

Customs duties are levied on imports at *ad valorem* rates varying from 2% to 50% and consumption tax at *ad valorem* rates varying from 2% to 80%. The range of taxation for both customs duties and consumption tax varies according to the type of goods. The rates are set out in the tariff book.

Listed equipment may be imported temporarily if a bank guarantee is provided.

A 1% stamp tax is also due on importation plus customs fees (from 2%).

A special exemption regime applies for the oil industry for some listed equipment.

Stamp tax

Stamp tax is payable on a wide variety of transactions and documents, at specific amounts or at a percentage based on value.

Important examples include:

Type of operations	Stamp tax rates
On receipts:	
Stamp tax on receipts (in cash or in kind).	1%
Financing operations:	
Stamp tax is applicable to the use of credit in general at rates depending on the period.	Period less than or equal to one year: 0.5% Period greater than one year: 0.4% Period greater than or equal to five years: 0.3% Period not determined (e.g. current account), per month by the monthly average of the debt: 0.1%
Real estate operations:	
Stamp tax is due on the acquisition for consideration of property.	0.3%
Stamp tax is also due on letting and sub-letting, as well as on financial leasing of real estate, except when the leasing is for a permanent dwelling, which is exempt from stamp tax.	Commercial purposes: 0.4% Residential purposes: 0.1%
Corporate acts:	
Stamp tax is due on the initial or increase of share capital, whether made in cash or in kind.	0.1%
Insurance:	
Insurance provided by national companies is subject to stamp tax. The tax is settled by the insurance company, and the cost is recharged to the insured person. The commissions generated in the insurance mediation business are also subject to stamp tax. Premiums and commission related to life insurance products, insurance against accidents at work, health insurance, and agricultural processing and livestock insurance are exempt from stamp tax.	The stamp tax applies on the amount of premium paid, and rates may vary from 0.1% to 0.3%, depending on the policy’s nature. Commissions for mediation are subject to stamp tax at a rate of 0.4%.
Other operations:	
In addition to the operations referred to above, stamp tax is also applicable to written agreements, financial and operational leasing in tangible assets, customs operations, cheques, lending, civil deposits, gambling, licences, traders’ books, deeds, report, credit bonds, and transfer of business, among other acts.	Rates vary depending on the nature of the transaction.

The following exemptions apply:

- Credit granted for a period of up to a maximum of five days, micro-credit, credit related to young accounts and old age accounts and others of a similar nature that does not exceed the amount of AOA 17,600 each month.
- Credit derived from credit card utilisation, when the reimbursement is made free of interest, according to the terms of the contract.
- Credits related with exportation, when duly documented with the respective customs clearance.
- Amounts due on the mortgage for the acquisition of a permanent dwelling.
- On interest and commissions charged on financial operations, such as young accounts, old age accounts, and credits related to export under the terms mentioned above.

- Interest from Treasury Bonds and Angolan Central Bank notes.
- Commissions charged for subscriptions, deposit and withdrawal from units of investment funds, as well as the charges from pension funds.
- Commission charged on the opening and utilisation of saving accounts.
- Credit operations (including interest) for periods not exceeding one year, provided these are obtained exclusively to cover treasury needs, when realised between shareholders and entities in which a direct capital shareholding not lower than 10% is held and which has remained in their ownership for a year (consecutively), or since the incorporation of the respective entity.
- Loans bearing the characteristics of shareholder loans, including the respective interest, made by shareholders to the company in respect of which an initial period not shorter than one year is stated and no reimbursement is occurred before the end of that period.
- Treasury management operations carried out between companies within the same group.
- The exemption foreseen for the reporting of securities or equivalent rights includes other financial instruments negotiated on the regulated market.
- Sale of negotiable securities.
- Transfer of real estate (under a merger, demerger, or incorporation operations if approved by the tax authorities).
- Employment contracts.
- Exports, except for the export of products listed in the Stamp Tax Code table.
- Insurance premiums and commissions related to life insurance, work accidents, health, and agriculture and livestock insurance products.

Real estate income tax (IPU)

IPU is levied on rental income earned by individuals or companies owning real estate assets. It is based on actual rental income when the assets are leased and on the assets' registered value when the assets are not leased.

Leased assets

IPU is levied on rental income at a 25% nominal rate. However, the tax basis is only 60% of the rental income, as it is presumed that 40% relates to costs. Consequently, the effective IPU rate for rental income is 15%.

Assets that are not leased

IPU is levied as follows for the ownership of assets that are not leased:

Patrimonial value (AOA)	IPU rate (%)
Up to 5 million	0
Over 5 million (on the excess) (1)	0.5

Notes

1. For example, an asset registered at AOA 35 million will pay IPU only on AOA 30 million, resulting in an IPU payable of AOA 150,000.

Exemptions

The following entities are exempt from IPU:

- State public entities and associations that are granted with the public utility statute.

- Property of Embassies or Consulates of foreign countries, provided there is reciprocity.
- Religious temples.

Payment

Rents paid by Angolan companies or individuals that carry out a commercial activity are subject to withholding tax (WHT) of 15%. The IPU so withheld must be paid to the tax authorities by the end of the following month.

For property not leased, the respective owners must pay the IPU in January and July of the following year. The payment in four instalments (January, April, July, and October) is possible if approved by the tax authorities.

Filing requirements

IPU Model 1 must be filed by IPU taxpayers each January, disclosing the rents effectively received in the previous year, distinguishing the leases agreed and received.

Real estate transfer tax (SISA)

SISA is levied at a 2% rate for all acts that involve the transfer for consideration of property.

The taxable basis is the higher of (i) the selling price or (ii) the property value registered for tax purposes.

The following entities are exempt from SISA:

- State public entities and associations that are granted with the public utility statute.
- Property of Embassies or Consulates of foreign countries, provided there is reciprocity.
- Religious temples.

Payroll taxes

Employment income tax (IRT)

Resident and non-resident individuals earning income from employment sourced in Angola (if paid for or borne by an Angolan employer) are subject to monthly taxation (IRT) at rates progressing from 0% to 17%. Angola operates a fairly straightforward pay-as-you-earn (PAYE) system, in which the Angolan employer withholds monthly from each employee's gross compensation the Angolan income tax.

Individuals do not file tax returns, as the employment income tax is withheld at source by their employer.

Social security contributions

Social security contributions are due on the gross income of employees at rates of 3% for the employee and 8% for the employer.

The contributions are intended to cover family, pension, and unemployment protection.

Special contribution

The Special Contribution is levied on payments due to non-residents under Foreign Technical Assistance and Management Contracts governed by the Presidential Decree 273/11.

This regime introduces restrictions on the payment for technical assistance and management services to foreign entities, particularly by imposing a special contribution of 10% on the amount of the transfer due by the entity requesting the transfer of funds abroad.

This regime applies to both private and public companies. Petroleum activities are not liable to the special contribution.

Branch income

The repatriation of profits attributable to PEs of non-resident companies in Angola (e.g. branches of foreign entities) is taxable under the IAC at the rate of 10%.

Income determination

Inventory valuation

Inventory is valued at the historic acquisition cost. Any other method of valuation needs to be approved by the tax authorities.

Capital gains

Capital gains on fixed assets are taxed under CIT with no tax adjustments.

Capital gains arising from the disposal of shares, bonds, securities, or other financial instruments, Treasury Bills and Bonds, as well as Central Bank Securities, are taxable under the IAC Code.

Dividend income

Dividend income is only taxed under the IAC.

Interest income

Interest income is only taxed under the IAC.

Rental income

Rental income on immovable property is only taxed under the IPU.

Royalty income

Royalty income is only taxed under the IAC.

Foreign income

An Angolan resident CIT payer is taxed on its worldwide income. No foreign tax credits are available to deduct against domestic tax.

No tax deferral provisions exist in Angola.

Deductions

Depreciation

Depreciation should be computed using the straight-line method; any other method must be approved by the tax authorities.

The tax depreciation rates should respect the limits imposed by Presidential Decree no. 207/15, of 5 November 2015.

The table below summarises some examples of the depreciation tax rates.

Type of asset	Rate (%)
Office buildings	4
Industrial buildings	4
Computers	33.33
Furniture	Between 12.5% and 25%
Software	20
Light passenger vehicles	25
Start-up expenses	20

Depreciation that is non-deductible for CIT purposes, for exceeding the maximum depreciation rate, may be deducted in subsequent periods, provided the respective accounting adjustment is made.

An intensive operating regime is foreseen allowing accelerated depreciations. The depreciation rate can be increased by 25% in the case of production on two shifts and by 50% in the case of continuous production.

Goodwill

Goodwill is not deductible for CIT purposes.

Interest expenses

Interest costs are deductible for CIT purposes, except the interest on shareholder loans or other shareholder funds.

Bad debt

Write-off of bad debts may only be deducted for CIT purposes to the extent they result from the execution, bankruptcy, or insolvency of the debtor and they are duly supported with public certificates.

Provisions

The following provisions are accepted as tax deductible:

- Those related to contingencies and liabilities resulting from lawsuits for facts that would determine their inclusion as costs deductible for tax purposes.
- Those related to bad debts, when the risk of non-recovery is considered to be justified, and subject to certain tax limits.
- Those related to inventory depreciation within certain tax limits.
- Those respecting the limits and rules imposed by the Insurance Supervision Institute for insurance companies, as well as the Central Bank for Financial Institutions.

In relation to doubtful debts, the regime:

- Limits the provision's deductibility to credits in which the risk of collection is considered duly justified. According to the tax law, the recovery risk is justified whenever:
  - The debtor is in insolvency, recovery proceedings, and enforcement procedure.
  - The credit was claimed in court.
  - The credit is overdue for more than six months and there is proof of collection diligences.
- Excludes from tax deductibility the provisions of credits covered by insurance, over shareholders and subsidiaries (at least 10% share), and over the state and public companies.

In relation to the losses incurred with inventories, the regime:

- Foresees different tax limits, depending on the sector of activity.
- Imposes that the provision is calculated by the difference between the stock's market price and its acquisition cost.
- Foresees a special regime for taxpayers engaged in editorial activities.

Charitable contributions

Donations are only deductible for CIT purposes if fully compliant with the Patronage Law. The requirements imposed by this law are very restrictive.

Fines and penalties

Fines and penalties are not accepted for tax purposes.

Taxes

Indirect taxes are deductible for CIT purposes. Direct taxes are non-deductible, namely the CIT itself, IRT, IAC, IPU, or taxes paid on behalf of third parties (e.g. social security contribution and IRT supported on behalf of the employees).

Autonomous Taxation

Unduly documented expenses, non-documented expenses, and confidential expenses are subject to autonomous taxation at rates ranging between 2% and 50%. The donations granted outside the scope of Patronage Law are also subject to autonomous taxation at rate of 15%. The amount of autonomous taxation should be added to the taxable income.

Net operating losses

Tax losses can be carried forward for three years.

Carryback of losses is not allowed.

Payments to foreign affiliates

Payments to foreign affiliates are accepted for tax purposes, although the arm's-length principle should be complied with.

Group taxation

Major taxpayers that are members of an economic group may opt to be taxed under the tax regime of group taxation.

The option for the group taxation regime is available when:

- The company is included in the major taxpayers list.
- The parent company holds, directly or indirectly, at least 90% of the share capital of other companies (controlled entities), and more than 50% of the voting rights.

Some limitations apply, and the option to apply group taxation depends on the approval of the tax authorities.

Transfer pricing

Under a special regime for 'so-called' major taxpayers, being the ones identified in a list published by the Ministry of Finance, there are additional specific reporting and administrative obligations, namely the obligation of audited accounts and to prepare special transfer pricing documentation (e.g. the same will have to, under certain requisites, organise their transfer pricing documentation and submit it to the tax authorities). This is applicable to those major taxpayers that have registered annual profits higher than 70 million United States dollars (USD).

Thin capitalisation

There are no thin capitalisation rules in Angola.

Controlled foreign companies (CFCs)

There are no CFC rules in Angola.

Tax credits and incentives

Foreign tax credit

No foreign tax credits are available to deduct against domestic tax.

Private Investment Law

The implementation of investment projects in Angola in the amount equivalent to USD 1 million (for foreign investments) and USD 500,000 (for internal investments) may benefit from tax incentives for CIT, IAC, and SISA.

The extent of the incentives (tax rate reduction and period of the incentive) depends on several variables, such as the creation of jobs for Angolan citizens, the investment amount, the investment location, the sector of the activity of the investment, the equity held by Angolan shareholders, and the value added to the national market.

In addition, for investment projects in an amount equal to or above of USD 50 million, special benefits can also be obtained under negotiation with the cabinet of the President of the Republic.

Please note that a new Private Investment Law is under discussion.

Special regulations also provide tax and customs incentives for investment projects in strategic economic development areas and sectors.

Reinvestment of reserves

Profits retained and then reinvested in new installations or equipment during the following three financial years may be deductible from taxable income during the following three years after the investment is finalised, at up to 50% of the value reinvested.

Withholding taxes

WHT is applicable on payments of services (some exemptions apply) granted by resident and non-resident entities at the rate of 6.5%. For Angolan taxpayers, this is regarded as an advance CIT payment due at the year-end; the deduction of these WHTs against CIT payable is limited to a period of five years. For non-resident companies, this is a final tax.

Dividends, interest, and royalties are subject to WHT under the IAC (*see the Taxes on corporate income section for more information*).

Tax administration

Taxable period

The tax year follows the calendar year.

Tax returns

The annual CIT return for Group A and B must be submitted by the last business day of May and April, respectively, following the year to which the income relates.

Payment of tax

Taxpayers from Groups A and B that record sales (granting of services subject to WHT are excluded) are required to make advance CIT payments until the end of August and July, respectively.

This tax is to be calculated by applying the rate of 2% on the total amount of sales recorded by the taxpayers in the first half of the tax year. Advance payments are offset against the final CIT assessed.

Advance payments made in excess may be deducted from subsequent advance payments up to the statute of limitation period of five years.

The final tax must be settled by the last business day of the month of April (Group B) and May (Group A) of the following year.

Tax audit process

The tax authorities may carry out tax audits to the monthly and annual tax returns.

Taxpayers may challenge any decision and file an appeal to the Chief of the respective Tax Office within 15 days upon receiving the tax notification.

Based on an unsatisfactory decision of the Chief of the Tax Office, the taxpayer may also file a hierarchical appeal addressed to the National Director of Taxes (DNI) within 15 days upon receiving the tax notification.

The taxpayer still has the right to appeal against the final decision of the DNI in court within 60 days upon receiving the final decision from the DNI.

Statute of limitations

The statute of limitations in Angola is five years.

Topics of focus for tax authorities

The main areas of focus of the tax authorities relate to:

- WHTs due (regarding several taxes: CIT, IPU, IAC, and IRT).
- 1% stamp tax on receipts.
- Deductibility of costs for CIT purposes.
- Transfer pricing.

Legal regime on invoices and similar documents

Invoices or similar documents must comply with the legal regime of invoices and similar documents (governed by the Presidential Decree 149/13).

Invoices and similar documents must comply with the following requirements (amongst other):

- Include the name, firm, tax address, and tax number of the supplier.
- Be duly dated, sequentially numbered.
- Include details on the nature, quantity, and price of the goods and services, as well as the taxes due.
- Be written in Portuguese and expressly mention that they were computer processed.

Suppliers that do not comply with this regime will be subject to fines and penalties. In addition, the acquiring entities cannot deduct the cost for CIT purposes and will be subject to an autonomous taxation on an amount that varies depending on the extent of the failure.

Other issues

Intergovernmental agreements (IGAs)

An agreement under the Foreign Account Tax Compliance Act (FATCA), between the government of Angola and the government of the United States (US), was signed on 9 November 2015. This FATCA regime aims to fight tax evasion of US taxable persons who hold financial assets through financial institutions outside the US territory.

Botswana

PwC contact

Butler Phirie
PricewaterhouseCoopers
Plot 50371
Fairground Office Park
Gaborone
Botswana
Tel: +267 395 2011
Email: butler.phirie@pwc.com

Significant developments

Selibe Phikwe Economic Development Unit (SPEDU) region incentive

The Income Tax Act was amended through the SPEDU Region Development Approval Order, 2018 to introduce concessionary corporate income tax (CIT) rates for approved business operating in the SPEDU region. Below are the key points of the Order:

Concessionary CIT rates

The following concessionary CIT rates are applicable for approved business operations in the SPEDU region:

Period of operation	CIT rate (%)
For a new business:	
First five years of operations	5
Thereafter	10
For an existing business:	
First five years of operations as per Tax Relief Certificate	5
Thereafter	10

Areas covered under the SPEDU region

- Selebi-Phikwe.
- Bobonong.
- Mmadinare - Sefhophe.
- Lerala - Maunatlala.
- Neighbouring villages, farms, and cattle posts.

Eligibility criteria

A new business or an existing business under the following sectors in the SPEDU region is eligible to apply for concessionary CIT rates:

- Agriculture.
- Manufacturing.
- Tourism.

Application for tax relief

It is required to submit an application in the prescribed form to the Ministry of Finance and Economic Development in order to obtain approval under this Order.

Taxes on corporate income

Botswana has a source-based taxation system.

CIT is charged at a single flat rate of 22%. Manufacturing companies having the approval from the Minister of Finance for a special tax rate will be charged at the rate of 15%.

International Financial Services Centre (IFSC) profits

IFSC companies are currently taxed at a flat rate of 15%. Companies must apply for a certificate to be classified as IFSC companies, which deal only in specified services and only with non-residents.

Mining profits

Mining profits, other than profits from diamond mining, are taxed according to the following formula:

Annual tax rate = 70 minus (1,500/x), where x is taxable income as a percentage of gross income.

The tax rate shall not be less than the flat CIT rate of 22%.

Diamond mining

Diamond mining is usually taxed in terms of an agreement with the government of Botswana.

Local income taxes

There are no local, state, or provincial government taxes on income in Botswana.

Corporate residence

If a company's registered office or place of incorporation is in Botswana or if the company is managed and controlled in Botswana, then the company is considered a resident of Botswana.

Permanent establishment (PE)

PE has been defined in the Income Tax Act only in the limited context of interest, commercial royalty, and management or consultancy fee. However, PE is defined in all the double taxation agreements (DTAs) that Botswana has entered into with other contracting states. The definition of PE in the DTA follows the definition in the Organisation for Economic Co-operation and Development (OECD) Model Tax Convention on Income and Capital.

Other taxes

Value-added tax (VAT)

VAT is imposed on taxable supplies and the importation of goods into Botswana. The standard VAT rate of 12% applies to all supplies that do not qualify for an exemption or are not zero-rated.

The VAT registration threshold is 1 million Botswana pula (BWP).

Vocational training levy (VTL)

VTL is payable when submitting the VAT return by every taxpayer who is registered for VAT. It is calculated as a percentage of turnover ranging from 0.2% to 0.05%, depending on the turnover of the company.

Customs and excise duties

Customs and excise duties are charged on importation of goods (including currencies) into or exported out of Botswana. The import duties may also include anti-dumping and countervailing duties. No customs duties and excise duties are charged on trade between Botswana and South Africa, Lesotho, Namibia, and Swaziland, as these five countries constitute a Southern African Customs Union. In terms of the Botswana/ Zimbabwe Trade Agreement, goods originating from either of the trading partners are exempted from payment of customs duties under the condition that the goods meet a minimum of 25% local content. Excise duty and local taxes, such as VAT, are due and payable where applicable.

Property taxes

There are no property taxes in Botswana.

Capital transfer tax (CTT)

CTT is levied on the donee upon the transfer (by way of inheritance or gratuitous disposal of property) of tangible or intangible, movable or immovable, property, at 12.5%.

Transfer duties on immovable property

Transfer duty is levied at 5% of the value of immovable freehold and leasehold property. The first BWP 200,000 of such value are exempt from transfer duty in case of transfer to a Botswana citizen.

In the case of agricultural property, transfer duty is levied at the rate of 30% for a non-citizen. This duty is 5% in the case of a Botswana citizen.

Stamp duty

There is no stamp duty in Botswana.

Payroll taxes

An employer with resident employees earning income above the taxable threshold and non-resident employees must deduct tax by applying the relevant tax rate and remit to the Botswana Unified Revenue Services (BURS) on a monthly basis before the 15th day of the succeeding month. Every employer is required to submit an annual return within 31 days after the end of the tax year.

Social security contributions

There are no social security taxes or contributions in Botswana.

Branch income

CIT payable on branch profits is 30%.

Income determination

Inventory valuation

Inventories are valued at cost less such amounts, if any, that the Commissioner General believes are reasonable as representing the amount by which the value of such stock has been diminished because of damage, deterioration, obsolescence, or other cause. Although not expressly excluded by legislation, last in first out (LIFO) has not been accepted in practice by the tax authorities.

Capital gains

Gains from disposal of specified capital assets (immovable property and marketable securities, including shares in private companies) are included in taxable income in the hands of the corporate taxpayer. Acquisition costs of immovable property are subject to a 10% compound annual addition for inflation for the period from acquisition to 30 June 1982, and thereafter to an inflation addition based on the increase in the consumer price index to the date of sale. For other gains, no inflation allowances are granted, but the taxable gain is set at 75% of the total gain.

Currently, the sale of any shares, units, or debentures of a resident company is exempt from tax under any of the following circumstances:

- The resident company whose shares are being sold is a public company.
- The shares, units, or debentures are traded on the Botswana Stock Exchange.
- The company has released for trading 49% or more of its equity on the Botswana Stock Exchange.

This exemption only applies if the shares, units, or debentures were held by the taxpayer for a period of at least one year prior to the date of disposal.

The aggregate amount of capital losses is offset against the aggregate amount of capital gains in the same tax year. Any excess of loss is deducted from aggregate gains over losses accruing in the succeeding tax year only. Capital losses cannot, in any circumstances, be deducted against other income.

Dividend income

Dividend income from local sources is not subject to tax.

Interest income

In the case of a resident company, interest income is included in gross income and taxed at the CIT rate. In the case of a non-resident company, interest income is subject to withholding tax (WHT), which constitutes a final tax.

Royalty income

Royalty income is included in gross income and taxed at the CIT rate. In the case of a non-resident company, royalty income is subject to WHT, which constitutes a final tax.

Partnership income

Partnership income is taxed in the hands of the partners, in proportion to their share in the partnership.

Foreign income

Resident corporations are not generally taxed on a worldwide income basis. However, interest and dividend income from a foreign source is taxed in the hands of the resident company on an accrual basis. Relief is given for any WHT imposed on such income.

Deductions

Depreciation and depletion

Annual and capital allowances available are as follows.

Companies other than mining companies

Annual taxation allowances for expenditures incurred on machinery and equipment before 30 June 1982 can be claimed up to 100%. This allowance may be for any proportion of previously unclaimed expenditures. For expenditures incurred on machinery and equipment after 30 June 1982, annual allowances are granted, calculated on cost by the straight-line method on the basis of the expected useful lives of the individual assets. Guidelines are provided for expected useful lives of different categories of assets, which vary from four to ten years. Book depreciation is not required to conform to tax depreciation. The capital allowance claimable on a company motorcar is restricted to a maximum of BWP 175,000.

An initial allowance of 25% of cost is granted on certain industrial buildings. All industrial and commercial buildings (excluding residential properties) are granted a 2.5% annual allowance based on cost or, in the case of an industrial building on which an initial allowance has been claimed, the original cost less the initial allowance.

Balancing allowances and charges are brought to account on the disposal of assets on which allowances have been claimed. Where disposal value of an item of machinery or equipment exceeds the difference between expenditures incurred on the asset and allowances granted, the whole amount is taxable as corporate income or the balancing charge can be offset against further additions of new equipment, thus providing rollover relief. However, there is no rollover relief on motorcars except where the cars are used in a car rental or taxi service business.

Mining companies

In ascertaining the business income for any tax year from a mining business, there shall be deducted from business income an allowance, to be known as a mining capital allowance, computed in accordance with 100% of the mining capital expenditure made in the year in which such expenditure was incurred, with unlimited carryforward of losses.

Goodwill

Amortisation of goodwill is not allowed as a tax deductible expense.

Start-up expenses

Start-up expenses are not specified in the law. However, pre-incorporation expenses might be disallowed since, generally, expenses incurred when there is no income are not allowed.

Interest expenses

Interest paid or accrued to a resident is deductible as an expense. Interest paid to a non-resident will be allowed as a deduction in the year where the relevant WHT on interest has been remitted to the BURS.

Bad debt

Bad debts written off and specific provisions for bad debt are allowed as a deduction when computing taxable income. General provisions are not allowed as a deduction.

Charitable contributions

Donations made to (i) any educational institution recommended by the Ministry of Education or (ii) any sports clubs or sports associations recommended by the Ministry responsible for sports, and approved by the Commissioner General, shall be deducted when arriving at taxable income, limited to 20% of the chargeable income.

Fines and penalties

Penalties and associated interest are not allowed as a deduction.

Taxes

Any taxes paid are specifically disallowed in computing a company's taxable income.

Other significant items

An allowance is granted for dwelling houses erected for employees by a business other than a mining business. The amount of the allowance is the lower of cost or BWP 25,000 for each dwelling house constructed.

A deduction of 200% of the cost of an approved training expenditure is allowed.

Companies with shareholders having 5% or more of equity, either directly or indirectly, are classified as close companies, and there are additional tax regulations in respect of these shareholders.

Small companies, that is resident private companies whose gross income does not exceed BWP 300,000, may elect that the company be taxed as a partnership.

Expenses incurred by the company for having its shares listed on the Botswana Stock Exchange are deductible in determining the chargeable income of the company.

Net operating losses

Losses may be carried forward for five years, with the exception of mining and prospecting operations, for which there is no time limit. There is no allowance for carrybacks.

Payments to foreign affiliates

Royalties, interest, and service fees paid to foreign affiliates are generally deductible, provided such amounts are at arm's length and WHT is paid.

In the case of a mining company, head office expenses allowed as a deduction in ascertaining gross revenue from mineral licence shall be limited to 1.5% of gross income for the year of assessment, and any excess of such expense above the limit shall be treated and taxed as a dividend.

Where the interest rate on a loan made by a foreign-based mining company to an affiliate mining company resident in Botswana is considered by the commissioner to be in excess of the market rate, such excess will be disallowed as a deduction and taxed as a dividend.

Group taxation

There are no concessions for group taxation, other than for wholly-owned subsidiary companies of the Botswana Development Corporation Limited (BDC).

BDC was established in 1970 to be the country's main agency for commercial and industrial development. The government of Botswana owns 100% of the issued share capital of the Corporation.

Where in any tax year a wholly owned subsidiary of BDC has incurred any assessed loss, such member may, during the current tax year, by notice in writing to the Commissioner General, elect that the whole or part of such assessed loss shall be deducted in ascertaining the chargeable income of one or more of the other wholly owned subsidiaries.

Transfer pricing

Botswana currently does not have any transfer pricing regulations, so transfer pricing is currently monitored through the anti-avoidance provisions contained in Section 36 of the Income Tax Act.

The arm's-length principle should always be followed in transactions between related parties. If such transactions have created rights or obligations that would not normally be created between independent persons dealing at arm's length, the Commissioner General may determine the liability in such manner as deemed appropriate. However, related party balances arising out of normal trading transactions (e.g. credit purchases with a 30 day credit period) would not be subjected to these provisions.

Interest (at prime rate) should be charged/provided on loans from shareholders/ amounts due to related parties. If no interest has been charged/provided, in terms of the close company legislation, the BURS may deem interest at the prime rate prevailing at the beginning of the tax year, as income in the hands of the lender without allowing the corresponding interest as a charge against the profits of the borrower. The borrower is obligated to deduct WHT at the prevailing rate on the deemed interest.

Amounts due from shareholders/directors may be deemed as dividend income and shall form part of the taxable income of the borrower, in which event these will be taxed at the prevailing dividend WHT rate in the hands of the borrower.

Thin capitalisation

Thin capitalisation rules can be found in the Income Tax Act, but only in relation to mining companies and IFSC companies.

Where a foreign controlled resident mining company has a foreign debt-to-equity ratio in excess of 3:1 at any time during the year of assessment, the amount of interest paid by the resident company during that year on that part of the debt that exceeds the ratio shall be disallowed as a deduction, and the amount so disallowed shall be treated and taxed as a dividend.

In case of an IFSC company, where an amount of foreign debt interest is allowable as a deduction in a particular tax year and, at any time during that tax year, the total foreign debt exceeds the foreign equity product for that year, then the amount of foreign debt interest ascertained in accordance with the following formula will be disallowed:

I x (A/B) x (C/365)

A = amount of the excess of the total foreign debt over the foreign equity product.

B = the total foreign debt.

C = the number of days in that tax year during which the total foreign debt exceeded the foreign equity product by that amount.

I = the foreign debt interest.

Controlled foreign companies (CFCs)

There are no CFC rules in Botswana.

Tax credits and incentives

To encourage investment in Botswana, extra tax relief on revenue or capital accounts will be granted for specific business development projects if the government is satisfied that such projects are beneficial to Botswana.

Foreign tax credit

A credit for the foreign WHT payable is permitted under domestic law. The credit, which is offset against the tax charged in Botswana, shall be the lessor of (i) the tax payable in the foreign country or (ii) the tax charged under the Botswana Income Tax Act on such amount.

Withholding taxes

WHT, at the following rates, must be deducted from payments to residents and non-residents unless a DTA exists.

Residents	**WHT rate (%)**
Dividends	7.5
Interest	10
Payments due under certain construction contracts	3
Payments made for livestock purchased for purposes of slaughter or feeding for slaughter	4
Non-residents	**WHT rate (%)**
Dividends	7.5
Interest	15
Payments due under certain construction contracts	3
Payments made for livestock purchased for purposes of slaughter or feeding for slaughter	4
Payments for royalties, management, or consultancy fees	15
Payments for entertainment fees	10

All rent and commission or brokerage payments to residents or non-residents are subject to WHT at 5% and 10%, respectively, where the total payment is BWP 36,000 *per annum* or more or the monthly payment is BWP 3,000 or more.

Botswana has tax agreements with the following countries, which provide for WHT at the rates shown.

	WHT (%)			
Recipient	**Dividends**	**Interest**	**Royalties**	**Management and consultancy fees**
Barbados	5/7.5 (1)	10	10	10
France	5/7.5 (1)	10	10	7.5
India	7.5	10	10	10
Mauritius	5/7.5 (1)	12	12.5	15
Namibia	7.5	10	10	15
Russia	5/7.5 (1)	10	10	10
Seychelles	5/7.5 (1)	7.5	10	10
South Africa	7.5	10	10	10
Sweden	7.5	15	15	15
United Kingdom	5/7.5 (1)	10	10	7.5
Zambia	5/7 (1)	10	10	10
Zimbabwe	5/7.5 (1)	10	10	10

Notes

1. 5% rate of WHT is applicable if the beneficial shareholder is a company resident in the DTA country and holds at least 25% of the share capital in the company paying dividends. Otherwise, the other rate applies.

Tax administration

Taxable period

Botswana has a fiscal year ending on 30 June. However, a business may select its own accounting year, which may end on a date other than 30 June. This accounting year is accepted for the computation of the company's taxable income.

Tax returns

Botswana requires self-assessment, which means that the return submitted constitutes the assessment. The system is one that requires all taxpayers to file tax returns in standard format (providing information relating to taxable income earned) within four months after the financial year-end of the company.

Payment of tax

Under the self-assessment tax procedures, if the tax payable for a tax year exceeds BWP 50,000, then estimated tax is required to be paid in equal quarterly instalments over the period of 12 months ending on the company's financial year-end date. Accordingly, the first quarterly payment should be made within three months of the beginning of the financial year and the balance quarterly payments at three monthly intervals thereafter. The final (balance) payment, if any, is to be made within four months from the end of the financial year, when submitting the return.

Where the tax is less than BWP 50,000, then the tax is payable within four months from the company's financial year-end date.

Tax audit process

There is no prescribed audit process, and an audit can be initiated by any factor as determined by the BURS. The audit or inspection will commence with a request from the BURS for the taxpayer to make available any such records or information as may be required.

Statute of limitations

The assessment should be made any time prior to the expiry of four years after the end of the tax year to which it relates to. Tax returns submitted that have been assessed may not be reopened after a period of four years from date of assessment by the BURS.

Topics of focus for tax authorities

The BURS is focusing on establishing and strengthening the Large Tax Payers Unit, minimising the tax gap, and introducing electronic filing.

Cabo Verde

PwC contact

Leendert Verschoor
PricewaterhouseCoopers & Associados - SROC, Lda.
Edifício BAI Center, Piso 2 Direito
Avenida Cidade de Lisboa
Cabo Verde
Tel: +238 261 5934 / +351 213 599 631
Email: leendert.verschoor@pwc.com

Significant developments

State Budget for 2018

The 2018 State Budget Law (Law 20/IX/2017) was published on 30 December 2017 and generally applies from 1 January 2018 onwards. We highlight the most significant amendments introduced.

Corporate income tax (CIT)

- Capital gains realised by non-residents without a permanent establishment (PE) in Cabo Verde, on the sale of share capital or other securities, are exempt from CIT.
- Withholding tax (WHT) exemption on interest on shareholder loans or income from subscription of obligations paid to holding companies.

Tax benefits and incentives

- Long-term financial investments: Income from certificates of deposit and long-term deposits for a period exceeding five years are taxed at 50% of the value for terms between five and eight years (previously between five and ten years) and 25% of their value for terms with maturity over eight years (previously ten years); these benefits are extended to income from insurance products from insurance companies established in Cabo Verde, provided that it has been contractually fixed that (i) the capital invested is blocked for a minimum period of five years and (ii) the remuneration is due at the end of the contractual period.
- Capital gains on sale of shares: Capital gains and capital losses on the sale of share capital or other securities, obtained by residents and non-residents with a PE in Cabo Verde, are exempt from tax if the shares have been held for a consecutive period of at least 12 months; this benefit does not apply to capital gains on the sale of share capital acquired from entities that are subject to a more favourable tax regime.
- Securities market: An exemption from income tax is granted for securities issued up to 2020 and negotiated in the secondary market.
- Loans from non-resident financial institutions: Interest from loans granted by non-resident financial institutions to resident credit institutions is exempt from CIT, provided that such interest is not attributable to the PE of those institutions located in Cabo Verdean territory.
- Conventional remuneration of share capital: Commercial companies or civil law companies incorporated as commercial companies, cooperatives, public enterprises, and other corporate entities of public or private legal persons, with headquarters or place of effective management in Cabo Verdean territory, may deduct from their taxable profit an amount corresponding to conventional remuneration of share capital. The amount to be deducted corresponds to 10% of the amount of entries made in cash or through the conversion loans from shareholders, within the scope of

the incorporation of a company or an increase of the capital, up to 100 million Cabo Verdean escudos (CVE) in each fiscal year, provided that certain conditions are met.

- Incentives on the import of heavy passenger vehicles for collective transport of passengers: An exemption from customs duties, excise duty, and value-added tax (VAT) is granted on the importation of heavy passenger vehicles for collective transport of passengers, aged not more than six years, comprising more than 30 seats including driver, when imported by companies in the sector duly licensed.
- Incentives on the import of light passenger vehicles for executive transport: An exemption from customs duties, excise duty, and VAT is granted on the importation of light passenger vehicles, when new, intended for executive transport, carried out by the licence holders, and duly authorised by the General Direction of Road Transport.
- Incentives on the import of light passenger vehicles for taxi service: An exemption from customs duties is granted on the importation of light passenger vehicles, when new, and equipment, intended exclusively for the taxi service, carried out by the licence holders.
- Incentives on the import of transport vehicles for tourists: An exemption from customs duties, excise duty, and VAT is granted on the importation of heavy passenger vehicles for collective transport of passengers, duly equipped, aged not more than six years, comprising more than 30 seats including driver, and intended for exclusive transport of tourists and baggage, when imported by companies holding a licence and a tourist transport permit.
- Incentives for employers hiring young people: Individuals and legal persons under the organised accounting regime that hire workers not older than 35 years for a first job are exempt from social security contributions due by the employer; this benefit shall only apply to contracts with a duration of one year or more, which relate to workers registered in the social security system and provided that no reduction or elimination of jobs has occurred, and assuming that the employer has paid the contributions due by the employee to the social security.
- Direct incentive to professional internships: The direct incentive to professional internships remains in force (i.e. individuals and legal persons under the organised accounting regime may deduct from tax due the amount of CVE 20,000 for each trainee hired with contract duration of at least six months).

Stamp duty

- Stamp duty on corporate transactions was revoked.
- Registration acts made in Sal, Boa Vista, Sao Vicente, and Maio islands, foreseen under the implementation of a land register regulated by Law Nr. 33/VII/ 2008 of 8 December, among others, transmission of property right occurred until 31 December 2016, remission of property possession, deeds, land registry, as well as other registrable acts are exempt from stamp duty; the exemption shall apply for a period of four years from the beginning of the implementation of land register.

Single Property Tax

- Transfers of buildings, by public deed, acquired until 31 December 2016 by any means (sale, donation, or inheritance), and which were registered with irregularities, are exempt from Single Property Tax; the exemption shall be valid for a period of four years from the beginning of the implementation of land register and is subject to the acceptance by the competent municipality.

Legislative authorisation

The government is granted authorisation to legislate on a tax incentive scheme to be granted to the Japanese International Cooperation Agency (JICA), under Decree No. 3/2014, of 10 March, to finance the Development Project of Water Supply on the island of Santiago, as follows:

- CIT exemption for Japanese companies contracted under this loan agreement to operate as suppliers, contractors, or consultants as suppliers of goods and services.
- Employment income tax exemption for Japanese non-resident employees contracted under the agreement.
- Exemption in the importation of goods and equipment used in the execution of said project.

This legislative authorisation lasts for 180 days from the date of entry into force of this law.

Taxes on corporate income

Cabo Verde's corporate income tax (CIT), called *Imposto sobre o Rendimento das Pessoas Colectivas*, is levied both on profits obtained within the Cabo Verdean territory and those obtained outside by resident companies (worldwide principle). Non-resident companies with a PE in Cabo Verde are also subject to CIT on Cabo Verdean-source income attributable to the PE.

Taxable profit is computed according to the local accounting rules and adjusted for tax purposes.

For the purposes of determining taxable income, CIT payers can be taxed under two methods/regimes as follows:

- Special regime for micro and small-sized companies:
  - Micro-sized company: An entity that employs up to five persons with an annual turnover (gross amount of sales and services) that does not exceed CVE 5 million.
  - Small-sized company: An entity that employs between six and ten persons with an annual turnover (gross amount of sales and services) of between CVE 5 million and CVE 10 million.
  - Micro and small importers: Importers whose customs value of imported goods does not exceed the value of turnover on an annual basis for the purpose of qualifying under the simplified scheme for micro and small-sized companies.
- Standard organised accounting regime (standard/normal regime under which the computation of profits follows the local accounting rules).

Income tax rates

Resident companies are subject to a tax rate of 25%, where taxable income corresponds to the profit less any tax benefits and any losses carried forward, as stated in the tax return. The tax rate of 25% is also applicable for PEs of non-resident companies.

Micro and small-sized companies are subject to a single special tax (SST) of 4% levied on the gross amount of sales obtained in each taxable year, to be paid quarterly. The SST replaces the CIT, fire brigade surtax, and VAT, as well as the contribution to social security attributable to the company.

Non-resident companies without a PE are subject to WHT rates applicable for each income category foreseen in the Tax Code, which range between 1% and 20%.

Surcharge

The CIT rate is increased by a fire brigade surcharge, called *Taxa de Incêndio*, of 2% on the tax due, leading to a final tax rate of 25.5%. This surcharge is levied in the municipalities of Praia (Island of Santiago) and Mindelo (Island of São Vicente).

Corporate residence

A company or entity is deemed to be resident in Cabo Verde if its registered head office or its place of effective management is in the Cabo Verde territory.

Permanent establishment (PE)

Non-resident companies deemed to have a PE in Cabo Verde are also subject to tax in Cabo Verde. Under Cabo Verdean tax law, a non-resident company is deemed to have a PE if the non-resident company:

- has any fixed installation or permanent representation located in Cabo Verde through which, among others, activities of a commercial, industrial, or agricultural nature, or fishing and rendering of services are carried out (including agricultural, fishing, and cattle raising explorations, or other quarries or any other places of natural resources extraction) or
- carries out its activity in Cabo Verde through:
  - employees, or any other personnel hired for that purpose, for a period (continuous or not) of not less than 183 days within a 12-month period
  - a person (a dependent agent), which is not an independent agent, acting, in the Cabo Verde territory on behalf of a company, with powers to intermediate and conclude binding contracts for that company, within the scope of its business activity, or
  - a building site or a construction installation if it lasts for more than 183 days, as well as activities of coordination, supervision, and inspection related with the building site or its construction installation.

A PE of a non-resident is taxed as a resident company.

Other taxes

Value-added tax (VAT)

The VAT system in Cabo Verde closely follows the European Union (EU) VAT system and is assessed at the standard rate of 15%.

The standard VAT rate of 15% is a general tax on consumption, applicable to the import and sale of goods and services in Cabo Verde territory.

The VAT rate will be applied on the following amount on the following supplies of goods and services:

- Diesel: 120%.
- Fuel: 300%.
- Petroleum: 30%.

- Butane gas: 16.65%.
- Fuel-oil: 30%.
- Electricity: 30%.
- Tap water from the public supply: 20%.
- Telecommunication services: 60%.
- Road passenger transport and transport of goods by sea: 15%.

The following transactions are considered to fall outside the scope of VAT:

- The transfer, for consideration or not, of a totality of assets or a part thereof that constitute an undertaking or a part of an undertaking capable of carrying on an independent economic activity.
- Indemnities for damages.
- Repayment of expenditure incurred in the name and on behalf of a third party.

Exempt transactions

The VAT regulations establish two types of exempt transactions: exempt transactions without credit and exempt transactions with credit (i.e. zero-rated transactions). VAT incurred is recoverable in as far as the goods and services are used for the purposes of the taxed transactions of a taxable person or for zero-rated transactions.

Exempt transactions without credit include the following:

- Hospital and medical care and closely related activities undertaken by bodies governed by public law, or comparable activities undertaken by other hospitals and centres for medical treatment.
- The provision of medical care through the exercise of the medical and paramedical professions, as well as the supply of transport services for sick or injured persons, and the supply of human organs, blood, and milk.
- The supply of services and goods closely linked to welfare and social security work.
- The supply of services and goods closely linked to the protection of children and young people by bodies governed by public law.
- The provision of children's or young people's education, school or university education, including the supply of services and goods closely related thereto.
- The supply of services, and goods closely linked thereto, by non-profit-making organisations.
- The supply of copyright and art objects by the original creators or their heirs.
- The supply by the public postal services of stamps and stamped paper.
- The supply of certain cultural, educational, technical, and recreational services.
- Garbage removal.
- Burial and cremation supplies.
- Banking, financial, insurance, and reinsurance transactions, including related services performed by insurance brokers and insurance agents.
- Immovable property transactions (excluding the provision of accommodation in the hotel sector or in sectors with a similar function, the granting of facilities for collective parking of vehicles, the leasing of permanently installed machinery and equipment, and the granting of facilities for exhibitions and advertising).
- Specified basic foodstuffs and pharmaceutical products.
- Goods used in agriculture, stockbreeding, forestry, and fisheries.

Exempt transactions with credit (i.e. zero-rated transaction) on imports include the following:

- Import of goods whose supply qualifies for exemption.
- Re-import of goods by the person who exported them, in the state in which they were exported, where they qualify for exemption from customs duties.
- Services in connection with the import of goods where the value of such services is included in the taxable amount.
- Import of gold by the central bank.
- Import into ports by sea fishing undertakings of their catches, unprocessed or after undergoing preservation for marketing but before being supplied.
- Import of goods under diplomatic and consular arrangements that qualify for exemption from customs duties.
- Import of goods for the fuelling and provisioning of sea-going vessels and aircraft.

The most important exemptions with credit (i.e. zero-rated) for exports and connected transactions include the following:

- Supply, modification, repair, maintenance, chartering, and hiring of aircraft used by airlines operating both on domestic and international routes, and the supply, hiring, repair, and maintenance of equipment incorporated or used therein.
- The supply of goods for the fuelling and provisioning of such aircraft.
- Services meeting the direct needs of such aircraft or their cargoes.

Customs duties

Customs duties are levied at rates ranging from 0% to 50% on the customs value of most imported goods. Since Cabo Verde imports the majority of the goods it consumes, a 50% tariff protection applies for certain domestically produced goods.

Raw materials or capital goods can be imported with an exemption from customs duties or at a low rate.

Special consumption tax

A special consumption tax is imposed at rates ranging from 10% to 150% on goods that are deemed superfluous, luxurious, or undesirable for economic, social, or environmental policy reasons.

The excise duty rate is 40% in the case of beers, wines, vermouths, and other alcoholic drinks, and 20% in the case of tobacco.

Vehicles used for transportation, up to 5 tons, are subject to rates of up to 150%, according to their age:

- Up to four years: not applicable.
- More than four and up to six years: 40%.
- More than six and up to ten years: 80%.
- More than ten years: 150%.

Property taxes

A property tax, called *Imposto Único sobre o Património* (IUP), is levied at the rate of 1.5% in Cabo Verde.

IUP is due on the ownership of immovable property on an annual basis by the owner of the real estate, registered as such on 31 December of the relevant year. The taxable basis corresponds to 25% of the value attributed by the Evaluation Commission.

IUP is also due on the transfer (gratuitously or for a consideration) of real estate, based on the value of the contract declared by the transferee.

Exemption of IUP due on the acquisition is granted to:

- Cabo Verdean emigrants who own saving bank accounts.
- Projects with Touristic Utility Status (*see the Tax credits and incentives section for more information*).

In taxable transfers (not exempt), IUP is payable by the transferee.

IUP is also due on the capital gains arising from the sale of:

- plots of land for construction if the sales price is more than double the purchase price, and
- buildings or other real estate if the sale price exceeds the purchase price by more than 30%.

IUP on capital gains is normally paid by the transferor, on the highest of the declared price and the official value of the property concerned.

Capital gains obtained by companies that are in the business of buying real estate for resale are not subject to IUP.

Stamp duty

Stamp duty is payable on a wide variety of transactions and documents, at rates that may be set in specific amounts or on a percentage basis.

Stamp duty rates:

Item	Stamp duty rate
Loans	0.5%
Bank interest and fees/commissions	3.5%
Guarantees	0.5%
Insurance	3.5%
Promissory notes, securities	0.5%
Emoluments, registrations acts	15.0%
Contracts	CVE 1,000 *

* Fixed exchange rate 1 euro (EUR) = CVE 100.265 under an exchange agreement between Cabo Verde and Portugal.

Stamp duty on corporate transactions was revoked as of 1 January 2018.

Payroll taxes

There are no payroll taxes other than social security contributions (*see below*).

Social security contributions

Social security contributions are payable by the employee on their gross income at a rate of 8.5% and by the employer at 16%.

Ecologic charge

Cabo Verde's ecologic charge is applied to packing material, whether empty or full, imported or produced internally, non-biodegradable or made out of metal, glass, or plastic.

The ecologic charge varies from CVE 2 to CVE 100 per item, depending on the quantity or weight of the goods.

This fee is due by the local producer or the importer.

Exemptions are available in the case of packing material used in medicine, essential food (e.g. corn, rice, sugar, flour, and milk), and construction (e.g. cement). Packing material that is exported, reutilised, or recycled is also exempt.

Tourism tax

A tourism tax is applied to accommodation in the hotel sector. The tax amounts to CVE 220 per person per night for people over 16 years of age and cannot exceed ten consecutive nights.

Branch income

A branch is not considered a separate legal entity distinct from the foreign head office. It is governed by the domestic law of Cabo Verde.

From a tax perspective, branches are subject to CIT if considered a PE under Cabo Verde law.

Income determination

Taxable income is computed on the basis of the accounting income, adjusted by deducting from taxable profits the prior years' losses and any deductions under the tax (incentive) legislation.

Inventory valuation

The tax law does not foresee any mandatory inventory valuation method that should be adopted by Cabo Verdean taxpayers. For tax purposes, accepted inventory methods should be consistent with the accounting rules in force and with generally accepted local business practice. Such methods should be applied in a consistent manner over the financial years and based on the prices effectively paid or established by official documents (for regulated prices).

Capital gains

Capital gains are not subject to a separate capital gains tax and are treated and taxed as ordinary business income.

Capital gains and capital losses determined for tax purposes are usually different from capital gains and capital losses determined for accounting purposes and are quantified as follows:

Capital gains/losses = sales - (acquisition value - deductible accumulated depreciation - deductible impairment losses) x coefficient

The exemption on capital gains derived from disposal of shares when owned for more than one year was revoked.

Capital gains can be considered only in 50% of the respective amount if the sales proceeds are reinvested in the acquisition, production, or construction of tangible fixed assets, intangible assets, or non-consumable biological assets. For this purpose, the reinvestment must take place in the previous tax year, in the tax year in which the transfer occurs, or in the two tax years following the transfer.

In case of partial reinvestment, a partial relief (proportional to the investment made) will apply. In case the reinvestment is not fully accomplished during the reinvestment period, the difference (or the proportional difference) will be considered as taxable income of the second year following the disposal, increased by 15%.

Capital gains on the sale of share capital or other securities obtained by non-resident entities without a PE in Cabo Verde are exempt from CIT.

Dividend income

The tax legislation provides a full relief from taxation on profit distribution at the beneficiary level, without any requirements to be met by the entities involved, except for entities with a local CIT rate reduction, for which the tax relief is only 50%.

Interest income

There is no special tax provision regarding interest income. Interest income is treated and taxed as ordinary business income (excluding interest from bonds or similar products listed in the securities market).

Royalty income

The term 'royalties' is not defined as such in Cabo Verde's principal tax law, but the relevant regulations define royalties as "income from intellectual, industrial copyrights, or from an experience acquired in an industrial, commercial, or scientific area, as well as income from technical assistance and from the use of commercial, industrial, or scientific equipment".

Foreign income

Resident companies are subject to taxation on foreign income. Cabo Verdean tax law allows a foreign tax credit to mitigate the double taxation on foreign income taxed in another jurisdiction (*see Foreign tax credit in the Tax credits and incentives section*).

PEs of non-resident companies are taxable on a territorial base principle, meaning that income obtained outside Cabo Verde is not subject to taxation therein.

Deductions

Depreciation

Depreciation is considered a deductible cost with respect to all fixed assets (except land), up to the limits determined by the applicable tax law.

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As a general rule, depreciation must be computed by using the straight-line method. Tax authorities may allow other depreciation methods on the basis that the actual depreciation is higher than the one calculated at regular rates or according to the taxpayer's accounting practice.

Under the straight-line method, the maximum depreciation that is deductible is calculated by applying the general depreciation rates set out by the Decree No. 42/2015, of 24 August, to the adjusted purchase cost or production cost.

Land is not depreciable.

Main depreciation rates for tangible assets

Group	Asset	Depreciation rate (%)
1	Property:	
	Minor/small buildings	10
	Buildings	3 to 10
	Water reservoirs	4 to 5
	Seals and urban arrangements	5 to 8.33
2	Facilities	6.66 to 10
3	Machinery, equipment, and tools:	
	Apparatus and electronic machines	20
	Air condition	12.5
	Laboratory and precision equipment	14.28
	Ventilation equipment	12.5
	Scales	12.5 to 33.33
	Workshop equipment	12.5 to 20
	Machine tools	12.5 to 25
4	Transport materials:	
	Aircraft	20
	Boats	8.33 to 25
	Motor vehicles	12.5 to 20
	Tanks	16.66
5	Other tangible fixed assets:	
	Movies, records, and audio cassettes	25
	Drawing and typography materials	12.5
	Furniture	12.5
	Molds, dies, shapes, and controls	25
	Computer programs	33.33

Main depreciation rates for intangible assets

Asset	Depreciation rate (%)
Installation and expansion costs	33.33
Research and development (R&D) costs	33.33

Goodwill

Goodwill is an asset subject to impairment tests. The goodwill's impairment is not a deductible cost for tax purposes.

Start-up expenses

Start-up expenses include, among others, cost incurred with set-up and organisation of companies, projects, and increase of capital. Start-up expenses are considered a deductible cost up to the limits derived from the applicable tax law, 33.33% per year being deductible over a period of three years.

Interest expenses

Interest expenses are deductible if considered indispensable for the realisation of taxable profits/gains (*see Limitation on the tax deductibility of net financing expenses in the Group taxation section*).

Bad debt

Bad debts are those where the related recovery risk is considered to be justified. According to the CIT Code, the recovery risk is justified whenever there is a:

- Company insolvency and recovery proceeding and enforcement procedure.
- Law court or arbitration court claimed debt.
- Overdue debt.

The deduction for tax purposes of impairment losses on overdue debt is subject to the following limits, computed on the amount of the debt:

Impairment losses	Delay on payment	Limit (%)
Debt overdue	More than 6 and up to 12 months	25
	More than 12 and up to 18 months	50
	More than 18 and up to 24 months	75
	More than 24 months	100

Charitable contributions

Charitable contributions granted to certain entities whose main activity consists of the execution of initiatives in the social, cultural, environmental, scientific or technologic, sports, and educational areas are considered as cost for tax purposes (within certain limits, and in certain circumstances, with an additional deduction).

Fines and penalties

Tax fines and penalties are not deductible for tax purposes. Contractual fines and penalties are deductible for tax purposes.

Taxes

Taxes paid in connection with the activity of the company are tax deductible, excluding CIT and autonomous taxation. The annual IUP cannot be deducted as a cost for CIT purposes.

Net operating losses

Income tax losses can be offset against taxable profit and can be carried forward for seven years, capped at 50% of the taxable profit. Carryback of tax losses is not allowed in Cabo Verde.

According to the transitional regime, tax losses generated before 2015 can be carried forward for three years without limit.

The tax losses incurred by a company are not transferable to another company unless previously accepted by the tax authorities.

Payments to foreign affiliates

Currently, there are no special restrictions on the deductibility of royalties, interest, and service fees paid to foreign affiliates, provided that the payments are regarded as indispensable to generate taxable profits and gains and to maintain the business of the company.

Payments made to foreign affiliates located in a favourable tax regime are not accepted as deductible tax costs unless it can be demonstrate that the payment is a necessary cost and is not an exaggerated amount (i.e. it should be demonstrated that it is an acceptable/normal amount).

Group taxation

There is no special tax regime for groups of companies in Cabo Verde.

Transfer pricing

Commercial transactions between associated enterprises should be subject to identical terms and conditions to those that would be accepted and agreed between independent entities (arm's-length principle).

Taxpayers must keep information and documentation regarding their transfer pricing policies on hand. The following taxpayers must prepare a transfer pricing documentation file:

- Entities classified as 'Large Taxpayers'.
- Entities considered taxed under a privileged tax regime, as defined in the General Tax Code.
- PEs of non-resident entities.
- Other entities designated as such by the tax authorities.

Limitation on the tax deductibility of net financing expenses

Net financing expenses are only deductible up to the higher of the following limits:

- CVE 110 million.
- 30% of earnings before depreciation, net financing expenses, and taxes.

Controlled foreign companies (CFCs)

The CIT Code contains specific CFC rules. Profits or income obtained by non-resident entities that are clearly subject to a more favourable tax regime are imputed to the resident taxpayers subject to CIT that hold, either direct or indirectly, even if through a representative, fiduciary, or intermediary, at least 25% of their share capital, voting rights, or attribution rights over the income or the assets of those non-resident entities.

Tax credits and incentives

Foreign Investor Status (Estatuto do Investidor Externo)

The Foreign Investor Status, which has granted some tax benefits at the level of the investor (e.g. exemption from WHT on distribution of profits and on interest related to the financing of the investment) was revoked by the New Investment Code with effect from 1 January 2013. The tax benefits already granted or for which recognition has been requested prior to the entry into force of the Tax Benefits Code (TBC) and the Investment Code are maintained. Investment projects submitted for analysis and approval to the competent authorities prior to the entry into force of the Tax Benefits Code continue to be regulated under the legislation in force at the date of the respective submission.

Contractual tax benefits

There are exceptional incentives, regarding customs duties, CIT, personal income tax (PIT), property tax, and stamp duty, to investments that fulfil all of the following conditions:

- Investment value over CVE 550 million (or CVE 275 million if carried out outside the municipalities of the Praia, Sal, and Boavista).
- Relevant investment for the promotion and acceleration of economic development, under the government's program.
- Creation of at least ten jobs.

The concession of contractual tax benefits is subject to approval by the Council of Ministers upon agreement.

Industrial activity

The following tax and customs benefits are provided for industrial activity:

CIT benefits

A CIT credit is available for up to 50% of the eligible investments made in an industrial activity. Any unused tax credit may be carried forward for ten years, subject to certain limitations.

Eligible investments include the acquisition of new fixed assets, patents, and licences regarding technologies.

IUP benefits

Industrial activities may benefit from an exemption from IUP on the acquisition of immovable property used exclusively for industrial purposes; however, the recognition of such tax exemption should be approved by the municipality.

Customs duty benefits

Industrial activities benefit from an exemption from customs duties on the import of construction material, machines, utensils, semi and finished materials, products, and raw materials used in the production of goods.

Stamp duty benefits

Financing transactions of industrial projects are exempt from stamp duty.

International Business Centre (IBC) of Cabo Verde

The Cabo Verdean Agency for Foreign Investment is the entity responsible for granting the licences to operate within the IBC, upon previous proposal of the Zona Franca Comercial S.A.. The following tax benefits are applicable to entities licensed to operate in the IBC on income from industrial or business activities and services in respect of operations carried out with other IBC licensed entities or with non-residents entities (without a PE in Cabo Verde).

Note that these tax benefits are not applicable to entities engaged in tourism, banking and insurance, real estate, or construction.

CIT benefits

Reduced CIT rates of 5%, 3.5%, or 2.5% are applicable to entities that create respectively 5, 20, or 50 jobs.

The CIT rate is 2.5% in case of the creation of two jobs for entities licensed to operate within the International Service Centre.

Entities licensed to operate within the IBC are granted to benefit from reduced CIT rates until 2030.

Shareholders benefits

Shareholders of the entities licensed to operate within the IBC are exempt from taxation on dividends and interest received.

VAT and customs duty benefits

All the exemptions foreseen in the VAT regulation and customs law apply.

An exemption from customs duties applies with respect to certain goods, equipment, and materials used within the scope of the activity developed and licensed under the IBC.

Tax and financial incentives for internationalisation of Cabo Verdean companies

A regime that provides for tax and financial incentives for investment projects in order to promote the internationalisation of Cabo Verdean companies is in force.

The following incentives, to be granted under a contract of not more than three years, apply to internationalisation projects of companies with head office and place of effective management in Cabo Verde that are undertaken before 31 December 2020.

CIT benefits

Investments that are eligible for the regime of tax benefits for internationalisation may benefit from:

- Reduced CIT rate of up to 50%, applicable until the term of the investment contract.
- Exemption from CIT on income obtained by qualified expatriate employees.

Additionally, a deduction for creation of employment ranging between CVE 26,000 and CVE 35,000 for each new job created may apply.

IUP benefits

An exemption from IUP may be available on the acquisition of immovable property for the establishment or expansion of the activity of the investor.

VAT and customs duty benefits

Exemptions provided for in the VAT Code apply, as well as customs duties incentives as provided for in the general applicable legislation.

Stamp duty and other benefits

An exemption from stamp duty is available on the incorporation of companies on an increase of share capital of existing companies, and on financing transactions.

An exemption from notary and registration fees is available on the incorporation and registration of companies.

Tax benefits for social housing

Entities responsible for the construction of social housing, duly authorised by the competent regulatory authority (*Comissão de Coordenação e Credenciação do Sistema Nacional de Habitação de Interesse Social* or CCC-SNHIS), may benefit from the following:

- Only 30% of the income derived from the activity carried out within the scope of the social housing project is subject to CIT, under certain conditions.
- A refund of 80% of the VAT incurred in the Cabo Verdean market is available in cases where those entities carry exclusively exempt operations without the right to deduct input VAT.
- A reduction of 75% of customs duties levied on construction material listed in an annex to the diploma is available.

Development promotion entities, provided they are also authorised by CCC-SNHIS, are also eligible for VAT benefits.

Touristic Utility Status (Estatuto de Utilidade Turística)

Cabo Verde may grant Touristic Utility Status to certain touristic projects. Touristic Utility Status is granted to the following types of touristic projects:

- Installation: Granted to new touristic projects.
- Functioning: Granted to touristic projects starting to operate.
- Refurbishment: Granted to touristic projects in case of refurbishment projects with a value of at least 25% of the initial investment.

Touristic Utility Status generally allows for the following tax incentives and benefits:

- CIT credit of up to 50% of the eligible investments made in tourism, touristic promotion activities, and real estate tourism project investment.
- Exemption from IUP on the acquisition of real estate used for construction and installation of touristic projects if granted by the municipality.
- Exemption from customs duties on the importation of materials and equipment used in touristic projects.
- Exemptions from stamp duty on the financing of tourism investments.

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Tax incentives for renewable energies

There is a regime for promotion, encouragement, and access, licensing, and exploitation inherent to the exercise of independent production and self-production of electricity based on renewable energy sources.

Water, wind, solar, biomass, biogas or industrial, agricultural or urban waste, oceans and tides, and geothermal are to be considered sources of renewable energy. Under the regime, renewable energy producers may benefit from the following.

CIT benefits

A CIT credit is available for up to 50% of the eligible investments made in renewable energies projects.

Customs duty benefits

An exemption from customs duties and other customs charges applies on the importation of capital goods, raw materials and supplies, finished and semi-finished products, and other materials that are incorporated or used in the production of goods or services involved in the production of electrical energy from renewable sources.

IUP and stamp duty

Exemptions from IUP and stamp duty are granted on the acquisition of immovable property and other assets related to the investment project or its financing.

Shipping transport industry incentive

CIT benefits

A CIT credit is available for up to 50% of the eligible investments made in shipping, air, and sea transportation projects.

Customs duty benefits

An exemption from customs duties applies on the importation of shipping material for the maintenance, production, and repair of shipping and respective equipment.

IUP and stamp duty

Exemptions from IUP and stamp duty are granted on the acquisition of immovable property and other assets related to the investment project or its financing.

Job creation incentives

Entities taxed under the verification method are entitled to deduct the following amounts for each created permanent job:

- CVE 26,000 for each job created in the municipalities of Boa Vista, Praia, and Sal.
- CVE 30,000 for each job created in the remaining municipalities.
- CVE 35,000 in case of a disabled person.

Media, telecommunications, and internet

Importation of goods, materials, equipment, vehicles, and other equipment exclusively for the purpose of telecommunications and media are exempt from customs duties.

Incentives on the import of vehicles

Incentives on the import of heavy passenger vehicles for collective transport of passengers

An exemption from customs duties, excise duty, and VAT is granted on the importation of heavy passenger vehicles for collective transport of passengers, aged not more than six years, comprising more than 30 seats including driver, when imported by companies in the sector duly licensed.

Incentives on the import of light passenger vehicles for executive transport

An exemption from customs duties, excise duty, and VAT is granted on the importation of light passenger vehicles, when new, intended for executive transport, carried out by the licence holders, and duly authorised by the General Direction of Road Transport.

Incentives on the import of light passenger vehicles for taxi service

An exemption from customs duties is granted on the importation of light passenger vehicles, when new, and equipment, intended exclusively for the taxi service, carried out by the licence holders.

Incentives on the import of transport vehicles for tourists

An exemption from customs duties, excise duty, and VAT is granted on the importation of heavy passenger vehicles for collective transport of passengers, duly equipped, aged not more than six years, comprising more than 30 seats including driver, and intended for exclusive transport of tourists and baggage, when imported by companies holding a licence and a tourist transport permit.

Tax benefits to the financial sector

The Tax Benefit Code has several measures in the financial sector, as follows.

Financial investments

Income derived from certificates of deposit and long-term bank deposits benefit from a CIT exemption of up to 75% (depending on the maturity date of the deposits).

Securities market (bonds)

Income derived from bonds or similar products (except public debt securities) listed in the securities market obtained until 31 December 2025 benefit from a 5% CIT flat rate.

Additionally, dividends from shares listed in the stock exchange, placed at the disposal of its holders until 31 December 2025, are exempt from CIT.

Investment funds (securities and real estate funds)

Income derived from securities funds, when established and operating under the Cabo Verdean legislation, is taxed as follows:

- Income obtained in the Cabo Verdean territory is exempt from CIT (except capital gains).
- Foreign income is subject to a 10% CIT flat rate (except capital gains).
- Capital gains are subject to a 10% CIT rate.

Income derived from real estate funds, established under the Cabo Verdean legislation, is taxed as follows:

- Real estate income benefits from a 10% CIT rate (after deduction of the respective expenses).
- Capital gains benefit from a 15% CIT rate over 50% of the income, resulting in an effective rate of 7.5%.

Income received by unit holders in securities funds and real estate investment funds, established under Cabo Verdean legislation, is exempt from CIT.

Venture capital funds

Income derived from venture capital funds, established under Cabo Verdean legislation, as well as income received by the unit holders in venture capital funds, is exempt from CIT.

International financial institutions

International financial institutions within the scope of Law 43/III/88 and revoked by Law 61/VIII/2014, of 27 December, benefit from:

- Customs duties exemption on the importation of materials and equipment that are exclusively for the setting-up of the financial institution.
- CIT exemption until 31 December 2017 and a 2.5% CIT rate from 1 January 2018 onwards.
- Stamp duty exemption in transactions with non-residents entities.

Individuals and entities considered as clients of such international financial institutions benefit from:

- CIT exemption, regardless of the type of income.
- Stamp duty exemption.

Loans from non-resident financial institutions

Interest from loans granted by non-resident financial institutions to resident credit institutions is exempt from CIT, provided that such interest is not attributable to the PE of those institutions located in Cabo Verdean territory.

Long-term financial investments

Income from certificates of deposit and long term deposits for a period exceeding five years are taxed at 50% of the value for terms between five and eight years (previously between five and ten years) and 25% of their value for terms of maturity over eight years (previously ten years); these benefits are extended to income from insurance products from insurance companies established in Cabo Verde, provided that it has been contractually fixed that (i) the capital invested is blocked for a minimum period of five years and (ii) the remuneration is due at the end of the contractual period.

Capital gains on sale of shares

Capital gains and capital losses on the sale of share capital or other securities, obtained by residents and non-residents with a PE in Cabo Verde, are exempt from tax if the shares have been held for a consecutive period of at least 12 months. This benefit does not apply to capital gains on the sale of share capital acquired from entities that are subject to a more favourable tax regime.

Securities market

An exemption from income tax is granted for securities issued up to 2020 and negotiated in the secondary market.

Conventional remuneration of share capital

Commercial companies or civil law companies incorporated as commercial companies, cooperatives, public enterprises, and other corporate entities of public or private legal persons, with headquarters or place of effective management in Cabo Verdean territory, may deduct from their taxable profit an amount corresponding to conventional remuneration of share capital. The amount to be deducted corresponds to 10% of the amount of entries made in cash or through the conversion loans from shareholders, within the scope of the incorporation of a company or an increase of the capital, up to CVE 100 million in each fiscal year, provided that certain conditions are met.

Tax benefits with social nature and customs duties benefits

Incentives for employers hiring young people

Individuals and legal persons under the organised accounting regime that hire workers not older than 35 years for a first job are exempt from contributions due by the employer to social security.

This benefit shall only apply to contracts with a duration of one year or more, which relate to workers registered in the social security system and provided that no reduction or elimination of jobs has occurred, and assuming that the employer has paid the contributions due by the employee to social security.

Training, internships, and grants

Companies taxed under the verification method may deduct 150% of the following costs:

- Costs related to the training of employees.
- Costs associated with the hiring of young people for internship positions.
- Costs associated with scholarships granted to students.

Direct incentive to professional internships

Individuals and legal persons under the organised accounting regime may deduct from tax due the amount of CVE 20,000 for each trainee hired with contract duration of at least six months.

Donations

Companies may deduct 130% of the amounts donated to the following entities and activities, up to 1% of the turnover, under certain conditions:

- Entities that develop, among others, social, cultural, sportive, educational, environmental, scientific, technological work, and health services.
- State, municipalities, and any other public services.
- Municipal associations.
- Foundations.

Customs duties benefits

Under certain conditions, the following business sectors, among others, may benefit from customs duties exemption on the importation of products, materials, and equipment related to the activity/project:

- Agriculture, livestock, and fishing activity.
- Civil aeronautics.
- Diplomatic and consular missions.
- Aid to economic development.
- Foreign citizen retired.
- Sports and musicals.
- Fire corporation.

Exemption from stamp duty on registration acts

Registration acts made in Sal, Boa Vista, Sao Vicente, and Maio islands, foreseen under the implementation of a land register regulated by Law Nr. 33/VII/ 2008 of 8 December, among others, transmission of property right occurred until 31 December 2016, remission of property possession, deeds, land registry, as well as other registrable act are exempt from stamp duty; the exemption shall apply for a period of four years from the beginning of the implementation of land register.

Exemption from Single Property Tax on transfer of buildings

Transfers of buildings, by public deed, acquired until 31 December 2016 by any means (sale, donation, or inheritance), and which were registered with irregularities, are exempt from Single Property Tax. The exemption shall be valid for a period of four years from the beginning of the implementation of land register and is subject to the acceptance by the competent municipality.

Tax benefits to other sectors of investment

Eligible investments made in activities such as information technology and scientific research may benefit from:

- CIT credit of up to 50%.
- Exemptions from IUP, stamp duty, and customs duties on the acquisition of immovable property and other assets related to the investment project or its financing.

Tax benefits regarding the Recovery of Business and Insolvency Code

There are CIT, PIT, stamp duty, and property tax benefits for companies under recovery of business and insolvency procedures.

Foreign tax credit

Cabo Verdean tax law allows a foreign tax credit to mitigate the double taxation on foreign income taxed in another jurisdiction. The tax credit is equal to the lesser of: (i) the income tax paid abroad or (ii) the CIT fraction calculated before the deduction is given corresponding to incomes that may be taxed in the country concerned, net from any cost or losses, directly or indirectly incurred, for the purposes of its realisation. Foreign tax credit cannot exceed the tax foreseen in the tax treaty, if applicable.

Withholding taxes

A full WHT relief on profit distributions is in force (*see Dividend income in the Income determination section*).

Interest payments, in general, are subject to WHT at a rate of 20%.

Bond interest is subject to WHT at the rate of 10%, except bonds and similar financial products (except public debts) duly listed on the stock exchange, which are subject to CIT at the reduced rate of 5%.

Interest on shareholder loans or income from subscription of obligations paid to holding companies is exempt from WHT.

Royalty payments are subject to WHT at the rate of 20%.

Payments of services between resident companies are generally not subject to WHT. Payments of services to non-resident entities are subject to WHT at the rate of 15%, unless waived under the applicable tax treaty.

Rental payments are subject to WHT of 10% when paid or made available by companies. However, rental payments between resident companies are generally not subject to WHT.

For a Cabo Verde-based recipient, tax withheld is a payment on account against the final income tax due regarding income derived from (i) business, commercial, and services activities, (ii) real estate income, and (iii) employment income when the beneficiary of such income opts to file a tax return.

Any non-Cabo Verdean resident entity carrying out an economic activity in Cabo Verde is subject to a final WHT at the same rates applicable to each income category foreseen by the Tax Code.

Regarding income paid to micro and small-sized companies, the WHT applicable is 4%.

Tax treaties

	WHT (%) (1)		
Recipient	**Dividends**	**Interest**	**Royalties**
Non-treaty	N/A	20	20
Treaty:			
Guinea Bissau	0/5 (2)	10	10
Macau	10	10	10
Mauritius	5	10	7.5
Portugal	10	0/10 (3)	10

Notes

1. Whenever the tax treaty rate is higher than the statutory rate, the statutory rate should apply.
2. There is a WHT exemption (WHT at the rate of 0%) if a direct or indirect participation in share capital or voting rights of at least 5% is held, consecutively, for 24 months prior to the date at which the profits are made available.
3. 0% applies to interest paid by public bodies.

Tax administration

Taxable period

As a general rule, the tax year is the calendar year. A different tax year may be applied, subject to authorisation from the Ministry of Finance, in the case of non-resident companies with a PE in Cabo Verde and in other situations duly justified by economical reasons.

Tax returns

Taxpayers are required to file a tax return by 31 May of the year following the end of the tax year in case the tax year corresponds to the calendar year (last day of the fifth month following the end of the tax year in case the tax year is different from the tax year).

Payment of tax

Corporate taxpayers taxed under the standard regime must make three pre-payments on account of their income tax liability for the current tax year. The pre-payments are due by the end of March, July, and November and amount to 30%, 30%, and 20%, respectively, of the preceding tax year's income tax liability.

Taxpayers are required to self-assess the tax due by 31 May of the year following the end of the tax year.

Micro and small-size companies are also subject to pre-payments, at a 4% tax rate levied on the annual turnover (sales and services), due by the last day of April, July, October, and January of the following year.

Tax audit process

There are no specific rules regarding the tax audit cycle in Cabo Verde.

Statute of limitations

The statute of limitations period in Cabo Verde is of five years.

Topics of focus for tax authorities

The main topics of focus for the Cabo Verde tax authorities include cost incurred on vehicles, communications, representation expenses, personnel costs, management fees, and payments to non-residents.

Large Taxpayers

Taxpayers that meet at least one of the following criteria qualify as a 'Large Taxpayer' and shall be monitored by the Special Tax Office for Large Taxpayers:

- Turnover exceeding CVE 200 million, based on the annual income tax return.
- High level of inherent risk, based on a matrix developed by specific software.
- Taxes paid exceeding CVE 15 million, correspond to the sum of payments of CIT, WHT, VAT, and stamp duty.

Other issues

United States (US) Foreign Account Tax Compliance Act (FATCA)

Cabo Verde and the United States have reached an 'agreement in substance' on a Model 1 Intergovernmental Agreement (IGA), in which Cabo Verde consented to disclose this status as of 30 June 2014.

Cameroon, Republic of

PwC contact

Nadine Tinen Tchangoum
PricewaterhouseCoopers Tax and Legal
Immeuble PwC, Rue Christian Tobie Kouoh
BP: 5689
Douala Bonanjo
Republic of Cameroon
Tel: +237 33 43 24 43/44/45
Email: nadine.tinen@cm.pwc.com

Significant developments

As of 1 January 2018, the following significant corporate tax developments were introduced in Cameroon by the 2018 Finance Law:

- The ceiling of the computer fee, which rate is 0.45%, shall be fixed at 15,000 *Communauté Financière Africaine* francs (XAF) per export declaration.
- Some arms and their parts, as well as ammunition, (of Chapter 93 of the Economic and Monetary Community of Central Africa [CEMAC] Code) imported by persons other than those governed by public law shall be subject to excise duty at the rate of 25% of the taxable value.
- Software, royalties, usage rights, licences, and updates shall be subject to customs clearance under the terms and conditions provided by the law, regardless of the means of entry into Cameroon.
- Interest for late payment at the rate of 1.5% per month (capped at 50%) has been instituted for persons who have failed to pay taxes and customs duties 30 days after the computation of the detailed declaration.
- Approved intermediaries shall, through electronic means, provide the Directorate General of Customs, on a monthly basis, the information on the status of all foreign financial transactions carried out with their customers and on their personal behalf.
- Any importer or exporter wishing to terminate one's customs activities shall first inform the customs administration at least 90 days beforehand and request a customs audit.
- The Preferential Tariff (PT) of the Economic Community of Central African States (ECCAS) entered into force on 1 January 2018.
- Companies in the large taxpayers unit shall automatically submit their transfer pricing documentation alongside their annual tax return.
- The rate of deduction at source representing the instalment of corporate income tax (CIT) is fixed at 5.5%, irrespective of the tax regime of the service provider, for invoices relating to public procurement amounting to less than XAF 5 million.
- Games of chance and entertainment, including lotteries and mutual, simple, or any other betting games, shall be subject to a specific excise duty of XAF 25 per unit of play or bet.
- Value-added tax (VAT) credit refund procedure shall depend on whether the taxpayer is classified in the category of low, medium, or high-risk company.
- Remunerations paid abroad for the provision of access to digital audio-visual services and remunerations paid for all kind of services provided to oil companies during the research and development (R&D) phases shall be subject to the reduced rate of special income tax (SIT) at 5%.

- Collateral and mortgage loans with microfinance institutions of the first category, as well as the related releases, surety bonds, and guarantees, shall be exempted from the registration formality and the payment of graduated stamp duty.
- Any public procurement of an amount above or equal to XAF 5 million, whatever the source of financing, shall be to the reduced rate of 2% registration duties.
- Individuals or legal entities benefiting from tax and customs incentives contained in the conventions with various administrative authorities and not ratified by the Parliament shall negotiate the harmonisation of the provisions of the said conventions with the law on private investment incentives with the Ministry in charge of finance.

Taxes on corporate income

Resident corporations in Cameroon are taxed on their worldwide income; non-resident corporations are taxed only on Cameroon-source income.

The following shall be deemed to be operating in Cameroon and subject to CIT:

- Undertakings headquartered in Cameroon or with an effective management office in Cameroon.
- Undertakings that have a PE in Cameroon or with an effective management office in Cameroon.
- Undertakings that have a dependent representative in Cameroon.
- Undertakings that carry out activities that form a full commercial cycle in Cameroon.

The profits subject to CIT are determined with sole regard to profits earned by entities located in Cameroon (for residents) or transactions effected in Cameroon (for non-residents having a permanent establishment [PE] in Cameroon).

The net taxable profits are established after deduction of all charges directly entailed by the exercise of activities subject to assessment in Cameroon.

The total Cameroon CIT rate is 33%.

Taxation system/regime

Corporate bodies are assessed according to the following taxation systems determined on the basis of the turnover realised:

- Flat rate taxation system: Sole proprietorships with an annual turnover of below XAF 10 million, except for logging companies, professional officers, and liberal professions.
- Simplified taxation system: Sole proprietorships and corporate bodies with an annual turnover equal to or above XAF 10 million and below XAF 50 million.
- Actual earnings taxation system: Sole proprietorships and corporate bodies with an annual turnover equal to or above XAF 50 million.

Minimum tax

There is a 2.2% or 5.5% minimum tax in Cameroon based on turnover and depending on the tax regime of the taxpayer. The advance payment shall be 10% for any taxpayer that is not on the register of a tax office. The 10% rate shall be increased to 20% for forestry companies where, in addition, they do not provide evidence of possessing a logging permit duly issued by the competent authority.

The 10% rate also applies to remunerations paid to non-salaried sales agents or representatives and agents of direct network sales. The 15% rate applies to taxpayers not registered with a taxation centre and engaged in import activities. The 15% rate shall be increased to 20% where the taxpayer carries out the sale of in-bond goods.

The rate of deduction at source representing the instalment of CIT is fixed at 5.5%, irrespective of the tax regime of the service provider, for invoices relating to public procurement amounting to less than XAF 5 million.

The advance payment shall be 15.04% of the gross margin for firms subject to the actual earnings tax system and falling under regulated profit margin sectors, subject to the option for the tax regime of common application. In case of mixed activities, there is a mandatory application of the 2.2% rate on the share of turnover relating to the free margin.

This minimum tax is an instalment of CIT. As such, it shall be offset against CIT. The minimum tax is the sole tax payable if it is greater than CIT.

Local income taxes

A local tax of 10%, called Additional Council Tax, generally applies to the following taxes:

- CIT.
- Personal income tax (PIT).
- Withholding tax (WHT) on income from stock and shares.
- VAT.

The rate provided in this summary for each tax above is therefore inclusive of a basic rate plus 10% surcharge.

Corporate residence

An entity is deemed resident if its registered office, centre of activity, or management is located in Cameroon; if it has resident employees in Cameroon that provide services to customers; or if it has a PE in Cameroon.

Permanent establishment (PE)

Undertakings that have a PE in Cameroon or with an effective management office in Cameroon shall be deemed to be operating in Cameroon and subject to CIT.

PE shall mean a physical installation with certain fixity and with a certain degree of autonomy through which the foreign company carries out wholly or part of its business.

Other taxes

Value-added tax (VAT)

VAT shall be levied on natural persons or corporate bodies that automatically, habitually, or occasionally carry out taxable transactions consisting of provisions of services or sales of goods.

The total VAT in Cameroon is 19.25%. Exports are zero rated. The VAT paid upstream is recoverable, except where otherwise stated.

Note that VAT is invoiced only by natural and legal persons whose turnover (taxes excluded) is equal to or above XAF 50 million and who are under the tax regime of actual earnings.

Customs duties

Customs duties of between 5% and 30%, depending on the nature of the goods imported, are levied based on the customs value.

Goods acquired electronically and imported into Cameroon shall be subject to customs duties and taxes under conditions laid down by regulation.

Software, royalties, usage rights, licences, and updates shall be subject to customs clearance under the terms and conditions provided by the law, regardless of the means of entry into Cameroon.

The rate of the Common External Tariff (CET) has been re-established on some products, such as rice and cement. As such, the import of rice, which previously benefitted from the suspension of duties and taxes, is henceforth subject to the CET at the rate of 5%, and the CET rate has been revised upwards for some types of cement.

There is an African Integration Contribution (AIC) at the rate of 0.2% applicable to the taxable value of goods imported from third party countries into the African Union.

The ceiling of the computer fee, which rate is 0.45%, shall be fixed at XAF 15,000 per export declaration.

As of 1 January 2018, interest for late payment at the rate of 1.5% per month (capped at 50%) has been instituted for persons who have failed to pay taxes and customs duties 30 days after the computation of the detailed declaration.

The Preferential Tariff (PT) of the Economic Community of Central African States (ECCAS) entered into force in Cameroon on 1 January 2018. As of this date, Cameroonian goods exported in the countries of the ECCAS shall be exempt from customs duty. Goods from those countries shall be subject to zero-rate customs duty.

Countries of the ECCAS include Angola, Burundi, Cameroon, Central African Republic, Chad, Democratic Republic of the Congo, Equatorial Guinea, Gabon, Republic of Congo, and São Tomé and Príncipe.

Excise taxes

An excise duty of 25% is applicable to cigarettes, drinks, cosmetics, luxury items (e.g. jewels, precious stones), slot machines, and other devices used for games of chance. A reduced rate of excise duty (12.5%) shall apply to soft drinks and private vehicles with engine capacities of 2,000 cm^3.

There is an extra-reduced rate of excise duties at 2% applicable to mobile telephone communications and Internet services.

Deductions initially made as excise duties shall be subject to regularisations by tax officials in case of reselling throughout the national territory.

There are minimum excise duties applicable to alcoholic beverages and tobacco. For tobacco, the minimum tax shall not be less than XAF 3,500 for 1,000 cigarette rods. For alcoholic beverages, the minimum tax depends on the nature of the alcohol and the alcohol level per litre.

Some arms and their parts, as well as ammunition, (of Chapter 93 of the CEMAC Code) imported by persons other than those governed by public law shall be subject to excise duty at the rate of 25% of the taxable value.

As of 1 January 2018, games of chance and entertainment, including lotteries and mutual, simple, or any other betting games, shall be subject to a specific excise duty of XAF 25 per unit of play or bet.

Real property tax

Cameroon property tax is payable annually on real estate with or without an ownership certificate or an administrative or judicial order issued. Tax is charged at 0.1% of the assessed property value.

Properties belonging to clubs, associations, or sporting bodies' accredited properties intended for sports and sports facilities are exempt from real property tax.

Transfer tax

The sale of a business in Cameroon is subject to a transfer tax rate of 15%.

Registration duty

The registration duty applies to certain deeds listed by the General Tax Code (GTC). The assessment basis depends on the nature of transactions, and the rate varies from 1% to 15%.

The formation of a company and subsequent capital increases in Cameroon are not subject to registration duty.

Public contracts or procurements for amounts of less than XAF 5 million, paid from the budget of the state, local, and regional authorities, administrative public establishments, or from external funding, shall be subject to registration duty at the rate of 5%.

Public contracts and procurements paid from the budget of state-owned companies and semi-public corporations shall be subject to registration duty at the rate of 2% or 1% where the amount is, respectively, less or more than XAF 5 million.

Public orders for fuels and lubricants, regardless of the purchase or payment method, shall be exempted from registration duty and stamp duty.

The following transactions are subject to registration duty at the rate of 2%:

- The transfer of shares and bonds of commercial or civil companies with registered offices outside of the CEMAC zone when said instruments are utilised or when the transfer produces consequences in a CEMAC country.
- The transfer (even indirect) in Cameroon or abroad of shares and bonds of companies with registered offices in Cameroon.
- Any public procurement of an amount above or equal to XAF 5 million, whatever the source of financing.

Collateral and mortgage loans with microfinance institutions of the first category, as well as the related releases, surety bonds, and guarantees, shall henceforth be exempted from the registration formality and the payment of graduated stamp duty.

Stamp duty

Stamp duty in CEMAC countries is established, independent of registration fees, on all papers to be used for civil and legal instruments and documents that may be brought before law courts as proof. It shall be collected on the basis and in accordance with the rules laid down in the GTC.

Stamp duty shall be fixed according to the nature of the instruments subject thereto. There shall be no exemptions except those expressly indicated in the GTC.

The maximum and minimum stamp duty based on paper size are fixed at XAF 1,500 and XAF 1,000, respectively, in Cameroon.

Payroll tax

Employers in Cameroon are required to make monthly contributions of 2.5% of the total amount of salaries and fringe benefits of their employees to the Housing Loan and Employment Fund of Cameroon.

Social security contributions

Employer and employee must contribute on a monthly basis to Cameroon's National Social Insurance Fund at 11.2% and 4.2%, respectively. The basis of contribution is capped at XAF 750,000 per month (i.e. XAF 9 million per year). Employers in Cameroon must also contribute 1.75%, 2.5%, or 5% of total salaries to the National Social Insurance Fund for Industrial Accidents when they are respectively classified in groups A, B, or C according to the classification per type of activity. The calculation basis in this category is the gross salary, including the benefits in kind assessed for their actual amount.

Business licence tax

Any natural person or corporate body carrying on a trade, industry, or profession in Cameroon shall be liable to a business licence tax. The business licence tax is paid annually and shall be calculated by applying a rate to the turnover of the previous financial year-ended as follows:

- 0.159% on the turnover of large companies (those under the jurisdiction of the large taxpayers unit), for a minimum contribution of XAF 5 million and a maximum contribution of XAF 2.5 billion.
- 0.283% on the turnover of medium-sized companies (those under the jurisdiction of the Medium Size Taxpayers Centre, Specialised Tax Centre, and Specialised Tax

Centre for Liberal Professions and Real Estate), for a minimum contribution of XAF 141,500 and a maximum contribution of XAF 4.5 million.
- 0.494% on the turnover of small-sized companies (those under the jurisdiction of the divisional tax centres), for a minimum contribution of XAF 50,000 and a maximum contribution of XAF 140,000.

New enterprises shall be exempt from the payment of the business licence tax during the first year of operation.

Branch income

The local branch of any foreign company is taxed at the same rate as a company. The net profits (after CIT) of entities having their residence or head office outside Cameroon (such as the branch of a foreign company) are assumed to be distributed each fiscal year to companies not located in Cameroon. Their net profits (after CIT) shall therefore be subject to the WHT on distributions at 16.5%.

Income determination

Inventory valuation

For valuation purpose, the GTC only provides that stocks shall be valued at cost price; however, if the market price is lower than the cost price, the undertaking shall make provisions for depreciation of inventory. No reference is made to the accounting method that shall be used (e.g. first in first out [FIFO], last in first out [LIFO]). Only FIFO and weighted average methods are allowed under the Organisation for the Harmonisation of Business Law in Africa (OHADA) Accounting Principles. Where there is any difference between the valuation method permitted by the GTC and the book valuation, the accounting result shall be modified accordingly.

Firms shall, by 15 March, submit a summary of all the stock movements of the financial year concerned, together with the software used in managing the said stock. The summary of inventory movements should be produced in dematerialised form.

The right of ascertainment of stocks by the tax administration shall allow tax officers to conduct unannounced on-site operations to physically audit the stocks of one or several products of the non-prescribed period. A notice of passage shall be remitted to the taxpayer or representative during the first intervention within the framework of such audit.

Capital gains

Capital gains are normally taxed at full CIT rates.

The net overall capital gains arising from the transfer of shares and stocks; income from bonds; income from debts, deposits, surety-bonds, and current accounts; profits realised from the transfer of shares; reimbursement of sums put at the disposal of the company by a manager or a partner as an advance or a loan; and capital gains on the transfer of rights relating to natural resources shall be subject to 16.5% WHT.

For transfers realised abroad, the Cameroonian law enterprise and the transferor shall be jointly and severally liable to payment of the sums due under such transfer.

Dividend income

Dividends are subject to the WHT of 16.5%. However, dividends shall be treated as proceeds for the purpose of CIT, and the tax withheld at source is used as instalment for the payment of CIT.

Interest income

Interests are subject to the WHT of 16.5%. However, interests shall be treated as proceeds for the purpose of CIT, and the tax withheld at source shall be used as instalment for the payment of CIT.

Interests on external loans of a maturity period of at least seven years, signed as of 1 January 2014, are exempted from the WHT.

Royalty income

Royalties received from foreign entities shall be included in the taxable income subject to CIT, subject to double tax treaties (DTTs).

Foreign income

As a matter of both fact and law, revenue from abroad earned by corporate bodies situated in Cameroon shall be subject to CIT in Cameroon. There is no provision on tax deferral in Cameroon.

Deductions

Depreciation

Depreciation is generally computed on a straight-line basis over the useful life according to the rates provided for by the GTC, including those that might have already been deferred in times of deficit.

The following depreciation rates are generally accepted for tax purposes:

Assets	Depreciation rates (%)
Construction	5 to 20
Stationary equipment and tools	5 to 20
Portable equipment	10 to 100
Transport equipment	10 to 33.33
Railway lines	1 to 10
Engines	5
Rehabilitation	5 to 25
Furniture fittings and other equipment	10 to 33.33
Fishing equipment and fishing vessels	15

The deduction of depreciation can be carried forward indefinitely.

The threshold for small equipment and tools to be included in the balance sheet shall be XAF 500,000.

Goodwill

With regard to rules governing the deduction of provisions and depreciation, impairment of goodwill shall be allowable for CIT purposes.

Start-up expenses

There is no specific provision in the GTC relating to start-up expenses.

However, the OHADA Accounting Principles effectively state that start-up expenses shall be capitalised and must be completely depreciated as early as possible: over two to five years, except bond premiums, which are depreciated throughout the life of the loan.

No distribution of profit should be carried out before the complete depreciation of start-up expenses.

Intellectual property (IP)

Sums paid to related entities for the use of valid patents, brands, designs, and models are capped at the overall limit of 2.5% of the taxable income before the deduction of expenses claimed. When they are paid to entities located outside the CEMAC that directly or indirectly hold shares or are members of the Cameroonian entity's board of directors, they shall be considered as sums accruing from the distribution of profits. As such, they are not allowable.

Interest expenses

Interest expenses are fully deductible.

However, interest paid to partners/shareholders in respect of the sums they leave with or place at the disposal of the company over and above their capital, irrespective of the type of company, shall be acceptable within the limits of those calculated at the rate of the central bank discount rate, raised by two points.

Bad debt

The deductibility of provisions for bad debts is subject to the following conditions:

- The debt must be specified (i.e. clarification is needed on the nature, amount, and the debtor).
- The company must show that it has unsuccessfully carried out actions for debt recovery (e.g. reminder letters, notice to pay, complaints).

For losses related to bad debts to be deductible, they should have been subjected to all amicable or forced collection methods and means provided for by the OHADA Uniform Act on the Organization of Simplified Procedures for Collection and Enforcement Procedures. Otherwise, they shall not be deductible.

In this regard, the impossibility of recovering the debt must be evidenced by:

- a deficiency report prepared by a bailiff
- a bankruptcy decision duly passed by the judge, if necessary, or
- a decision passed by a judge, bearing out the debtor who disputed the debt.

Charitable contributions

Acts of liberality, gifts, and subsidies shall not represent the charges deductible from profits.

However, payments made to R&D bodies and to collective philanthropic, educational, sports, scientific, social, and family institutions and bodies, on condition that the latter are situated in Cameroon, shall be deductible as soon as there is proof of payment and as long as they do not exceed 0.5% of the turnover for the fiscal year. Similarly, gifts made on the occasion of a disaster shall be deducted in the form and conditions determined by order of the Minister of Economy and Finance.

Liberalities, gifts, and subsidies awarded to clubs participating in the elite national competitions or to recognised organisations responsible for the organisation of official sport competitions are deductible, provided they are justified, within the limit of 5% of the annual turnover.

Fines and penalties

Compounding fees, fines, confiscations, and any penalty concerning persons who violate legal, economic, and fiscal provisions shall not be deducted from the profits subject to taxation.

Taxes

Only the professional taxes issued for collection during the fiscal year and which are to be borne by the firm in relation to the operations carried out in Cameroon shall be subject to deduction.

CIT, WHT, and PIT shall not be considered as deductible expenses for the levying of taxes.

Net operating losses

Any loss sustained in a given year can be carried forward up to the fourth year following the recording of the loss. The carryback of losses is not permitted in Cameroon.

Losses due to damage in inventories shall be deductible from the taxable basis when they are duly established and validated by a Commissioner of damage in the presence of a taxation officer with the rank of at least an inspector, under the conditions specified in the Manual of Tax Procedures.

Payments to foreign entities

Head office overhead expenses for operations carried out in Cameroon and the remuneration of certain effective services (studies, technical, financial, or accounting assistance) provided to Cameroonian firms by foreign natural persons or corporate bodies are not totally deductible.

Fees paid are deductible up to a maximum of:

- 5% of intermediary earnings as a general rule
- 2.5% of the turnover for firms specialised in public works, and
- 7.5% for design firms operating in accordance with regulations relating to design firms and consulting engineers.

The notion of technical assistance shall include services provided by entities located either overseas or in Cameroon.

Expenses linked to transactions with natural persons or legal entities resident or established in a territory or state considered to be a tax haven shall not be deductible. This rule shall not apply to imports of goods made in those countries. A tax haven is any state where the tax on the income of a natural person (PIT) or legal entity (CIT) is less than a third of that paid in Cameroon, or any state or territory considered not to be co-operative in matters of transparency or of exchange of information required for fiscal purpose by international or financial organisations. The rate to be considered in Cameroon for that purpose is 35% for PIT and 30% for CIT.

Group taxation

There is specific taxation of groups within the CEMAC area.

Where a joint stock company and a private limited company own either registered stock in a joint stock company or shares in a private limited company, the net proceeds of the share in the second company paid to the first during the financial year shall be deducted from the total net profit of the latter, less a percentage for costs and charges. This percentage is fixed at 10% of the total amount of the proceeds. This system shall apply when all of the following conditions are met:

- The stocks or shares owned by the parent establishment represent at least 25% of the capital of the subsidiary firm.
- The parent and subsidiary firms have their registered office in a CEMAC state (Cameroon, Central African Republic, Chad, Gabon, Equatorial Guinea, and Republic of Congo).
- The stocks or shares allotted at the time of issue are still registered in the name of the participating company that undertakes to retain them for at least two consecutive years in registered form.

Transfer pricing

There are provisions in the GTC that relate to transfer pricing.

Within the framework of a tax audit, the documents required for the justification of transfer pricing shall be presented to the tax inspectors at the start of the procedure. Items such as business transactions, payments in consideration for intangible rights, allocations of costs and expenses (head office costs, agreements to share costs, disbursements, etc.), financial transactions, etc. are particularly targeted for close scrutiny.

Companies in the large taxpayers unit shall declare participation in companies that are equal to or more than 25% of the share capital of the latter, as well as the documentation to justify their transfer pricing policy for intra-group transactions, at the same time as their annual tax return.

Thin capitalisation

The deduction of interests on sums of money left or placed at the disposal of local entities by partners or related companies who directly or indirectly own at least 25% of the share capital or corporate voting rights is capped at:

- one and a half times the amount of equity or
- 25% of profit before corporate tax and before deduction of the said interests and amortisations taken into account in determining such profit.

Otherwise, interests on the excess amount shall not be deductible.

Controlled foreign companies (CFCs)

We are not aware of any special provisions for CFCs. Indeed, subject to the provisions of international conventions and the provisions relating to group taxation mentioned above, revenue from stocks and shares held in a company based abroad shall be subject to income tax in Cameroon.

Tax credits and incentives

Foreign tax credit

Taxes paid abroad are not considered as tax credits unless provided as such by DTTs.

The system of reinvestment relief

This system of reinvestment relief previously provided by the GTC has been cancelled by the 2015 Finance Law.

The private investment tax incentive regime

The private investment tax incentive regime instituted by Law No. 2013/04 of 18 April 2013 applies to investment operations relating to the creation, extension, renewal, refurbishing of assets, and/or the transformation of activities carried out in Cameroon.

The major tax advantages related to the private investment regime in Cameroon are the following:

- During the installation phase: Tax incentives for a maximum period of five years.
- During the exploitation phase: Tax incentives for a maximum period of ten years.
- For the development of existing companies: Tax incentives for a maximum of five years.
- Possibility of specific advantage for prioritised sectors.

Tax and customs incentives granted to investors consist of exemptions from or reductions of payment of several taxes, duties, and other fees listed.

According to the 2017 Finance Law, conventions and agreements signed by the authorities that provide for customs and tax exemptions and waivers shall, under pain of unenforceability, be subject to prior approval by the Minister in charge of finance.

Individuals or legal entities benefiting from tax and customs incentives contained in the conventions with various administrative authorities and not ratified by the Parliament shall, in accordance with the 2017 Finance Law and within the deadline of two years from the promulgation of the 2018 Finance Law (20 December 2017), negotiate the harmonisation of the provisions of the said conventions with the above-mentioned law on private investment incentives with the Ministry in charge of finance.

Incentives applicable to listed companies

Companies whose ordinary shares are listed on the Cameroon Stock Exchange shall be entitled to the following reduced CIT rates:

- 22% for a period of three years for capital increases that represent at least 20% of the share capital.
- 27.5% for a period of three years for transfers of shares that represent at least 20% of the share capital.

- 30.8% for a period of three years from the date of listing for capital increases or transfers of shares that represent less than 20% of the share capital.

According to the 2016 Finance Law, such reduction shall be granted to companies listed on the stock market within three years, with effect from 1 January 2016.

Companies that issue stocks on the Cameroon Stock Exchange shall be entitled to a reduced CIT rate of 25% (i.e. 27.5% including 10% additional council tax) for a period of three years, with effect from the year of issue.

Specific tax incentives

The following may benefit from specific tax incentives:

- Transactions on real estate located in areas subject to the official list price.
- Promotion of youth employment.
- Members and promoters of approved management centres.
- Education, vocational training, and health establishments.
- New investments carried out in economic disaster areas.
- Companies involved in agriculture, stock breeding, and fisheries.
- Public establishments promoting local building materials.
- New beverages produced and packaged exclusively using local raw materials.
- Expenses for research and innovation.

Withholding taxes

Special income tax (SIT)

Subject to international tax treaties, an SIT is levied by the state or regional and local authorities on income paid to natural persons and corporate bodies domiciled abroad by enterprises or establishments based in Cameroon. The tax is withheld at source by the Cameroonian entity that pays the remuneration.

Subject to international tax treaties, the SIT rates are fixed as follows:

- The general rate of 15% is applicable to remunerations paid abroad in respect of various services provided and used in Cameroon.
- The average rate of 10% is applicable to remunerations for *ad hoc* material services paid to non-domiciled companies (undertaking short-term operations in Cameroon) that have a PE in Cameroon and waived the tax in accordance with the tax returns.
- The reduced rate of 5% shall apply to:
  - Remunerations under public procurement where the successful bidders are not domiciled in Cameroon.
  - Remunerations paid abroad for the provision of access to digital audio-visual services.
  - Remunerations paid for all kind of services provided to oil companies during the R&D phases.

Non-commercial profits WHT

A 16.5% WHT is to be deducted at source by entities that pay remunerations granted to the board members of public institutions, public corporations, and semi-public companies in any capacity.

The tax rate applicable to non-commercial revenue is 11% to be deducted at source by entities that pay the following:

- Allocations of any nature, such as allowances, gratuities, compensations, and daily subsistence allowances granted, in addition to salaries, by public and semi-public entities, excluding statutory compensations falling under the category of wages and of salaries, and reimbursement of costs, the list of which shall be established by decision of the Minister in charge of finance.
- Amounts, allowances, allocations, or remunerations of any nature paid to sportsmen and artists, irrespective of their tax domicile.

Dividends WHT

A total WHT of 16.5% applies to dividends paid to both Cameroon residents and non-residents. The WHT rate may be reduced under an applicable DTT.

Interest WHT

The interest from foreign loans is subject to 16.5% WHT. The WHT rate may be reduced under an applicable DTT.

Interests on external loans of a maturity period of at least seven years, signed as of 1 January 2014, are exempted from the WHT.

Royalties WHT

Royalties paid to non-residents are subject to a 15% WHT (the 10% surcharge is not applicable). The tax rate may vary under some DTTs.

Tax treaties

Cameroon has tax treaties with Canada, France, Morocco, South Africa, Tunisia, United Arab Emirates, and members of CEMAC (Cameroon, Central African Republic, Chad, Gabon, Equatorial Guinea, and Republic of Congo).

Recipient	Dividends (%)	Interest (%)	Royalties (%)	Head office expenses and technical assistance (%)
Non-treaty	16.5	16.5	15	15
Treaty:				
CEMAC	16.5	16.5	N/A	N/A
Canada	16.5	16.5	16.5	15
France	15	15	N/A	7.5
Morocco	10	10	10	10
South Africa	10	10	10	10
Tunisia	12	15	15	15
United Arab Emirates	10	7	10	10

Tax administration

Taxable period

The tax year in Cameroon is the calendar year.

Tax returns

On or before 15 March, taxpayers are expected to submit to the tax administration the annual return of revenue derived from their business venture during the period serving as the tax base.

This return must be presented in conformity with the OHADA accounting system.

No one may invoke a claim on the state to shirk its return and payment obligations.

Despite the declarative tax system applicable in Cameroon, the tax administration may send a pre-completed return of collected revenue or any other taxable item, with the tax amount owed, to any natural or legal person paying taxes or duties as per laws and regulations in force.

The taxpayer that feels overtaxed or wrongfully taxed under a pre-filled tax return procedure shall submit a request for correction to the competent taxation centre within one month of receipt of such return. In such case, the tax authorities and the taxpayer shall have 30 days within which to decide the final taxes established by a collection notice (CN).

Failure to pay within 15 days of receiving the CN or respond to a pre-filled tax return in time shall be tantamount to accepting the terms thereof.

Other tax filings

Firms falling under a dispensational or special tax regime shall file, by 15 March, a summary declaration of transactions of the previous year for which they obtained tax benefits, including theoretical taxes and levies corresponding to the said transactions.

Firms shall, by 15 March, submit to the tax administration a summary of all the stock movements of the previous year, together with the software used in managing the said stock.

Approved intermediaries shall, through electronic means, provide the Directorate General of Customs, on a monthly basis, the information on the status of all foreign financial transactions carried out with their customers and on their personal behalf.

Payment of tax

An instalment representing the 2.2% or 5.5% minimum tax of turnover realised during each month shall be paid to the tax authorities not later than the 15th day of the following month.

Advance payment of 0.5%, 2%, 5%, 10%, 14%, 15%, 15.04%, or 20% is withheld at source by the buyer or the customs administration on purchases and imports destined to be resold, depending on the tax regime applicable to the buyer or importer. *See Minimum tax in the Taxes on corporate income section for more information*.

The balance of CIT is paid, at the latest, on 15 March following the fiscal year-end, when submitting the CIT return.

Surplus tax payments

A surplus tax payment can be offset against future taxes of the same nature to be paid.

Excess payments of CIT shall be reimbursed in case of cessation of activities.

For the specific case of VAT, a reimbursement procedure is provided for by the GTC under certain conditions. Such VAT credit refund procedure shall depend on whether the taxpayer is classified in the category of low, medium, or high-risk company.

Tax audit process

There is no audit cycle in Cameroon.

As of January 2018, whatever the cause, any importer or exporter wishing to terminate one's customs activities shall first inform the customs administration at least 90 days beforehand and request a customs audit. In the absence of this prior audit, the taxpayer concerned, the taxpayer's officials, and/or the taxpayer's representatives shall remain jointly and severally liable for the customs debts subsequently established.

Statute of limitations

The statute of limitations is four years.

Topics of focus for tax authorities

The topics of focus for tax authorities include the following:

- Remunerations paid for services provided to local entities by providers located overseas.
- Transfer pricing.
- Deduction and reimbursement of VAT.
- WHT.
- Stocks (inventory valuation and management).

Chad

PwC contact

Nadine Tinen Tchangoum
PricewaterhouseCoopers Tax and Legal
Immeuble PwC, Rue Christian Tobie Kouoh
BP: 5689
Douala Bonanjo
Republic of Cameroon
Tel: +237 33 43 24 43/44/45
Email: nadine.tinen@cm.pwc.com

Significant developments

The significant developments that occurred in 2018 are mainly:

- Transfer pricing documentation requirements.
- Extension of the scope of value-added tax (VAT) credit refund and amendment of the related procedures.
- Enhancement of deductibility rules of interest expenses for entities belonging to the same group of companies.
- New rules against fraud and tax evasion.
- Amendment of eligibility criteria relating to the taxation regime.
- Option to file a corrective tax return within a limited period of two months from the filing of the initial tax returns.
- Recognition of exclusive competence of tax administration in matter of tax assessment.
- Prohibition for chartered accountants non-registered in the Economic and Monetary Community of Central Africa (CEMAC) to validate taxpayers' accounting.
- Prohibition for chartered accountants to provide tax services.
- Requirement for branches of foreign companies to be transformed into a Chadian company.
- Lowering of registration fees for real estate transactions.

Taxes on corporate income

The profits subject to the corporate tax are determined with sole regard to profits earned by businesses carried out or transactions conducted in Chad.

Net taxable profits are established after deduction of all charges directly entailed by the exercise of activities subject to assessment in Chad. As income from other countries is not liable to tax, foreign charges and losses are not deductible either.

The corporate tax rate is 35%.

Tax regimes

The tax regimes applicable to companies are: the normal tax regime, the simplified tax regime, and the flat tax rate regime.

The criteria used by the tax administration is the turnover. Thus, companies with a turnover that comprises between 50 million Central African CFA francs (XAF) and

XAF 500 million are subject to the simplified tax regime and those with a turnover exceeding XAF 500 million are subject to the normal tax regime.

Taxpayers who realise an annual turnover not exceeding XAF 50 million are subject to the flat tax rate regime.

All companies subject to the normal tax regime or the simplified tax regime shall file and pay taxes monthly.

Minimum tax

There is a minimum tax of 1.5% based on turnover and an additional XAF 1 million as the minimum/floor amount.

The minimum tax shall be filed and paid monthly for companies subject to the normal tax regime or the simplified tax regime (*see above for tax regimes*).

Local income taxes

There are no regional or local income taxes in Chad.

Corporate residence

Registered entities (i.e. companies, branches, and subsidiaries) conducting economic activities in Chad are liable to pay corporate tax. Specifically:

- Limited companies.
- Limited partnerships with shares.
- Limited liability companies.
- Cooperative societies and their unions.
- Public institutions.
- Agencies of the state with financial autonomy.
- Municipal bodies and any other legal entities engaged in an operation for gain.
- Real estate companies, regardless of their form.
- Civil companies, other than real estate companies, involved in industrial, commercial, or agricultural activities.
- Limited partnerships, on the share of profits relating to the rights of sponsors.
- Associations in participation, including financial syndicates, on the share of profits relating to the rights of sponsors.
- Co-owners of shipping companies, on the share of profits relating to the rights of sponsors of associated co-owners, other than those with unlimited liability or whose names and addresses are not listed with the tax administration.
- Travel agencies.

Permanent establishment (PE)

According to the CEMAC Fiscal Convention, a legal person is domiciled in one's 'permanent home'; this expression denotes the centre of vital interests, i.e. the place with which personal relations are closer.

Consequently, the domicile (permanent home) of legal persons is the place of the registered office or the statutory social place. It constitutes PEs such as:

- The head office of management.

- A branch.
- An office.
- A factory.
- A workshop.
- A mine, quarry, or other place of extraction of natural resources.
- A building or construction site or assembly.
- A facility used for storage, display, or delivery of goods belonging to the business.
- A warehouse belonging to the business, stored for storage purposes, and of display of delivery.
- A fixed installation of business used for the purpose of purchasing goods.

Other taxes

Value-added tax (VAT)

The VAT rate applicable in Chad is:

- 18% on all taxable operations.
- 0% on exports and their related international transportations.

An operation performed in Chad that constitutes an economic activity and for which payment is made, unless included in the list of exemptions in the law governing VAT, is liable for VAT, even if the residence of the natural person or the registered office of the legal entity is located outside Chad.

The VAT law provides a list of transactions exempted from VAT that includes, among many others, the following:

- Sales of products that are directly made by farmers, cattle farmers, or fishermen to consumers, farming, and fishing operations.
- Import operations and sales of newspapers and periodicals, other than the advertising revenues.
- Leasing transactions.
- Sales of gasoil and petrol by the refining company of N'Djamena.

Before fiscal year 2018, the refund of VAT credit applied only to some categories of taxpayers.

From fiscal year 2018, any taxpayer (resident) subject to VAT may apply for the refund of VAT credit, except taxpayers who benefit from any exemption via establishment agreements.

The deadline for the application of the refund of VAT credit is 24 months from the birth of this credit.

The refund of VAT credit is guaranteed by an escrow account domiciled in Bank of the States of Central Africa. This account is fuelled by 15% of various VAT revenues.

Any VAT credit officially recognised by the tax administration shall be refunded.

The consequences of the application for VAT credit are as follows:

- No possibility to use the VAT credit in the filings of the month that follows the one from which the application of refund of the said VAT credit has been made.
- No possibility to deduct the structural VAT credits at the end of a fiscal year.

Refund of VAT credit is disallowed in the following cases:

- Lack of proof of the VAT credit for which refund has been applied for.
- Application for VAT credit done out of the deadline, i.e. after 24 months.
- Taxpayers did not pay all the taxes due.

The consequences of the rejection of the application for VAT credit:

- The lack of justification of this VAT credit will lead to the automatic cancellation of the said VAT credit.

The practice modalities of the refund of the VAT credit are not yet precised by the tax administration.

Customs duties

The tax basis of customs duties corresponds with the customs valuation, namely the selling price of the goods plus cost of delivery to Chad (costs of insurance, transportation, etc.).

The rates of customs duties depend on the nature of the goods and range from 5% to 30%. These rates can be summarised as follows:

- Goods of first need (basic necessities): 5%.
- Raw materials and goods of equipment: 10%.
- Intermediate and miscellaneous goods: 20%.
- Consumer goods: 30%.

Excise duty

Excise duty applies to goods of great consumption: cigarettes, drinks (water, beer, and wine), cosmetics, and luxury products, and transactions of mobile companies, which are the legal taxpayers. Excise duty rates depend on the nature of the goods and range from 5% to 25% of the value of the good.

Some of the rates are as follows:

- Water: 5%.
- Beer and wine: 25%.
- Perfume, jewellery, electronic devices (except computers, telephones etc.), private vehicles with an engine capacity above 1600 cm^3, and weapons: 20%.
- Compound alcoholic preparations: 25%.
- Tobacco (all types): 25%.
- Turnover of mobile companies (legal taxpayers) realised on their transactions: 18%.

This value differs depending on the origin of the good. If the good has been manufactured in the CEMAC zone, the value corresponds with the selling price charged by the manufacturer. If the good is imported into the CEMAC zone, the value is the sum of the freight value plus insurance costs and customs duties.

This value constitutes the basis of the calculations of the excise duty.

Real property tax

The annual real property tax differs according to whether it is a built or an unbuilt property and whether it is located in N'Djamena or elsewhere. The tax is imposed in the municipality where the property is situated.

The tax rate on built property is 10% in N'Djamena and 8% elsewhere.

The tax rate on unbuilt property is 21% in N'Djamena and 20% elsewhere.

The calculation basis is the potential revenue of that property. The potential revenues correspond to four-fifths of the rental value, the rental value being 10% of the market value. For rural unbuilt property, the market value is fixed to XAF 50,000 per hectare.

Some temporary exemptions are granted to new buildings or additions to constructed buildings after 1 January 1968 from this tax in some conditions. In case of construction or reconstruction, owners can benefit from temporary exemptions as follows:

- If the villa is owned by a corporation: 2 years.
- If the villa belongs to an individual and put on rental: 2 years.
- If the villa is built or rebuilt for commercial and industrial use: 2 years.
- New construction or reconstruction and additions to buildings for a holiday resort, for approval (accreditation), or for furnished rent are excluded.

Accommodation tax

The person occupying a building (owner or tenant) has to pay the following amount as accommodation tax annually:

Type of construction	N'Djamena (XAF)	Elsewhere (XAF)
For constructions in local material	10,000	5,000
For hard or semi-hard constructions	25,000	15,000
For R+ hard constructions	40,000 and a supplement of 20,000 per level	20,000 and a supplement of 10,000 per level

Transfer tax

Fixed or proportional transfer duties must be paid on the transfer of ownership of estates, personal property, and real property. Transfer duties are also due on contributions to companies and divisions of property. The proportional fees for the following transfers are:

- Transfers of ownership interests in companies whose capital is not divided into shares: 3%.
- Transfers of shares, founders' shares, or profit shares: 3%.
- Transfers of bonds of companies and legal entities: 3%.
- Transfers of the right to lease or of the benefit of a promise to lease real estates: 10%.
- Transfers of goodwill (business) against payment: 10%.
- Transfer of leases of real estate: 10%.
- Transfers of pension against payment: 10%.
- The undivided shares and portions of real property acquired by bidding are subject to land transfer tax against payment at 10%.
- Transfers and delegations of term debts: 3%.
- The perfect transfer of notarised promissory notes containing the creation of a mortgage and other mortgage bonds: 5%.

- Real estate returns are subject to land transfer (against payment) tax of 10%.
- Transferring ownership for consideration of movable property: 6%.
- Judicial transfer (against payment) of ownership or usufruct of both developed and undeveloped land is 10%.

These transfers are generally registered within three months of their entry into possession.

Stamp duties

Stamp duties must be paid on each civil or judicial document intended to be used as evidence. Stamp duty is generally XAF 1,000 per page.

All claims for reimbursement submitted to the Board are subject to a stamp duty of XAF 2,000.

Requests to the administration for professional competitions are subject to a stamp duty of XAF 1,000.

Applications for allocation of land are subject to a stamp duty of XAF 1,000.

Invoices for supplies to the administration of less than XAF 1 million are subject to a stamp duty of XAF 5,000. The same applies to certificate of sales of reshaped vehicles and materials of vehicles of the state and public bodies.

All invoices that accompany an order of the administration in lieu of a service contract or a public market are subject to a stamp duty of XAF 5,000.

Any application, other than those mentioned above, addressed to the tax authorities is subject to a stamp duty of XAF 2,000.

Furthermore, the stamp duties on the following official documents are as follows:

Documents	Issuance fees (XAF)	Stamp fees (XAF)	Total (XAF)
Passport	77,500	7,500	85,000
Residence card:			
Citizens of CEMAC area	292,500	7,500	300,000
Citizens of other countries	500,000	10,000	510,000
Particular passes	-	6,000	6,000
Extension of stay	5,000	-	5,000
National identity card	9,000	1,000	10,000
Passport for adult Chadian abroad	97,500	7,500	105,000
Passport for minors abroad	45,000	7,500	52,500
Passport for minors in Chad	35,000	7,500	42,500

Registration duty

The registration duty applies to certain deeds listed by the General Tax Code (GTC). The assessment basis depends on the nature of transactions, and the rate varies from 0.25% to 15%.

Payroll tax

Employers in Chad are required to make monthly contributions of 7.5% of the total amount of salaries and fringe benefits paid to permanent employees.

Social security contributions

The monthly contribution to Chad's Social Security Funds is 16.5% of total salaries for the employer (upper limit: XAF 82,500 per month) and 3.5% for the employee (upper limit: XAF 17,500 per month), withheld by the employer.

Apprenticeship tax

Employers in Chad are required to make monthly contributions of 1.2% of the total amount of salaries and fringe benefits of their employees (permanent and temporary) to the National Professional Training Funds (FONAP).

Business licence tax

Any natural person or corporate body carrying on a trade, industry, or profession in Chad shall be liable to a business licence tax. The business licence tax is paid annually and is assessed as follows:

- A determined duty based on 0.1% of the first XAF 2 billion of turnover of the fiscal year N-2; above that, only 1/10 of the turnover is taxed at the rate of 0.1%.
- 10% of the rental value of the premises.
- 10% of the determined duty for the National Social Security Funds.
- 7% of the determined duty for the Consular Commercial Chamber.
- XAF 480 per year for the Rural Intervention Funds.
- 10% of the annual rental value of business premises.

For a new company, the determined duty is calculated based on the projected turnover estimated by the taxpayer as compared to similar activities or those achieved during the first 12 months of activity.

The business licence tax is due 31 December of the tax year.

Special tax on oil products

The 2017 financial law instituted the special tax on oil products (in French: *Taxe Spéciale sur les Produits Pétroliers*). The rates of this tax are as follows:

- Petrol: XAF 50 per litre.
- Gasoil: XAF 50 per litre.
- Jet A1: XAF 50 per litre.

This tax is due at the time of consumption and is supported by the final consumer. It is not deductible for the marketers.

The 2018 financial law has introduced capped fees as follows:

- Gasoline: XAF 47 per litre.
- Gasoil: XAF 22 per litre.
- Jet A1: XAF 20 per litre.
- Petrol: XAF 5 per litre.

Tax for the modernisation of airport infrastructures

The 2017 financial law instituted the tax for the modernisation of airport infrastructures, which rates are as follows:

- Economic class tickets for flight: XAF 10,000.
- Intermediary or business class tickets for flight: XAF 15,000.

This tax is due at the time of payments of the tickets for flight and is supported by the buyer and collected by the airline company and paid to the public Treasury.

From January 2018, the tax for modernisation of airport infrastructures is renowned in fees (in French '*redevances*') for modernisation of airport infrastructures and is paid to the Chadian Civil Aviation Authority.

Tax on behalf of the African Union on imports

The 2017 financial law instituted a tax at the rate of 0.2% on imports out of the Africa area on behalf of the African Union.

The applicable modalities are not yet precised by a ministerial decision.

Branch income

Subject to international conventions, the profits realised by companies that do not have their tax residence in Chad (i.e. branches) are deemed distributed in respect of each fiscal year to the persons who do not have their tax residence in Chad and, to this effect, are subject to WHT at the rate of 20%.

Income determination

Inventory valuation

Stocks shall be valued at cost price; however, if the market price is lower than the cost price, the undertaking shall make provisions for depreciation of inventory.

Capital gains

Capital gains are taxed at 20% via WHT.

Dividend income

Dividends are taxed at 20% via WHT.

Interest income

Subject to international conventions, interest income that benefits a natural person or companies who do not have their real domicile or head office in Chad is subject to a WHT at the rate of 25%.

Royalty income

Royalty income is subject to WHT at the rate of 25% when the beneficiary is located neither in Chad nor in the CEMAC area.

Royalty incomes are deductible up to 10% of the fiscal intermediary result when these royalties are paid to a foreign related entity.

When the royalties are paid to beneficiaries located in a tax haven, the deduction of these royalties are capped to 50% of their amount without prejudice up to the limit of 10% mentioned above.

A tax haven is defined as a non-cooperative country or territory or a country or territory with a privileged taxation listed by the Organisation for Economic Co-operation and Development (OECD) and which did not enter into an agreement providing a mutual exchange of tax information with the republic of Chad.

Foreign income

Income from other countries is not liable to tax in Chad unless an international double taxation agreement (DTA) allocates the right to tax the said income to Chad.

Deductions

Expenses are deductible under the following conditions:

- They must lead to a reduction of the assets.
- They must be incurred in the interest of the enterprise.
- They must be regularly included in the accounts of the entity and justified by receipts.
- They must be related to the fiscal year within which they are incurred.
- They must not be considered as non-deductible by the law.

Depreciation

According to accountancy principles, depreciation is calculated based on the probable length of use of the asset. The straight-line system of depreciation is applicable, and rates vary according to the nature of the business activity concerned and the normal useful life of the assets involved.

From an accountancy point of view, it is possible to depreciate whatever amount corresponds to the above-mentioned principles. However, from a tax point of view, depreciation (i.e. enabling a deduction of the depreciated amount from the taxable income) is only possible under the condition that the depreciation has been entered into the statement of accounts. Therefore, only a legal entity in Chad owning the assets is able to depreciate its assets. In addition, if depreciation in the statement of accounts is higher than the depreciation authorised, the difference is not deductible and has to be reinstated in the taxable income.

The starting point for depreciation is the day of first use. If this date is not the first day of the financial year, the first year's depreciation is reduced pro-rata.

It should be noted that, despite the above, goods that are leased are depreciated at the rate that they are paid for.

Depreciation of goods that are made available for free to managers and supervisors of the business are deductible if the corresponding benefit in kind is declared.

The sum of depreciation applied to the acquisition or creation of an asset cannot, at the end of each financial year, be less than the amount of depreciation calculated on the linear system and spread out over the normal usage period.

Depreciation in loss-making years may be carried forward to the first profitable financial year, and to subsequent years if necessary.

Major repairs

The major repairs carried out by a company on the assets listed in the balance sheet are only deductible by way of depreciation.

Goodwill

There are no provisions for goodwill as regards deduction of expenses.

Start-up expenses

There are no provisions for start-up expenses.

Interest expenses

Interest paid for the depositing of funds by a shareholder is deductible within the base rate of the central bank plus two points, calculated on the basis of the share capital.

However, interest paid to a foreign related entity is deductible up to 10% of the tax intermediary result of the Chadian debtor.

In the event that the beneficiary of these interests is located in a tax haven, the deduction is limited to 50% of the gross amount without prejudice of the application of the limitation of 10% mentioned above.

Bad debt

Provisions for credit customers are deductible if judicial actions have been taken for the recovery of the said debt.

Charitable contributions

Donations and liberalities are deductible within a 0.5% limit of the annual turnover, net of tax, when they are duly justified. However, a decision from the Minister of Finances is required.

Fines and penalties

Tax and customs penalties are not deductible.

Taxes

Income taxes are not deductible.

Structural VAT credits

Structural VAT credits are deductible if the following conditions are met:

- The company justifies the origin of the VAT credits by producing the statement of the deductible VAT accompanied by the original invoices and the receipts of the customs.
- An attestation of VAT credit, signed by the General Tax Director, is produced.

Other significant items

The following expenses are not deductible:

- Provisions for laying off employees.

- Provisions for self-insurance.
- Insurance premiums paid for a third-party.

The following expenses are not fully deductible:

- Foreign social security contributions are deductible only within 15% of the base salary of the expatriates when related to a compulsory retirement plan. Nonetheless, Chad's social security contributions are fully deductible.
- Restaurants, hotels, receptions, and related costs are deductible within a 0.5% limit of the turnover, net of tax.
- Travel expenses for expatriates and their families for vacation are deductible, limited to one trip per year.

Net operating losses

Losses arising from normal business activities of the company are deductible and may be carried forward for up to three years. Carryback of losses is not permitted.

Payments to foreign affiliates (foreign technical assistance and administrative fees)

There is a specific regulation relating to foreign general administrative and technical assistance costs, which are subject to a 10% limitation of deductibility. The scope of the 10% limitation covers study expenses, technical assistance, and other expenses, including commercial and industrial royalties and interests, paid to the head office of an enterprise established outside Chad and outside the CEMAC zone.

These costs are only deductible within 10% of the intermediary fiscal profit (accounting profits plus non-allowable charges/costs) prior to their deduction if the following conditions are met:

- The details of these general administrative and technical assistance costs shall be annexed to Table 22 of the annual tax returns (*Déclaration Statistique et Fiscale* or DSF).
- The details shall present the amounts paid according to the activities' sectors and countries where the company carries out its activities.

However, from fiscal year 2018, foreign technical assistance fees or administrative fees paid to beneficiaries located in a tax haven are deductible up to 50% of their gross amount without prejudice to the limit of 10%.

Group taxation

There is a specific taxation of groups within the CEMAC area.

Where a joint stock company and a private limited company own either registered stock in a joint stock company or shares in a private limited company, the net proceeds of the share in the second company paid to the first during the financial year shall be deducted from the total net profit of the latter, less a percentage for costs and charges. This percentage is fixed at 10% of the total amount of the proceeds. This system shall apply when all of the following conditions are met:

- The stocks or shares owned by the parent establishment represent at least 50% of the capital of the subsidiary firm.

- The parent and subsidiary firms have their registered office in a CEMAC state (i.e. Cameroon, Central African Republic, Chad, Gabon, Equatorial Guinea, and Republic of Congo).
- The stocks or shares allotted at the time of issue are still registered in the name of the participating company that undertakes to retain them for at least two consecutive years in registered form.

Transfer pricing

The Tax Code acknowledges that dependent or controlled companies may transfer benefits indirectly to their company abroad it is dependent on or to the company abroad it is controlled by.

In order to calculate the real benefit, the indirectly transferred benefits (by means of increase of purchase price or decrease of sales price to the controlling company or by any other means) are incorporated into the result established by the accounts.

If the tax administration does not have enough precise elements to determine the benefit, it will establish the taxable benefit by way of comparison to companies normally operated in Chad.

The Tax Code provides further, in accordance with CEMAC regulation, that interest paid to shareholders on sums that they lend over and above their share capital is deductible at the rate for loans allowed by the central bank increased by two percentage points. This deduction is only possible if the amounts lent do not exceed 50% of the share capital.

Transfer pricing documentation requirements

From fiscal year 2018, companies are subject to transfer pricing documentation requirements. Transfer pricing documentation requirements concern:

- Any company under the control of companies located outside of Chad.
- Any company related to enterprises located outside of Chad.
- Any company having control of companies located outside of Chad.

Branches and PEs are within the scope of the said requirement.

Transfer pricing documentation applies to any transaction between related entities and shall contained:

- General information concerning the group of associated companies:
  - General description of the legal and operational structures of the group of associated companies.
  - Identification and geographical location of associated companies engaged in intragroup transactions during the financial year.
- Specific information concerning the Chadian company:
  - Description of transactions with other associates during the year, including the nature of the transactions and their amounts.
  - Identification and geographical location of the group companies involved in the transactions.
  - Presentation of the main competitive price method used and changes during the year.

Thin capitalisation

The thin capitalisation rules apply to companies subject to corporate tax and to advance of funds or receivables granted by shareholders.

The deductibility of interest paid to shareholders is limited by two rules:

- Interest rate limitation: Interest incurred on advances of funds granted by all shareholders is tax deductible up to the rate of the Central Africa Community Bank plus 2.
- Equity ratio: The amount of advance of funds does not exceed 1.5 times the equity. This equity ratio applies only to shareholders that control the management of the entity.

Controlled foreign companies (CFCs)

There are no provisions relating to CFCs in Chad.

Tax credits and incentives

Tax incentives are provided by:

- The General Tax Code.
- Petroleum agreements concluded between oil companies and the Government of Republic of Chad.
- Mine agreements concluded between oil companies and the Government of Republic of Chad.

The main tax incentive provided by General Tax Code is an investment allowance of 40% of the amount invested and applicable to investments exceeding XAF 60 million for construction industry, purchase of equipment and major tools, creation or extension of agricultural planting, and development of farming sites.

Tax incentives provided by petroleum and mine agreements are namely:

- CIT exoneration.
- VAT exemption.
- Apprenticeship tax exemption.
- Property taxes.

Foreign tax credit

There are no provisions for foreign tax credit in Chad.

Withholding taxes

WHT on commerce of retail goods

A 4% WHT rate applies to natural persons and legal entities that purchase or sell wholesale or retail goods. This WHT also applies to imports.

Companies with more than one shareholder that regularly pay their taxes may apply for a suspension of payment of WHT (renewable every three months).

WHT on capital gains and dividends

WHT on capital gains and dividends is 20% and applies to residents and non-residents.

WHT on income of non-residents

WHT on income of non-residents is 25%. It applies to income of any legal or natural person who is not resident in the CEMAC area (i.e. Cameroon, Central African Republic, Chad, Gabon, Equatorial Guinea, Republic of Congo).

The income of legal persons (companies) whose tax residence is in the CEMAC area is exempted from the WHT. However, the income of natural persons whose tax residence is in the CEMAC area is subject to WHT at the rate of 20%.

WHT on personal income

The employer withholds tax on personal income every month.

WHT on income from public procurement contracts financed from outside of the country

Chad's lowest WHT rate on income is 12.5%. It applies in either of the following two cases:

- On income of agents, consultancy firms, and corporations executing a contract within the framework of public procurement contracts financed from outside of the country.
- On income of companies working within the petroleum projects.

The WHT at the rate of 12.5% does not apply to dividends and interests, but only to royalties paid to non-residents within the petroleum projects.

The dividends paid to residents and to non-residents is subject to WHT at the rate of 20%.

WHT on interest

The interests paid to non-residents whose tax residence is outside the CEMAC area are subject to WHT at the rate of 25%, but they are exempted from WHT if they are paid to the CEMAC area's residents.

Bonds and notes are subject to a WHT of 20% of the interests for registered bonds and of the interests for bearer participation certificates.

WHT is not applicable to interests paid to residents.

WHT on rent

WHT on rent is 15% for residents and 20% for non-residents.

WHT on rental of equipment

The rates of WHT on rental of equipment held by natural persons is 15% for residents and 20% for non-residents. The WHT applies on the total amount paid, including the major repairs, which, by nature, should be normally supported by the owner, when these repairs are supported by the tenant without deduction from the price of the rental.

WHT on interconnection expenses of mobile companies

WHT on interconnection expenses of mobile companies paid to non-resident companies is 25%.

Tax treaties

Chad has one tax treaty with the member states of CEMAC.

WHT benefits on payments made to CEMAC residents

To avoid double taxation of incomes of CEMAC origin, the provisions of the Convention provide a principle of exclusive taxation in one country.

Regarding revenues of services, they will be taxed only in the country of location of the beneficiary of incomes (i.e. no WHT in the country of payment of incomes).

Regarding incomes from securities (dividends, interest on deposits, interest on bonds, etc.), they will be taxed only in the country of distribution (i.e. no WHT in the country of payment of incomes).

Tax administration

Taxable period

Companies must, in principle, close off their yearly financial accounts on 31 December each year. Where a company begins operations later in the year (say June 2018), it has the option of operating for a minimum of 12 months or a maximum of 18 months to close off its accounts.

Tax returns

Corporate tax returns are due on 30 April, at the latest, with the possibility to apply for an exceptional extension to 15 May.

Before fiscal year 2018, taxpayers could subscribe to a rectifying Statistical and Tax Statement at any time before any tax audit.

From fiscal year 2018, any taxpayer who has made errors or omissions in one's spontaneous tax returns (monthly tax return, annual tax return, annual statement of salaries and wages) can subscribe to a rectificative tax return within two months from the date of filing of the initial tax return.

An amending declaration is binding to the tax administration if filed within two months.

Payment of tax

Certain taxes are considered instalment payments of corporate tax. Once the amount of corporate tax is known, these payments are deductible from the amount and only the balance has to be paid on 15 May. These taxes include the minimum corporate tax, the quarterly instalment payments, and the 4% discharge for retail goods, if applicable.

Minimum corporate tax (monthly and quarterly)

The minimum corporate tax shall be filed and paid, at the latest, on the 15th day of the month following the month of achievement of the turnover for companies subject to the normal tax regime and quarterly for companies subject to the simplified tax regime.

However, for the payment of the floor rate, payment may be made in four instalments of XAF 250,000 each, 15 days after the end of the quarter.

If this instalment payment exceeds the annual corporate tax, the remainder is lost.

One-third instalment payments (paid three times quarterly)

Corporations that fulfil the following conditions are subject to quarterly instalment payments:

- Liable to corporate tax.
- Made a profit during the prior fiscal year.
- The amount of the corporate tax of the prior fiscal year is superior to at least XAF 100,000.

The quarterly instalment payments are equal to one-third of the difference between the corporate tax due during the prior fiscal year and the minimum income tax paid during the same period.

The payment must take place before the 15th day of May, August, and November.

Since August 2017, taxpayers are authorised to pay taxes, penalties, and fines by electronic money. The tax administration has not yet precised the modalities of payment.

Tax audit process

In brief, the tax audit exercised by the *Direction Générale des Impôts* (Directorate General of Taxes) in Chad consists of three different types of control:

- Audit of monthly, quarterly, and annual tax returns, which requires no prior notice by the tax administration to the taxpayer.
- Spot checks, which are done on one or more taxes on a group of operations over a period of less than one fiscal year. Prior notice is obligatorily given by the tax administration to the taxpayer.
- General verification, which is the most important audit and needs prior notice by the tax administration to the taxpayer. This type also involves the other two audits aforementioned, so that the taxpayer can perform the necessary adjustments on previous declarations.

In all the audits, there are contradictory and contentious proceedings. The contradictory proceeding is engaged when the tax administration finds deficiency, inaccuracy, or omission in the information on the tax returns and notifies the taxpayer thereof. The contentious proceeding, on the other hand, is engaged when the taxpayer, in turn, disagrees with the observations of the tax administration and challenges its position directly with the tax administration and/or with the courts.

Contentious claim

Taxpayers who dispute the justification or the amount of tax levied on them may, if they had formally filed the claim under certain conditions, obtain stay of payment of the disputed portion of the said taxes, on condition that they:

- expressly request respite of payment in the complaint
- state the amount or the basis of the tax relief requested
- provide supporting documents showing payment of the undisputed portion of the tax and 15% of the disputed one, and
- provide the bank guarantee obtained from a bank located in Chad.

Statute of limitations

The total or partial omissions found in the tax base, the inadequacies and inaccuracies, or the taxation errors, can be repaired by the tax administration until the end of the third year following that in which the tax or fee is payable.

Furthermore, any omission or insufficiency of tax revealed by a proceeding before the criminal courts or by a contentious claim may, without prejudice to the general period of repetitions established above, be repaired until the end of the third year following the revelation of the facts.

Validation of the taxpayer's accounts: Competence of Chartered Accountants CEMAC

Before 2018, the certification of the taxpayer's accounts made by an accountant or chartered accountant, accredited to the Court of Appeal of N'Djamena or approved CEMAC, is binding to the tax administration.

From fiscal year 2018, only CEMAC chartered accountant are authorised to validate the taxpayer's accounts.

Applicable sanctions

Fine applicable to the taxpayer: Fine of XAF 300,000 if the taxpayer's account is validated by an accountant or chartered accountant of the Court of Appeal of N'Djamena.

Fines of XAF 5 million are applicable to any accountant who validates an accounting that is inconclusive or tainted by irregularities.

Furthermore, a suspension of approval for two years and criminal prosecution are applicable.

Prohibition of chartered accountants to provide tax advice

From 2018, any accountant who provides tax advice in contradiction to the texts that govern its profession is liable to a fine of XAF 5 million, the suspension of its authorisation for two years, and criminal prosecution.

There is an incompatibility of the practice of the profession of chartered accountant with the profession of tax advisory as defined by the Statute of Tax Council.

Topics of focus for tax authorities

- Foreign technical assistance fees.

- WHT on non-commercial profit.
- Stock variation.
- VAT on provision of foreign services.
- Non-deductible charges (e.g. liberalities, donation, commission on purchases).
- Transfer pricing documentation.
- Transactions between affiliated entities.

Congo, Democratic Republic of the

PwC contact

Emmanuel Lebras
PricewaterhouseCoopers Tax & Legal
Immeuble Midema
13, avenue Mongala, Gombe
Kinshasa, Democratic Republic of the Congo
Tel: +242 05 557 76 76
Email: emmanuel.lebras@cg.pwc.com

Significant developments

Finance Law for 2018

The Finance Law for 2018 entered into force as of 1 January 2018.

The main changes enacted are as follows:

Major overhaul of the concept of permanent or fixed establishment

The Finance Act broadens the scope of permanent or fixed establishments by taking inspiration from Organisation for Economic Co-operation and Development (OECD) models, notably by specifying that mines, oil or gas wells, quarries, or any other place of exploration and extraction of natural resources constitute physical facilities considered to be permanent or fixed establishments.

In addition, the following are now considered to have a permanent establishment (PE) in the Democratic Republic of the Congo (DRC):

- Any foreign company operating in the Democratic Republic of the Congo through a person who contracts on its behalf in the usual way. The same applies if, in the absence of signing authority, that person habitually keeps in the Democratic Republic of the Congo a stock of goods on which one regularly takes goods for delivery on behalf of the foreign company.
- An insurance company of a foreign country, except in case of reinsurance, that receives premiums in the territory of the Democratic Republic of the Congo or insures risks that are incurred through the intermediary of a person.

However, the activities carried out by an agent enjoying an independent status acting in the ordinary course of one’s activity (e.g. broker, general commissioner) do not constitute a PE.

Exemption from value-added tax (VAT) for new businesses

Import of capital goods intended for creative investments made by new companies are exempted from VAT under the conditions determined by regulation.

Mining, oil, and heavy investment companies

Exclusion of VAT exemption on importation and acquisition of goods during the exploitation phase is maintained for mining companies (including mining sub-contractors). Nevertheless, in order to avoid VAT credits, exporting mining companies, oil production companies, and companies that have made heavy investments that are in the implementation phase are allowed, as far as their local acquisitions are concerned, to be invoiced free of tax on goods and services for their operating or investment needs. A certificate must be obtained from the tax authorities for this purpose.

Withholding of VAT charged to mining companies

The Finance Act extends the withholding of VAT invoiced by public institutions to mining companies. Indeed, only VAT invoiced by public companies entirely owned by the state were previously targeted. A specific return is used.

Deduction of VAT on the purchase of petroleum products

Previously, only VAT on the following petroleum products was deductible:

- Those intended for resale by wholesalers.
- Those acquired for the production of electricity to be resold.
- Fuel used by fixed appliances as fuels in industrial companies or aircraft by airlines. From now on, this deduction is limited to 50%.

It seems that the intention of the Legislator, as mentioned in the preparatory work, was to extend this right to deduct other petroleum products. A point has therefore been added to Article 41 of the VAT Law in order to allow deduction, up to 50%, of VAT on the purchase of petroleum products for cases other than those referred to above. Nevertheless, the literal reading of this point has the opposite effect by restricting the right to deduction.

VAT electronic device planned for 1 January 2019

The measure concerning the electronic fiscal device to which taxable persons will have to register and intended for the collection of VAT data as of 2019 is maintained.

Updated Mining Code

The Law n° 18/001 dated 9 March 2018 amending the Law n° 007/2002 dated 11 July 2002 relating to the Mining Code has been published in the DRC official Gazette on 28 March 2018.

New Excise Code

On 13 March 2018, the president of the Republic promulgated the new Law pertaining to the Excise Code.

The new Excise Code extends the list of excise duty products from 14 products to 76 products as well as 4 services provided by means of signals transmitted or conveyed by telecommunications processes.

Taxes on corporate income

Corporate income tax (CIT) is paid on profits realised by a company or an individual that carries out any operational activity in the country.

The Democratic Republic of the Congo levies taxes on resident companies and individuals on a territorial basis (or source basis) of taxation. Foreign-sourced profits (e.g. dividends received from a foreign subsidiary) are thus exempt from CIT.

Non-resident companies or individuals that carry out an activity in the Democratic Republic of the Congo are taxable on profits they realise through PEs or fixed establishments that are located in the Democratic Republic of the Congo.

The CIT rate is 35% (30% for mining companies).

Minimum income tax

There is a minimum tax of 1% of the yearly turnover for companies other than micro-sized and small-sized companies (*see below for the rates for micro-sized and small-sized companies*).

The minimum tax applies to loss-making companies as well as companies with CIT of less than 1% of turnover. Companies that carry on business but realise no turnover in a concerned year are also subject to the minimum income tax as follows:

- 2.5 million Congolese francs (CDF) for large companies.
- CDF 750,000 for medium-sized companies.
- CDF 30,000 for small-sized companies.

Note that turnover includes, *inter alia*, all profits and interest received, as well as exceptional profits, in essence, any credits on the income statement that have the nature of income or gain, as well as capital gain.

Micro-sized and small-sized companies

Micro-sized companies are those whose annual turnover is less than CDF 10 million, and small-sized companies are those whose annual turnover is between CDF 10 million and CDF 80 million.

Micro-sized companies are subject to an annual lump-sum tax amounting to CDF 50,000.

Small-sized companies are subject to CIT at the following rates:

- 1% of turnover for the supply of goods.
- 2% of turnover for the supply of services.

Business termination

In the event of business termination, companies pay a lump-sum amount as follows:

- CDF 500,000 for large companies.
- CDF 250,000 for medium-sized companies.
- CDF 30,000 for small-sized companies.

Tax on rental income

Rental income related to buildings, houses, offices, premises, warehouses, etc. is administered at the level of every provincial tax authority. Gross rental income is subject to tax at a flat rate of 22% in the province of Kinshasa.

In order to secure the payment of this tax, the Tax Code has put into practice a withholding tax (WHT) system. In the province of Kinshasa, the tenant is liable to withhold 20% of the rentals paid and to remit this tax to the authority. The tax authority may challenge rentals that are not at arm's length by referring to the rental prices of similar houses.

The rent of buildings and land owned by real estate companies is subject to CIT.

Local income taxes

There are no local or provincial government direct taxes on income (except for the tax on rental income that is administered at the level of provinces).

Corporate residence

Companies incorporated in the Democratic Republic of the Congo are considered resident companies, regardless of where they are managed and controlled.

Permanent establishment (PE)

A non-resident company is deemed to have a PE in the Democratic Republic of the Congo in either of the following cases:

- It has a material place of business (e.g. head office, branch) or any other fixed or permanent installations producing revenues in the Democratic Republic of the Congo.
- Without having a material place of business, it carries out a professional activity under its own name during a period of at least six months.
- Any foreign company operating in the Democratic Republic of the Congo through a person who contracts on its behalf in the usual way. The same applies if, in the absence of signing authority, that person habitually keeps in the Democratic Republic of the Congo a stock of goods on which one regularly takes goods for delivery on behalf of the foreign company.
- An insurance company of a foreign country, except in case of reinsurance, that receives premiums in the territory of the Democratic Republic of the Congo or insures risks that are incurred through the intermediary of a person.

Other taxes

Value-added tax (VAT)

VAT rates

The VAT base includes whatever sums, amounts, goods, or services that are received as compensation for an operation; this involves subsidies as well as any other costs, taxes, rights, or any related levies, whatever their nature, excluding the VAT itself. For imports, VAT is normally charged on the customs value of the goods concerned, plus the customs duty and import-related expenses. There are two rates:

- A standard rate of 16%.
- A rate of 0% on exports and assimilated transactions.

VAT exemptions

The main exempted activities include some banking and financial services, education, medical services, charitable and social activities, and transactions that are subject to a specific taxation.

The import of wheat flour, corn, and corn flour; the local sale of bread, wheat flour, corn, and corn flour; the domestic sales of animals; and the import and sale of inputs for agriculture are also VAT-exempt.

Application to non-residents

A non-resident having no PE in the Democratic Republic of the Congo but who raises an invoice on a DRC resident is required to appoint a VAT representative who is based in the Democratic Republic of the Congo and who will be accountable for the payments and collections that rest with the non-resident supplier. Failing to appoint a representative will result in the authorities holding the DRC resident customer liable for the payment of VAT that is due by application of a reverse-charge mechanism.

Mechanisms of VAT

An entrepreneur is entitled to offset VAT paid on purchase of goods and services used for business purposes against VAT charged on sales of goods and/or services. Businesses exempted from VAT on part of their sales are, in principle, entitled to deduct VAT paid on a *pro rata* basis (i.e. the ratio between the turnover related to VATable activities and the global turnover).

No VAT credit is allowed for expenditures not necessary for business purposes, nor on some specific expenditure (e.g. except in some specific circumstances, fuel, accommodation or entertainment for directors and employees, gifts, company cars).

VAT returns must be filed by the 15th day of each month in respect of transactions made the previous month. The net amount of VAT payable must be remitted to the tax authorities together with the return. If VAT paid exceeds VAT charged, the resulting VAT credit can be carried forward.

Refund of VAT can only be requested in some very specific circumstances.

Customs duties

Customs duty on imports

Customs duty on imports is calculated on the cost, insurance, and freight (CIF) value of the goods. The customs tariff on imports is the following:

Example of goods	Customs tariff rate (%)
Chemical products	
Machine tools	5
Material for transport of merchandise	
Flour	
Aggregate	10
Petrol, diesel, kerosene	
Clothing	
Furniture	20
Cigarettes	

Imported goods are also subject to the following levies at the time of border crossing:

- VAT on imports (wheat flour, corn, and corn flour are exempt from VAT).
- For certain goods, consumption and excise duties.
- Various para-fiscal levies.

Customs regulation also allows for certain suspensive rates, such as temporary admission.

Customs duty on exports

Customs duty on exports applies to certain categories of products produced locally, which are:

- Crude coffee.
- Electric current.
- Mineral products and their concentrates.
- Mineral oils.
- Timber.
- Scrap metals.

The bond value on exports of the said goods is fixed either by ministerial decree upon suggestion of the customs administration, or in the absence of a decree, by reference to the value of the goods when they leave the Democratic Republic of the Congo.

The rates of customs duties on exports are the following:

Example of goods	Customs duty rate (%)
Coffee Electrical energy	1.0
Diamond (small-scale mining) Gold (small-scale mining)	1.5
Diamond (industrial mining) Gold (industrial mining)	3.0
Minerals (copper, nickel, lead, etc.)	5.0
Timber	6.0
Silver Platinum	10.0

Consumption and excise duties

Scope

The following goods are affected by consumption and excise duties:

- Alcohol and alcoholic drinks.
- Carbonated drinks.
- Mineral oils (petrol, oil, jet A1, diesel, etc.).
- Lubricating oil and lubricant.
- Liquid for hydraulic brakes and other liquids for hydraulic transmissions.
- Perfumes.
- Cosmetics and make-up products.
- Hair preparations.
- Soaps, organic surface-active agents, lubricating preparations, polish, and creams for footwear.
- Plastic articles.
- Rubber articles.
- Tobacco.
- Vehicles.
- Telecommunications industry's products, etc.

Applicability and tax base

Consumption and excise duty is applicable to:

- the production in the Democratic Republic of the Congo of consumer goods subject to duty and
- the import of these products to the Democratic Republic of the Congo.

Consumption and excise duties accrue on imports, as do customs duties and VAT.

On imports, the tax base on consumption and excise duties is the raised CIF value of the customs duties, except for mineral oils, for which the tax base is the average fiscal threshold price.

Rates

The rates of consumption and excise duties vary from 5% to 80%.

Para-fiscal taxes

Various para-fiscal taxes shall be collected at the time of the import and/or export of goods in the Democratic Republic of the Congo.

The main applicable levies include the following:

- Administrative payment: 2% of the CIF value.
- Congolese Control Office (OCC) payments: 1.5% of the CIF value, plus various other administrative charges (Laboratory and analysis charges: 30 United States dollars [USD] maximum per test).
- *Office de Gestion du Fret Maritime* (OGEFREM) payment: 0.58% of the CIF value.
- Funds for the Promotion of Industry (FPI) charge: 2% of the CIF value.
- Cost of inspection from the Bureau of Inspection, Valuation, Assessment, and Control (BIVAC): 1.5% of the free on board (FOB) value.

Property tax (IF)

Scope

IF is applicable to constructions (i.e. villas, apartments, and other buildings) and land located in the Democratic Republic of the Congo.

The person subject to this tax is the owner (bearer of title deed, holding, long leasehold, mining) of the construction on 1 January of the tax year.

The following types of property are exempt from IF:

- The public administrations of states, provinces, and towns, and public businesses disposing of no other resources than those coming from budgetary grants.
- Licensed religious, scientific, or philanthropic institutions.
- Private non-profit-making organisations involved in religious, scientific, or philanthropic works and having obtained civil personality.
- Foreign states as far as embassy offices, consulates, or lodgings of diplomats or consuls are concerned (upon condition of reciprocity).

Some constructions and land are, notwithstanding, exempt from IF, notably depending on the status of their owner. From this perspective, the following are exempt from the property tax on goods:

- Constructions and land allocated by the owner exclusively for agriculture or farming, including constructions serving to prepare agricultural or farming products, on the condition that at least 80% of these derive from the farming of the property owner concerned.
- Constructions and land allocated by the owner for non-profit purposes:
  - for the execution of a public service, teaching, scientific research, the setting up of hospitals, hospices, clinics, free clinics, or other similar charitable institutions
  - for chambers of commerce having obtained civil personality, or
  - for social activity of mutual companies and professional unions (syndicates) having obtained civil personality, with the exception of locales providing accommodation, a public house, or any business.

Tax base

The tax rates vary according to the nature of the goods (villas, buildings of more than one floor, flats, and other buildings) and locality ranks.

For villas, rates are fixed per square metre of area (between USD 0.3 and USD 1.5), while for other taxable items the contribution is determined on an inclusive basis (by floor, by flat, by unused land - in Kinshasa, the rate for one floor is USD 75).

Transfer tax

The transfer of a building in the Democratic Republic of the Congo gives rise to the payment, by the purchaser, of a registration duty amounting to 3% of the building's value for a normal sale.

Stamp taxes

There are no stamp taxes in the Democratic Republic of the Congo.

Payroll taxes

The tax on wages is withheld at source by the employer.

Professional salaries tax (Impôt professionnel sur les remunerations or IPR)

Any remuneration paid by a third party, whether public or private, provided it is not part of a service contract, and remuneration paid to executive shareholders, other than those involved in joint stock companies, are subject to payroll taxes and social contributions.

These remunerations includes salaries, wages, fees, benefits that do not represent reimbursement of professional expenses, gratuities, bonuses, and all other payments, fixed or variable, whatever their qualification.

All benefits, except for housing, transport, family allowances, and medical expenses, to the extent that they are legal or reasonable, are added to remunerations.

The taxable basis of the IPR for expatriate employees must not be lesser than the equivalent minimum wage applied in their home country.

The IPR is computed by applying a progressive tax scale. The overall tax shall not exceed, in any case, 30% of the taxable income.

It should be noted that there are other applicable rates depending on the activity or the nature of the compensations paid as remuneration:

- Proportional (10%): Applicable on severance pay.
- Proportional (15%): Applicable on income of casual or temporary workers.

A rebate of 2% applies on the tax amount in terms of the number of the dependants.

Exceptional salaries tax (Impôt exceptionnel sur les rémunérations or IER)

Employers of expatriate employees are subject to a tax of 25% on the expatriates' remuneration (10% for mining companies). This amount is not deductible for corporate tax purposes, except for mining companies. This tax was established to discourage employers from hiring expatriate staff. Expatriate staff are comprised of employees from countries other than those bordering the Democratic Republic of the Congo.

Filing and payment obligations for IER are identical as for IPR. Employers are required to file a return for payroll taxes on the 15th day of the month following the payment of the salaries. An annual payroll tax return also needs to be submitted on the 15th day of the year following the year of the payment of the salaries.

Failure or default or delay in paying due taxes gives rise to:

- Tax penalties: 20% to 40% of the tax amount due.
- Tax interest: 4% per month of the tax amount due for late payment.

Social and employment contributions

Social and employment contributions are as follows:

- National insurance fund (*Institut National de Sécurité Sociale* or INSS): 3.5% for the employees' share (withheld at source by the employer) and 9% for the employer's share.
- National office for professional training (*Institut National de Préparation Professionnelle* or INPP): INPP contribution is paid only by the employer at:
  - 3% for state-owned companies and private companies with up to 50 employees.
  - 2% for private companies with 51 to 300 employees.
  - 1% for private companies with over 300 employees.
- National office of employment (*Office National de l'Emploi* or ONEM): ONEM contribution is paid only by the employer at 0.2%.

The deadline to file and pay INSS, INPP, and ONEM return is the 15th day of the month following the month where the salary has been paid. In this regard, a single return is filed.

Business tax on pension capital

The Finance Act 2016 has introduced a business tax of 10% based on pension capital. This tax applies to companies that implement a supplementary pension scheme in favour of employees of a certain category. The tax is triggered by the actual payment of the pension to the retired person and not at the time of their constitution (administrative position).

Branch income

Tax rates on branch profits are the same as on corporate profits. However, the costs incurred abroad by the head office of the branch are not deductible in the Democratic Republic of the Congo, and the branch is liable for taxation of deemed distributed profits on top of the CIT. On profits realised, a branch will pay both the 35% CIT and a 20% tax based on 50% of the net profits after deduction of CIT.

Income determination

Taxable income consists of profits from any industrial, commercial, agricultural, or real estate operations entered into by a taxpayer in the Democratic Republic of the Congo, as well as any increases in the net assets as a result of such activities and any increases derived from capital gains, either realised or not, of any nature and origin.

Inventory valuation

Since adhesion of the Democratic Republic of the Congo into the Organisation for the Harmonisation of Business Law in Africa (OHADA) law treaty effective from 12 September 2012, or as from 1 January 2015 as far as accounting matters are involved, the inventory valuation methods permitted are as follows:

- The weighted average cost method.
- Last in first out (LIFO).

Capital gains

There is no specific tax regime applicable to capital gains in DRC Tax Law.

Capital gains are included in the corporate taxable basis of the local entity benefitting from the capital gain and, as such, subject to the 35% CIT (30% for mining companies).

However, new rules have been enacted by the updated Mining Code as regards capital gain realised by non-resident entities when selling shares. Indeed, capital gain recognised at the level of the legal entity that sold shares and is deemed to be of Congolese origin to the extent that the assets of the legal person whose shares were sold are located in the Democratic Republic of Congo. The tax is deducted at source by the assignee legal person who pays it according to the terms of payment of taxes due to the Treasury.

Dividend income

Local-sourced dividends received by a local company are subject to a 20% income tax rate under standard law. Of the gross dividends received by resident companies, 90% are excluded from the CIT base, provided that such dividends have been subject to the 20% WHT.

Interest income

Local-sourced interest received by local companies is subject to the standard CIT regime.

Royalty income

The DRC Tax Law defines royalties as any kind of remuneration paid for the use, or for the concession, of a copyright on art works, scientific works, film works, brands, charts, any design or formula, or any secret process or recipe, as well as for the use of industrial, commercial, or scientific equipment and for intellectual property (IP) in any industrial, commercial, or scientific field.

The net amount of royalties is subject to WHT at the rate of 20%.

The tax base of royalties is calculated by deducting 30% from the royalties invoiced (i.e. the taxable basis will be 70% of the royalties invoiced).

Foreign income

If an income is considered as foreign-sourced, by application of the territoriality principle, it is not taxable in the Democratic Republic of the Congo.

Deductions

To arrive at taxable income, a taxpayer may deduct all costs actually incurred and which have served in the production of income of the company during the year.

Depreciation

Depreciation of fixed assets used in the company's operations may be deducted. Depreciation rates are as follows:

Nature of the good	Depreciation rate (%)
Buildings	2 to 5 (depending on the materials used)
Machinery and equipment	10
Vehicles	20 to 25 (depending on its use)
Fixtures, facilities	10

Item's nature	Useful lives adopted (years)
Building - general purpose or heavy equipment	20 to 25
Building - specific purpose	8
Computer equipment	3 to 5
Software	3 to 5
Motor vehicles	4 or 5
Furniture and fittings	8 or 10
Office equipment	10

As per the OHADA accounting law, however, assets should be depreciated as per the practice of the specific industry so as to depreciate each category of asset over the related normal expected useful life.

Goodwill

There is no specific provision relating to depreciation of goodwill in DRC Tax Law.

However, it is generally agreed that taxpayers can amortise goodwill in accordance with the linear system. The amortisation of goodwill rate is at the discretion of the taxpayer, but with the risk that the tax authorities can assess the rate otherwise.

Start-up expenses

Start-up expenses are deductible, provided they are staggered over three or four years.

Interest expenses

Interest costs on funds borrowed from third parties and invested in the company's operations are, in principle, deductible. Further to the tax authorities, the deduction, in principle, requires an effective payment.

Please note that if the borrower is a private limited company and the lender is one of its shareholders, the interests on loans paid are not deductible from the CIT basis.

Moreover, assuming the terms of the loan are at arm's length, the interest expense will be tax deductible in the Democratic Republic of the Congo provided that (i) the interest rate applied is less than the average international interbank market rate in the month the payment of the principal is made and (ii) the repayment of the principal takes place within five years from when it has been made available.

Bad debt

As a general rule, any kind of provisions (e.g. for bad debts) may not be deducted to arrive at taxable income.

However, provisions constituted by credit institutions in respect of doubtful debts can be deducted from CIT under certain conditions

Charitable contributions

Charitable contributions or donations are not deductible.

Fines and penalties

Legal or administrative fines of any nature are not deductible.

Taxes

Income taxes are not deductible.

Other significant items

The following are examples of other expenses that may be deducted to arrive at taxable income:

- Rents actually paid and rental expenses linked to buildings or parts of buildings used in the exercise of the activity and any overhead derived from their maintenance, lighting, etc.
- Overhead costs from maintenance of furniture and equipment used in connection with the company's activities.
- Wages, salaries, bonuses, and allowances of employees and workers used in the operation, as well as benefits in kind if these have been added to remunerations paid.
- Professional expenses incurred for the purpose of acquiring or maintaining income or earnings.

The following are examples of other expenses that may not be deducted to arrive at taxable income:

- Expenses of a personal nature (i.e. for private purposes), such as accommodation, school fees, leave indemnities, and any other expenses not necessarily incurred in the business.

- Expenses linked to rental properties as a landlord as well as related depreciation expenses.

Net operating losses

The Finance Act for 2016 significantly amended the rules applicable to the offsetting and carryover of business losses. Henceforth, the new wording of Article 42-1° of the legislative-order n° 69/009, dated 10 February 1969, pertaining to the scheduled income taxes:

- repeals the prior authorisation of the tax administration to the offsetting of the losses carried over, but
- limits the offsetting to 60% of the tax profits made in the tax period prior to applying the deduction of said business losses, and
- no longer fixes a time limit for carrying over business losses.

There is no carryback loss regime in the Democratic Republic of the Congo.

Payments to foreign affiliates

As a general rule, payments to foreign affiliates should be at arm's length and transfer pricing documentation must be provided.

In respect of payments made by a local company to a foreign company for services (e.g. management services, technical assistance services), such expenses are deductible, provided that:

- the services rendered can be clearly identified
- the services cannot be rendered by a local company, and
- the amount paid for the service is not overstated and is commensurate to the nature of the service itself.

Under the notion of abnormal acts of management, in addition to expenses, any form of benefits or aid granted to third parties without equivalent consideration for the company will be taxable, such as:

- Payments in the form of mark-ups or markdowns of purchases or sales.
- Payments of excessive royalties without any equivalent consideration.
- Income waivers (sales at a reduced price, free supply of services, grant of interest-free loans or loans bearing insufficient interest).
- Debt or commission waivers.
- Debt forgiveness.
- Benefits disproportionate to the service rendered.

Benefits or aids granted to companies within the same group may be deemed as normal acts of management, provided that the company shows the existence of its own interest in granting such benefits or aids. The sole general interest of the group is not sufficient to justify such practices.

Group taxation

There is no group taxation regime per the DRC tax legislation.

Transfer pricing

The following specific transfer pricing requirements are provided by the Tax Code:

- Interests on loans are not considered as deductible expenses for the borrower if the borrower is a private limited company and the lender is a shareholder.
- Where a local company is directly or indirectly controlled by a foreign company, any abnormal advantage given to the latter or related person is considered as an indirect distribution of profits and is then added back to the profits of the local company.
- In respect of payments made by a local company to a foreign company, for services (management services, technical assistance services), the Tax Code provides that such expenses may be deductible if (i) the services rendered can be clearly identified, (ii) the services cannot be rendered by a local company, and (iii) the amount paid for the service is not overstated and is commensurate to the nature of the service itself.

Finance Law 2015 imposes an obligation for companies established in the Democratic Republic of the Congo to have transfer pricing documentation on operating transactions with their affiliated companies located abroad. However, Finance Law 2015 only provides general guidelines for the information to be provided (i.e. structure of the group, selection of the most appropriate transfer pricing method).

Companies established in the Democratic Republic of the Congo that are dependent, in law or in fact, on companies or groups of companies established outside the Democratic Republic of the Congo and whose annual turnover, excluding tax, is within an amount determined by regulation shall submit either a paper or an electronic declaration containing a simplified documentation on the transfer pricing in accordance with the tax administration's template. Such declaration has to be made within six months from the deadline to file the CIT return.

Thin capitalisation

There are no thin capitalisation rules in the DRC tax legislation. However, it is provided in the Mining Code, from a general perspective, that, for the holder of a mining licence, the ratio of the funds borrowed against the amount of own funds should not exceed 75/25.

Moreover, the OHADA Treaty provides that shareholders' equity should be above half of the company's authorised share capital.

Controlled foreign companies (CFCs)

No specific provision relating to CFCs are provided for in DRC law.

Tax credits and incentives

Investment Code

The Investments Code allows for a certain number of tax, customs, and general order measures designed to favour direct investments (notably a CIT holiday during a defined investment period that would differ depending on the location of the investments). The preferential tax treatment measures of the Investments Code apply to direct investments and/or to entities that carry them out.

The regime of the Investments Code does not apply to numerous sectors, notably:

- Mining and hydrocarbon.
- Banking and insurance.
- Trade.

In order to take advantage of the provisions of the Investments Code, the following conditions must be fulfilled by the investor:

- The investor must be a Congolese legal entity.
- The investment must be at least USD 200,000.
- The investing company must comply with the rules and regulations relating to the environment.
- The investing company must undertake to train local personnel in technical and executive duties.
- The investing company must undertake to create an added value of 35% of its initial investment (within a stipulated time period to be agreed).

The application file is examined by the National Agency for the Promotion of Investments in the Democratic Republic of the Congo (ANAPI) and then sent to the Minister of Finance, who decides on the grant of the advantages foreseen in the Investments Code to the applicant, by the way of a Ministerial Order.

Mining

The Mining Code, completed by the Mining Regulations, sets out a preferential customs and fiscal regime that deviates on some important points from the standard regime.

The tax rules set up by the Mining Code are supposed to be exhaustive, exclusive (it provides for all the taxes and customs duties owed to the Treasury by eligible entities, to the exclusion of any other form of taxation), and stable. This regime applies to all holders of a mining title or career, or for which a mining title or career is established, as well as to (i) affiliated companies carrying out mining activities and (ii) sub-contractors carrying out mining activities resulting exclusively from contracts concluded with the bearer of the mining title.

Among other tax preferential features of the Mining Code, the following apply:

- A reduced CIT rate of 30%.
- Absence, under conditions, of WHT on interest paid in relation to loans denominated in foreign currency and concluded abroad.
- A reduced 10% WHT rate for dividends.
- A reduced 10% exceptional tax for expatriates' remuneration.
- A possibility to deduct some specific provisions.

The holder of a mining licence is also liable to mining royalties, computed on the basis of the amount of sales minus the cost of transport, analysis in relation to the quality control of the commercial product for sale, insurance, and cost relating to the sale transaction.

Hydrocarbons

The tax regime of oil companies is mainly provided in the production-sharing contracts as well as in the Ordinance-Law 081-013 of 2 April 1981 bearing general regulations regarding Mining and Hydrocarbon.

The tax regime of oil companies is defined by the Law 15/012, dated 1 August 2015, pertaining to the general regime of Hydrocarbon.

Foreign tax credit

No specific provision relating to foreign tax credits is provided for in DRC law.

The tax treaties for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on incomes between the Democratic Republic of the Congo and South Africa, and between the Democratic Republic of the Congo and Belgium, have been effectively implemented.

Withholding taxes

The following DRC-sourced payments are subject to a WHT in the Democratic Republic of the Congo:

- Dividends.
- Royalties.
- Interest. Note that if the interest is paid to a local company, the WHT does not apply since the interest is included in the taxable income of the company charging such interest.
- Directorship fees.
- Service fees paid to foreign individuals or entities not established in the Democratic Republic of the Congo.

WHT rate and payments

The standard rate of WHT on dividends, royalties, interest, and directorship fees is 20%, which is based on the gross amount of sums paid.

If the payee does not withhold the tax from the amount invoiced and pays the tax of 20% directly, then the tax authorities consider that the basis of the 20% tax is composed of the amount invoiced plus the amount of the tax.

Consequently, in the case that the DRC company takes in charge the corresponding WHT, the WHT rate will be 25% (20/80) and the amount of tax will not be tax-deductible.

For royalties, the WHT is charged on the net amount of the royalties paid. The tax authorities consider that the net amount of royalties is calculated by deducting 30% from the royalties invoiced (i.e. the taxable basis will be 70% of the royalties invoiced).

The rate of WHT on amounts paid as compensation for services provided by foreign individuals/entities is 14%, which is based on the gross amount of sums paid.

The tax treaties for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on incomes between the Democratic Republic of the Congo and South Africa, and between the Democratic Republic of the Congo and Belgium, have been effectively implemented.

These treaties provide for reduced rates for dividends, interest, and royalties. It is also generally agreed that, by application of treaty, services furnished by providers being tax resident of those countries and being not established in the Democratic Republic of the Congo should not be subject to the 14% services fees WHT.

The table below provides a summary of different WHT rates:

	WHT (%)			
Recipient	**Dividends (1)**	**Interest**	**Royalties**	**Services**
Resident	10/20	N/A	20	N/A
Non-resident (not established)	10/20	0/20 (3)	20	14
Treaty:				
Belgium	10/15	0/10 (5)	10	N/A
South Africa	5/15 (2)	0/10	10	0/14 (4)

Notes

1. A reduced 10% WHT rate for dividends is applied in the mining sector.
2. The WHT charged shall not exceed 5% of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) that directly holds at least 25% of the capital of the company paying the dividends; 15% of the gross amount of the dividends in all other cases.
3. Interest paid by mining companies for loans borrowed in foreign currency abroad are exempt from WHT.
4. The term ‘permanent establishment’ likewise encompasses: the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by an enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the contracting state for a period or periods exceeding in the aggregate 183 days in any 12-month period commencing or ending in the fiscal year concerned.
5. As for the Treaty with Belgium, it is provided that interests shall be exempted from tax in the state of origin in the case of interests on commercial receivables, as well as interest on receivables or loans not represented by bearer securities.

Tax administration

Taxable period

The taxable period is 1 January to 31 December. This duration can be less than 12 months for the first accounting period beginning in the course of the first half of the calendar year. The same duration can also be more than 12 months for the first accounting period beginning in the course of the second half of the calendar year.

Tax returns

The yearly CIT return is due by 30 April of the following year.

Payment of tax

Final payment of CIT is required when submitting the yearly tax return, which is due by 30 April of the following year.

CIT is payable in local currency through a DRC bank account by a wire transfer to the bank account of the Public Treasury. Consequently, in order to operate in the Democratic Republic of the Congo, the opening of a bank account in a DRC bank is mandatory. Moreover, the tax authorities require the bank account number of the applicant in order to grant a taxpayer number.

The collection of CIT is performed on an instalment basis. Collection by way of prepayment has been abrogated.

Instalments of corporate tax

Instalments, in respect of CIT, apply to taxpayers who come under the supervision of two specific kinds of tax departments: the Directorate General (DGE), the department of the tax authorities in charge of the most important taxpayers, and the *Centre des Impôts* (CDI), tax centres.

These taxpayers have to pay two instalments each representing 40% of the CIT paid during the previous fiscal year (including the amounts assessed by the tax authorities). This, therefore, totals 80% of the CIT actually paid in the previous year. The first instalment must be paid before 1 August, and the second instalment before 1 December. Both payments are offset against the final CIT due for the fiscal year. The balance is paid when the tax return is submitted.

Small-sized companies shall make an advance payment amounting to 60% no later than on 31 January of the year following the one of the realisation of the concerned income. The balance payment is henceforth to be made no later than on 30 April. As a reminder, the rate of the CIT applicable to small-sized companies is 1% based on the turnover for enterprises selling goods and 2% for enterprises providing services.

Micro-sized companies shall pay an annual lump-sum tax amounting to CDF 50,000, no later than on 30 April of the year following the one of the realisation of the income.

Tax audit process

In practice, there is a tax audit every year.

Also, it happens that a taxpayer is subject to several controls (punctual, general, counter-verification).

Statute of limitations

A company may get audited up to four years after submission of a tax return.

Topics of focus for tax authorities

The tax authorities shall discuss any relevant topic in relation to any tax.

There is no general statutory system of advance rulings.

Congo, Republic of

PwC contact

Moïse Kokolo
PricewaterhouseCoopers Tax & Legal
88 Avenue du Général de Gaulle
Pointe Noire, Republic of Congo
Tel: +242 05 534 09 07
Email: moise.kokolo@cg.pwc.com

Significant developments

Further to the promulgation of the 2018 Finance Act, the following new measures have been introduced:

- Restoration of the non-deductibility of the expenses paid in cash higher than or equal to 500,000 CFA francs (XAF) erroneously deleted by the 2014 Finances Law.
- Reinstatement into the taxable income of expenses not paid within two years from their accounting registration in the first financial year subject to tax audit, even if the financial year is statute-barred or has already been audited.
- Strengthening of sanctions applicable for failure to comply with transfer pricing requirements: Reinstatement of a third of sums invoiced by the foreign companies that are considered not to reflect the arm's-lenth condition.
- Insertion of new methods of assessement of the taxes on built and unbuilt properties.
- Obligation for taxpayers to file a copy of the contentious claim with the Minister in charge of Finance when the amounts challenged by a taxpayer exceed XAF 500 million.
- Extension of the means of payment of taxes (by bank transfer, certified cheque payable to the public treasury, and in cash).
- Reduction of the registration fees on sales of immovable properties (from 10% to 8%) of the price stated in the deed and setting up of flat-rate duties for the registration of immovable properties.
- Institution of flat-rate zone fees for the registration of real estate properties for the period from 1 January 2018 to 31 December 2020.
- Setting up of an XAF 5,000 annual stamp duty on motor vehicles in circulation in Congolese territory, including those registered in the port area collected by the insurance companies, at the time of the subscription of the liability insurance policy.
- Removal of goods subject to the 5% reduced rate of value-added tax (VAT), such as pasta, household soaps, corrugated sheets, rebars, spikes, and cement from Appendix 5 of the VAT Law, and their submission to VAT at the standard rate of 18%.
- Modification of the proportional rate of the rent tax (now equal to 1/12 of the rents to be paid during the year).
- Increase of the special tax on insurance contracts applicable rate from 10% to 15%.
- Premiums transferred abroad in reinsurance and collected by companies not domiciled in the CIMA member states are subject to the 20% withholding tax (WHT).
- Institution of a fine of XAF 10,000 for any omission or inaccuracy in the:
    - quarterly declaration of oil subcontractors or oil companies, or
    - monthly declaration of remunerations paid to petroleum subcontractors, and
    - taxes withheld on these remunerations made by oil companies.

- The submission to the business tax (equal to 25% of the amount of the business tax paid the previous year) of taxpayers without contracts, in stand by, or having incurred no operating expenses in the Republic of Congo.
- The reporting of the nil or incomplete annual statement of remunerations paid to third parties by oil subcontractors is punished by a fine equal to one and a half of the average monthly corporate income tax (CIT) paid during the past financial year.
- The tax basis and the assessement of the specific tax on beverages and tobacco fall under the competence of the customs administrations for imported products and the tax administrations for products made locally.
- The amendment of tax on electronic communications traffic's applicable rates (XAF 0.06 per second for voice instead of XAF 0.05, XAF 0.11 per megabit for data traffic instead of XAF 0.10).
- The good standing tax certificate (*certificat de moralité fiscale*) is now issued against the payment of an XAF 10,000 fee.
- Institution of a no tax charge certificate (a valid certificate for a quarter) issued to all individuals and legal entities domiciled or usually residing in the Republic of Congo against the payment of an XAF 3,000 fee by the head of the tax residence in which the head office of the company or its principal establishment is located.

Taxes on corporate income

Congolese-registered companies are taxed on the territoriality principle. As a result, Congolese companies engaged in business outside of the Republic of Congo are not taxed in the Republic of Congo on the related profits.

In the absence of a tax treaty stating otherwise, a non-resident company is liable for CIT on income realised in the Republic of Congo or derived from or resulting from work/services of any nature supplied or used in the Republic of Congo.

The standard CIT rate in the Republic of Congo is 30%, with certain exceptions.

A WHT of 15% or 20% is imposed on income sourced in the Republic of Congo that is derived by foreign companies not necessarily engaged in activities in the Republic of Congo (*see the Withholding taxes section for more information*).

Minimum tax

The minimum tax payable is 1% of the annual turnover and cannot be less than XAF 1 million (XAF 500,000 if annual turnover is less than XAF 10 million).

A 2% minimum tax is payable by companies showing losses during two consecutive fiscal years. The 2% rate is applied to the sum of gross turnovers, products, and benefits realised by the company in the most recent year in which it earned a profit. The 2% tax is not deductible for CIT purposes. However, in a company's first profit-making year after incurring the losses, half of the 2% tax is deductible.

Industry specific rates

Companies in the following sectors are exempt from CIT:

- Agriculture.
- Agro pastoral.
- Poultry or fishing.

A CIT rate of 25% applies for microfinance companies and private schools organised as a company.

A CIT rate of 30% applies for mining companies and real estate companies.

A CIT rate of 35% is applied on a deemed profit equal to 22% of the total gross remuneration (i.e. an effective tax rate of 7.70% of the taxable turnover made in the Republic of Congo) derived from services rendered by:

- Foreign companies that qualify for this simplified tax regime.
- Local companies and branches that realise more than 70% of their annual turnover with oil companies and oil services companies (in this case, the deemed profit tax is regarded as a final burden).
- Catering activities performed or delivered on petroleum sites.

Note that these companies revert to the general taxation regime the second year after the turnover realised with oil and gas sector companies becomes less than 70% of their annual turnover.

A substantiated request shall be made to the Director General of Taxation between 10 October and 20 October of the second year, who shall reply, at the latest, by 15 December of the same year.

Headquarters operations of foreign companies

The headquarters operations of foreign enterprises taxation regime is subject to prior approval by the tax authorities.

If enacted, headquarters operations of foreign enterprises and international groups will be granted a favourable tax status in the Republic of Congo. For those that qualify, CIT is charged on a deemed profit equivalent to a prescribed percentage of headquarters expenses, the percentage of which is currently unknown.

To qualify, the headquarters must be registered under the form of a public limited company or branch and must act solely for the benefit of the group in the area of management, control, or coordination.

Global flat taxation

The global flat tax is at 7% (of the annual turnover) or 10% (of the annual margin) and applies in lieu of the standard CIT rate. It is calculated on the annual turnover of very small and small enterprises taxable under the flat rate regime, whose turnover does not exceed XAF 100 million.

Local income taxes

See Business tax in the Other taxes section.

Corporate residence

A company is considered resident in the Republic of Congo if it has its registered office or principal office for all its activities in the Republic of Congo.

Permanent establishment (PE)

There is no general definition for a PE. However, a PE has been defined by the double tax treaties (DTTs) signed between the Republic of Congo and France and between the states of the Customs and Economic Union of Central Africa (UDEAC) to include a place of management, a branch, an office, a factory, a workshop, and a mine, oil or gas well, quarry, or other place of extraction of natural resources.

Other taxes

Value-added tax (VAT)

The Congolese VAT rate is 18%. In addition to VAT, a surtax calculated at the rate of 5% applies to the amount of VAT, which must be invoiced and paid at the same time as the VAT. Therefore, the VAT rate is globally 18.9%. The surtax is not deductible (final cost).

A reduced VAT at the rate of 5% is levied on importation.

Under the provisions of the VAT Law, all economic activities conducted in the Republic of Congo are subject to VAT, regardless of their purpose, profitability, or the legal status of the business performing them, and irrespective of whether these activities are habitual, occasional, or originate in the Republic of Congo or from a foreign country. Therefore, any person, natural or legal, engaged in an industrial, commercial, or professional activity is subject to VAT unless specifically exempt by law.

Section 8 of the VAT Law states that a service is considered as provided in the Republic of Congo when the service is used or exploited in the Republic of Congo.

In principle, an entrepreneur is entitled to credit the VAT paid on purchases of goods, equipment, and services for use in business (input VAT) against the total of the tax charges to one's customers for deliveries made and services rendered (output VAT).

Taxpayers not exclusively carrying out transactions giving rise to a VAT deduction shall deduct VAT proportionally on the portion of the income pertaining to taxable transactions.

VAT payers carrying structural VAT credit have the obligation to do inventories in the presence of tax administration representatives for companies in October, failure to which the VAT credit shall be cancelled.

VAT payers have the obligation to provide an excerpt of their VAT trial balance of each account on VAT in accordance with the accounting system used by the company, failure to which all VAT deductions shall be added back.

Taxpayers without a Tax Identification Number (NIU) will lose the right to deduct the VAT on custom clearance duties on goods.

Exporters subject to VAT who realise more than 80% of their sale transactions abroad are obligated to withhold VAT paid on the purchases of goods and services (the list of exporters entitled to withhold VAT will be published by the tax authorities).

VAT resulting from tax assessment is not deductible.

VAT paid in cash in connection with invoices exceeding XAF 500,000 is not deductible.

A VAT return must be filed on a monthly basis before the 20th day of every month.

Customs duties

When applicable, import duties are payable at rates ranging from 5% to 30% on the customs value of imported goods. Customs value is calculated on the cost, insurance, and freight (CIF) level.

Customs duties rates

Group	Rates (%)
Basic necessities	5
Raw materials and capital goods	10
Intermediate and miscellaneous goods	20
Consumer goods	30

Additional entry taxes

Additional entry taxes apply on the importation of goods, such as:

- Economic and Monetary Community of Central Africa (CEMAC) integration tax: 1% on CIF value.
- The African integration contribution: 0.2% on CIF value.
- Statistic tax: 0.2% on CIF value.
- Organisation for the Harmonisation of Business Law in Africa (OHADA) contribution: 0.05% on CIF value.
- Economic Community of Central African States (CEEAC) contribution: 0.04% on CIF value.

Reduced rate and exemption incentives

Imports of agricultural, horticultural, forestry, or fishery equipment and machinery, as well as fertilizers and other agricultural inputs, are exempt from VAT and customs duties.

The 2018 Finance Act provides for the application of a reduced rate of VAT to the customs border. Imports of products benefiting from the reduced rate of 5% (gas oil and lubricants imported from Cameroon by logging companies established in the Republic of Congo) or the overall reduced rate of customs duties, as well as imports of butane gas, are now subject to reduced VAT rate of 5% at the customs border.

Imported butane gas is exceptionally subject to the computer royalty at the rate of 1%.

Imports of wheat flour or of products similarly referenced for custom duties purposes are now subject to customs duties at the standard rate of 30%.

The forestry tax now applies to exports of resin and other exudates extracted from trees in natural forests and plantations, as follows:

Products	Units	XAF
Pine resin	Kg	2.765
Rubber latex	Kg	5.700
Other exudates	Kg	1.700

Resin exports from natural forests and plantation trees are now subject to a 3% customs duty upon their export, on the free on board (FOB) value declared.

Computer royalty

A 2% computer royalty, to cover expenses incurred by the Customs Administration on computer data processing, is applicable without exception or exemption to all importation and exportation of goods. The royalty applies on the customs taxable value of any imported or exported goods in the Republic of Congo.

Imports of agricultural, horticultural, forestry, or fishery equipment and machinery, as well as fertilizers and other agricultural inputs, are subject to the computer royalty and the community taxes.

Excise taxes

Excise duties on all locally made products are due at the rate of 10%, while imported goods are subject to excise duty at the rate of 25% and imports of used vehicles, tractors, trailers, and semi-trailers over 15 years old at the rate of 12%.

Imported non-alcoholic beverages are subject to excise duties following specific customs classification.

Land tax on built properties

Land tax is payable annually on built properties and is due from the owner. However, properties built for the purpose of accommodation are exempt for ten years, and properties built for business purposes are exempt for five years.

The effective rate for properties built for business purposes is determined every year by the local council. In this circumstance, the land tax is levied on the rental value after a deduction of 75% (decline, maintenance, and repair expenses).

Regarding properties built for acomodation purposes, the effective rate of the tax is determined based on the cadastral value, which is equal to the price per square metre multiplied by the land area. The price per square metre for these properties, which is halved for each floor, in the case of level buildings, is determined as follows:

- Zone 1 (downtown of full-function municipalities): XAF 250.
- Zone 2 (the districts of the said municipalities and the head of departments): XAF 150.
- Zone 3 (district main-towns): XAF 25.
- Zone 4 (other localities): XAF 12.5.

Land tax on non-built properties

Land tax is payable annually on non-built properties and is due from the owner. However, properties intended for plantations and breeding are temporarily exempt for a three to ten year range. The effective rate of the tax is determined based on the cadastral value, which is equal to the price per square metre multiplied by the land area. The price per square metre for these properties is determined as follows:

- Zone 1 (downtown of full-function municipalities): XAF 125.
- Zone 2 (the districts of the said municipalities and the head of departments): XAF 75.
- Zone 3 (district main-towns): XAF 12.5.

- Zone 4 (other localities): XAF 6.25.

Rent tax

Rent tax is at the rate of 1/12 of the annual rent, paid either quarterly by 20 March, 20 June, 20 September, and 20 December of each year or annually.

For new lease agreements, the rent tax is due at the end of the quarter (*as above*) following the date of use calculated on the proportion of the rents due until the end of the year.

The rent tax is imposed on the occupant of the premises (whether the occupant is the owner, a tenant, or a subtenant).

The rent tax is paid by the tenant on behalf of the owner, or by the subtenant on behalf of the tenant. The tenant/subtenant has the legal obligation to pay this tax on behalf of the lessor. Tenant and subtenants make a quarterly deduction in March, June, September, and December from all the rents due to the owner.

A 50% fine, assessed on the amount of the tax, is due for any late payment of the rent tax.

Registration fees and stamp duties

Lease agreement registration fees amount to 3% of the value of the annual rent paid during the tax year, including premises charges if any. 'Additional centimes' also apply at a 5% rate of the registration fees. Stamp duties and registration fees should be paid for the total duration of the lease agreement. In the case where the lease agreement is renewed, stamp duties and registration fees should be paid for the renewable period.

Stamp duty ranges from XAF 200 to XAF 20,000 on certain documents.

Examples of documents that are subject to stamp duty include:

- Letters of agreement and other letters that are prepared for use as evidence of act, fact, or condition of civil nature.
- Notarial deeds and their copies.
- Visas and flight tickets.

The following fees for the registration of contracts are due within three months from date of signature:

- Purchase orders for public contracts at the rate of 2% for contracts with a value exceeding XAF 10 million.
- Subcontracts in the building construction and public work sector at a fixed fee of XAF 100,000.
- Insurance contracts are registered free of charge and failure to register such contracts will be subject to penalty at the fixed fee of XAF 3 million.
- A fixed fee of XAF 1 million for the registration of every oil services contract with foreign companies and their sub-contractors before the execution of the contract.
- All insurance policies carried out by oil, mining, and telephone companies are subject to registration free of charge; failure to register will result in penalties that total XAF 3 million.
- Registration fee on lease of movables and immovables used for habitation or commercial purposes at the rate of 3%.

- Registration fee on the transfer of rights in a lease at the rate of 10%.

Private contracts, as well as contracts signed abroad or in jurisdictions where registration is not required, do not have to be registered within three months after their signature. They can be registered at any time.

Insurance contracts shall be registered and tax on insurance paid on the 20th day of the month following the insurance subscription. All importers have an obligation to insure imported equipment with local insurance companies.

Transfer of company shares are subject to a 5% registration fee.

The direct or indirect transfer of assets or social rights of Congolese companies is also subject to a registration duty of 5% calculated on the value of the assets transferred and social rights of these companies. This registration duty is also due in the event of change of control of the company by a change of at least 60% shareholding.

Real state properties for the period from 1 January 2018 to 31 December 2020 are subject to registration based on the flat-rate zone fees, summarised as follows:

- Zone 1 (downtown of full-function municipalities): XAF 1 million.
- Zone 2 (districts of said municipalities and head of departments): XAF 300,000.
- Zone 3 (district main towns): XAF 100,000.
- Zone 4 (other localities): XAF 25,000.

Payroll taxes

Single tax on remuneration

A single tax, at the rate of 7.5% on the gross salary of resident employees and non-resident seafarers' employees, shall be borne by the employer. The tax is 6% on the gross salary of non-resident, non-seafarers' employees. This tax is payable on the 20th day of the following month after the remunerations were due.

Social contributions

The employer shall be liable for the following social contributions:

- Family allowance fixed at the rate of 10.035% of gross salary, benefits in kind inclusive, capped at XAF 7.2 million annually.
- Work accident contribution fixed at the rate of 2.25% on gross salary, benefits in kind inclusive, capped at XAF 7.2 million annually.
- Old age, invalidity, and death insurance fixed at the rate of 8% of gross salary, benefits in kind inclusive, capped at XAF 14.4 million annually.

Oil and gas

Specific rules and caps apply for the upstream (production) oil and gas industry.

Tax on pollution

The tax on pollution is payable by petroleum and mining extracting companies in the production phase, at the rate of 0.2% on the annual turnover.

This tax constitutes a non-deductible expense for the extracting mining/hydrocarbon company in the production phase.

This tax is due in the course of the year and payable quarterly by instalment, proportionally to the production realised during the just-ended quarter and not later than the 20th day of the month following the end of the quarter.

Business tax

The business tax ('patente', in French) is a tax collected for local communities.

Legal entities that carry out, in the Republic of Congo, a commercial activity, industrial activity, or any other activity not included in the statutory exemptions are subject to business tax.

The taxable basis of the business tax is:

- For taxpayers under the general regime: The annual turnover, excluding taxes of the previous fiscal year declared or assessed by the administration, for fiscal years ended on 31 December of the year N-1 and to be filed to the tax administration between 10 April and 20 April of the year N.
- For taxpayers that do not realise turnover: All operating expenses in the Republic of Congo.

Newly registered companies in their first calendar year are exempt from paying business tax.

Foreign companies subject to the deemed profit tax regime are taxed for the entire year from the start of operations in the Republic of Congo on the basis of the estimated contract value of their services.

The business tax is payable on the basis of graduated rates as follows:

Annual turnover (XAF)	Rate
Below 1,000,000	XAF 10,000
1,000,001 to 20,000,000	0.75%
20,000,001 to 40,000,000	0.65%
40,000,001 to 100,000,000	0.45%
100,000,001 to 300,000,000	0.20%
300,000,001 to 500,000,000	0.15%
500,000,001 to 1,000,000,000	0.14%
1,000,000,001 to 3,000,000,000	0.135%
3,000,000,001 to 20,000,000,000	0.125%
Above 20,000,000,000	0.045%

Business tax is due for the 12-month period from 1 January to 31 December of the taxation year and must be paid in full by the taxpayer, not later than 20 April of each year. Beyond this date, the taxpayer is liable to a penalty of 100% of the amount in excess of the principal amount.

Business tax due by foreign companies subject to the deemed profit tax is payable within 15 days after the beginning of activities. Otherwise, a penalty of 100% is applied.

Until now, the situation of taxpayers having no turnover or operating expense in the Republic of Congo was not dealt with. With the Finance Act 2018, taxpayers having no commercial contract or operating expense in the Republic of Congo will be subject to a 25% business tax, applied on the amount of the last business tax paid normally.

Business tax paid to the Inland Revenue is not refundable.

Tax on company-owned cars

The tax on company-owned cars applies to the previous fiscal year company-owned cars and is due on 20 March at the latest.

With the exception of estate cars, private cars of companies falling into the category of own use cars for the issuance of vehicle registration documents are subject to tax.

The tax rates vary from XAF 200,000 for engine ratings not over nine horsepower, to XAF 500,000 for the rest.

Cars registered more than ten years ago are exempt from tax.

Branch income

70% of the net profits made by branch offices and foreign companies carrying out business are automatically considered as distributed profits and subject to tax on dividends at the rate of 15%.

Income determination

Taxable income is based on financial statements prepared according to standard statements of the OHADA treaty.

Business expenses are generally deductible, unless specifically excluded by law.

Inventory valuation

Stocks are valued at cost price. However, if the market price is lower than the cost price, the undertaking shall make provisions for depreciation of inventory.

Capital gains

Capital gains are treated as ordinary business income and are taxed at the standard CIT rate of 30%. However, a capital gain realised on the disposal of a fixed asset in the course of trading is excluded from income for a period of three years if the taxpayer reinvests the gain in new fixed assets for the business.

If the business is totally or partially transferred or discontinued, only half of the net capital gain is taxed if the event occurs less than five years after the start-up or purchase of the business and only one-third of the gain is taxed if the event occurs five years or more after the business is started or purchased. However, the total gain is taxed if the business is not carried on in any form.

Capital gains realised by non-residents on transfers of shares of Congolese companies are subject to taxation at the rate of 20%. This tax shall be paid upon registration of the deed of transfer of the considered shares. Under such sale transactions, the seller, the buyer, and the company whose shares are transferred are jointly and severally liable for the levied tax.

Net capital gains realised as part of a direct or indirect transfer of social assets and/or rights resulting in a change of control of a Congolese company become subject to CIT.

Dividend income

Dividends are treated as ordinary business income and are taxed at the standard CIT rate of 30% for resident corporations.

After three years, profits credited to the non-compulsory reserve are considered to be dividends and are, accordingly, subject to the 15% WHT on dividends.

Amounts claimed as a result of a tax adjustment and added back to revenue, if not invested in the company, are subject to tax on dividend.

Inter-company dividends

Dividends received from a Congolese company (DivCo) by a commercial company incorporated in the Republic of Congo (HoldCo) are exempt from CIT and subject to a final 15% WHT if the following conditions are met:

- HoldCo and DivCo are incorporated in the CEMAC.
- HoldCo holds 25% of the capital of DivCo.
- HoldCo holds the shares for at least two years from the date of purchase.

However, 10% of dividends that are deemed to represent the share of cost and expenses are included in the taxable profits of HoldCo and liable for the CIT.

If the above conditions are not met, dividends received from a Congolese company by another Congolese company are subject to a 15% WHT, which is an advance payment of the recipient's CIT.

Interest income

Interest received constitutes taxable income subject to CIT at the rate of 30%.

Subject to any specific provisions, interest paid or deemed to be paid is subject to a WHT at the rate of 20% of the interest paid.

The interest paid is deductible for CIT purposes for the Congolese company to the limit of 20% of the taxable profit before deduction of the expenses in question.

Royalty income

Royalties received constitute taxable income subject to CIT at the rate of 30%.

Subject to any specific provisions, royalties paid or deemed to be paid are subject to a WHT at the rate of 20% of the royalties paid.

The royalties paid are deductible for CIT purposes for the Congolese company to the limit of 20% of the taxable profit before deduction of the expenses in question.

Foreign income

Resident companies are taxed only on income (except for dividends received abroad) derived from their activities carried out in the Republic of Congo.

Deductions

Generally, a deduction is allowed for all expenditures incurred to obtain, collect, and maintain business profits. To be deductible, expenses should be incurred necessarily for the normal purposes of the business and be supported by suitable evidence.

Depreciation and depletion

In general, all types of fixed assets, except land, are depreciable for tax purposes as long as they can be shown to have been acquired for business purposes of the corporation. Depreciation must be calculated on the original purchase price. The straight-line method is used, and the Congolese General Tax Code sets forth maximum rates of depreciation. Goods costing less than XAF 500,000 per item may be written-off at purchase as expenses.

Depreciation recorded when the company is in a loss position may be carried forward without limitation and deducted from the first available taxable profits, provided it was appropriately disclosed in the annual CIT return.

Recoverable and identifiable packaging is regarded as a fixed asset and is recorded in a fixed asset account at the time of purchase. This packaging is regarded as returnable packaging when the supplier intends to act as the sole owner of the packaging.

Unrecoverable packaging is recorded as an expense and is deductible for tax purposes.

Exceptional accelerated depreciation may be authorised in certain circumstances for heavy equipment with a value of more than XAF 40 million. This special accelerated depreciation does not apply to private vehicles owned by the enterprises.

The following list contains maximum rates of depreciation as set forth in the General Tax Code:

Assets	Rates per year (%)
Construction	5 to 20
Fixed devices and equipment	5 to 25
Movable equipment	10 to 100
Transport materials	5 to 33.33
Furniture, fittings, and other equipment	10 to 33.33
Fishing equipment	10 to 20
Hotels, bars, and restaurants	10 to 50
Plastic equipment (moulding)	10 to 33.33
Equipment subject to chemical action	20

Exceptional depreciation method

The exceptional depreciation method is an accelerated depreciation method.

Companies may elect the accelerated depreciation method for heavy materials and equipment that:

- are purchased new for a value higher than XAF 40 million
- have a useful life of at least three years
- are used for manufacturing, processing, transport, and handling, and
- are bound to an intensive use.

The application for the accelerated depreciation method must be submitted to the head office of taxes within three months of the purchase of the assets to be depreciated. The option is granted upon approval of the Ministry of Finances. If the administration fails to respond to the application for accelerated depreciation within three months, the application is tacitly granted.

Under the exceptional depreciation method, a 40% deduction may be taken in the year of acquisition of the previously mentioned assets, increased by the normal rate calculated on the residual value after application of the accelerated depreciation. These assets are depreciated on a straight-line basis thereafter.

Goodwill

There is no specific provision relating to amortisation of goodwill in the Republic of Congo.

Start-up expenses

There is no specific provision in the Congolese General Tax Code on the deduction of start-up expenses. Start-up expenses that occurred in the first year of incorporation (N) are deductible in the second year of operation (N+1).

According to the OHADA Uniform Act relating to Accounting Systems and Accountancy, start-up expenses can be amortised either in one year (in such a case, they are booked in the deductible expenses during the first fiscal year) or in two years (50% during the first fiscal year and 50% during the second fiscal year).

Interest expenses

Interest is deductible, subject to the following conditions:

- General limit: Regardless of the form under which a legal entity is registered, the deduction is allowed with an interest rate limited to the rate of the advances in current accounts on states funds of the Bank of the States of Central Africa (BEAC) raised by two points. Currently, the ceiling for the deduction of interest is 4.95%.
- For private limited companies and public limited companies, the deduction is allowed according to the status of control over the management of the enterprise, as follows:
  - For shareholders who have control over the company *de facto* or *de jure*, the deduction is allowed only to the extent that the sums paid do not exceed, for the shareholders as a whole, half of the paid-up capital and are within the limit sets forth in the 'general limit'.
  - For other shareholders, the 'general limit' applies.

Bad debt

Expenses and debts not recovered within two years after their account recording shall be added back to the taxable basis of the first fiscal year, subject to general accounting audit even if the fiscal year is statute barred.

Charitable contributions

Donations and gifts made to beneficiaries in the Republic of Congo are deductible from CIT basis at a limit of 0.5‰. The limit is 0.5% as regards donations and subsidies made for the support and development of sport. 50% of amounts of donations and payments upon the occurrence of a natural disaster or accidental disaster are deductible.

Fines and penalties

Penalties relating to violation of regulations are not deductible.

Taxes

Taxes, other than income taxes, are usually deductible. Examples of deductible taxes include customs duties, excise duties, payroll taxes, business tax and accessory taxes, registration taxes, and unrecoverable VAT.

CIT itself is not deductible, nor is the special tax on company-owned cars.

Taxes withheld on remuneration, paid to third parties (third parties taxes), and remitted to the tax office by a Congolese enterprise are not deductible.

Net operating losses

For tax purposes, losses may be carried forward to offset profits earned in the three succeeding fiscal years. Carryback losses are not permissible.

As mentioned above, depreciation recorded when the company is in a loss position may be carried forward without limitation.

Payments to foreign affiliates

Allowable deductions include sums paid abroad to foreign companies for:

- actual services, notably overhead for the operations made for the benefit of a company based in the Republic of Congo, including costs of studies; technical, financial, and accounting assistance; commissions and fees; and interests, and
- use of patents, licences, trademarks, drawings, manufacturing processes, patterns, and similar rights to the extent the payer proves they correspond to actual operations, and they are neither abnormal nor excessive.

Subject to the provisions of tax treaties (France, Italy, Mauritius, and CEMAC), the deduction is allowed within a limit of 20% of taxable profits before deduction of the expenses in question. For specific activities, such as, namely, public works business, the limitation of deductibility is capped at 2% of turnover.

In the event of losses, the rate is applied on the results of the last profit period that is not statutory limited. In the absence of profits during the period out of statutory limitation, the sums paid are not allowed as tax deductions.

When the sums are not allowed, as a whole or in part, in the deductible expenses, they are deemed to be paid benefits and are subject to tax on the dividends at the rate of 15%.

Royalties for the transfer or concession of patents, trademarks, drawings, and other similar titles are deductible to the extent the payer proves they are still valid. When these royalties benefit an enterprise contributing in the management or share capital of an enterprise in the Republic of Congo, they are deemed to be paid benefits and are subject to tax on the dividends at the rate of 15%.

Commission or brokerages relating to goods purchased on behalf of enterprises based in the Republic of Congo are allowable tax deductions at up to 5% of the purchase amount made by the central purchasing office, the head office, or the intermediaries.

The reductions shall benefit enterprises based in the Republic of Congo. An original supplier's invoice must be attached to the intermediary's invoice.

The payer shall prove that:

- the purchases necessitated the interventions of a broker or intermediary
- the commissions provided better supply conditions compared with the actual situations on the market, and
- the commissions are not excessive compared with the nature of the services.

Group taxation

There is specific group taxation within the CEMAC area.

Where a joint stock company and a private limited company own either registered stock in a joint stock company or shares in a private limited company, the net proceeds of the share in the second company paid to the first during the financial year shall be deducted from the total net profit of the latter, less a percentage for costs and charges. This percentage is fixed at 10% of the total amount of the proceeds. This system shall apply when all of the following conditions are met:

- The stocks or shares owned by the parent company represent at least 25% of the capital of the subsidiary company.
- The parent company and subsidiary companies have a registered office in the CEMAC state (Cameroon, Central Africa Republic, Chad, Gabon, Equatorial Guinea, and Republic of Congo).
- The stocks or shares allotted at the time of issue are still registered in the name of the participating company, which undertakes to retain them for at least two consecutive years in registered form.

Another group taxation regime is also available upon option and under certain conditions, wherein the taxable profits of the group's companies can be consolidated at the level of the holding company, which will pay the tax due.

Transfer pricing

Companies registered in the Republic of Congo with gross annual turnover net of taxes equal to or exceeding XAF 500 million must keep transfer pricing documentation at the reach of the tax administration so as to justify the transfer pricing policy used in all transactions with legally related entities outside the Republic of Congo.

Targeted companies are required to spontaneously and annually provide to the tax administration a lighter transfer pricing documentation within six months from filing their summary financial statements. Companies that fail to comply with this requirement will be fined at XAF 5 million.

In additon, the 2018 Finance Act strengthen the applicable sanctions for failure to comply with transfer pricing requirements. Indeed, the sums invoiced by a foreign company that are considered as not reflecting arm's-length conditions must now be reintegrated in the Congolese company's financial year's result, for a third of their amount.

To justify transfer pricing policy, companies shall ensure that the prices of the transactions are in conformity with the five different methods to set up the arm's-length principle (derived from Organisation for Economic Co-operation and Development [OECD] recommendations).

Thin capitalisation

There are no specific thin capitalisation rules in the Republic of Congo.

Holding companies

A taxation regime applies to incorporated holding companies complying with certain conditions.

Within this regime, capital gains on shares are:

- subject to CIT at standard rate if the shares transferred have been held during less than two years
- subject to a reduced CIT rate (25% of the standard rate, i.e. 7.5%) if the shares transferred have been held during more than two years, and
- tax exempted if (i) the shares transferred have been held for more than two years and (ii) the shares held include at least 60% of shares of CEMAC resident companies.

In addition, these companies benefit from other tax advantages, such as a WHT exemption on certain types of interest as well as a reduced WHT on dividends paid (i.e. 50% of applicable rate).

Controlled foreign companies (CFCs)

There is no provision under Congolese tax law related to CFCs.

Tax credits and incentives

The current investment regime in the Republic of Congo was set out by Law No. 6-2003 of 18 January 2003, which established the investment charter. The charter's application, Decree No. 2004-30 of 18 February 2004, established modes of business registration.

- Scope: The following may be registered under the investment charter:
  - Businesses wishing to pursue an activity in the Republic of Congo, except for activities such as brokerage, trade, import, and production of arms, and import or processing of toxic waste and by products.
  - Under certain conditions, commercial activities linked to collection, storage, distribution, and export of locally produced products, except alcoholic beverages and tobacco.
  - New activities (as opposed to pre-existing activities).
  - Forestry businesses benefiting from a forestry permit called the forestry development unit.
  - New companies coming from the redemption of a registered company.
- Conditions of eligibility for the investment charter: To be eligible, a company must satisfy the following conditions:
  - Be registered with the Trade and Personal Credit Registry in the Republic of Congo.

    - Create permanent employment, to be carried out over a minimum of 280 days per year.
    - Maintain company share capital equal to or greater than 20% of investments.
    - Primarily use local principal materials necessary for the production of the finished or semi-finished product, when available, with equal conditions concerning price, quality, and time of delivery to outside, in the case of industry.
    - Primarily use local business services, when available, with equal conditions concerning quality, price, and time of realisation regarding payments to external businesses, for the case of service businesses.
    - Be registered at the Congolese National Welfare Fund.
    - Open an account at a local bank or any other financial, savings, or credit establishment.
    - Primarily use a local workforce, when available, with the same expertise as the foreign workforce.
- Registration procedure: Entitlement to the benefits prescribed by the charter is subject to obtaining a registration agreement, provided by the National Investment Commission.
- Fiscal and customs benefits set out by the Investment Charter: These benefits vary according to privileged regimes, motivation measures, and in a general manner.

Privileged regimes

The charter sets out three privileged regimes:

- General regime (G).
- Special regime (S).
- Preferential development zone regime.

General regime (G)

The general regime applies to businesses that fulfil the aforementioned general requirements and carry out investments greater than or equal to XAF 100 million.

Special advantages are conferred according to the period of activity of the registered business.

During the set-up period and the first three exploitation tax years, the company receives several benefits, as follows:

- In customs matters, the company benefits from the provisions of the CEMAC customs code relative to asset improvement mechanisms for export activity and from the suspension of customs duty in the form of temporary admission or franchise for natural resource research activities.
- In fiscal matters, the company benefits from the 50% reduction of registration fees for business foundation, increases in capital, company mergers, and transfer of company stocks and shares.

For the three first exploitation tax years and from the first year of sale or first service, the following fiscal benefits are added with the aforementioned reduction of registration duties:

- Total exemption from the tax on company earnings.
    - Companies that are subject to CIT because of their size or activity will be exempt from CIT.

  - Businesses that are subject to personal income tax (PIT) because of their size or activity will be exempt from PIT.
- The authorisation to proceed to accelerated depreciation.
- The authorisation to carry forward losses for the first three tax years.
- The application of zero-rate VAT on exported products.

Special regime (S)

The special regime applies to businesses that fulfil the aforementioned general requirements and carry out investments between XAF 30 million and XAF 100 million.

In addition to the advantages of the aforementioned (G) regime, businesses registered under the (S) regime benefit during the set-up period and the first three exploitation tax years from the moderation of registration duties for the incorporation of the business, increases in capital, company mergers, and transfer of company stocks and shares.

This moderation of registration duties is granted exclusively by decree of the Minister in charge of the Economy and Finances upon a decision of the National Investment Commission.

Preferential development zone regime

All exporting businesses registered under the investment charter are eligible for the preferential development zone system, including free-trade zones.

The institution, organisation, and function of the preferential development zone are fixed by a specific text.

Incentives to set up in remote areas

All new businesses registered under (G) or (S) regimes that are located in a remote area benefit from a reduction of 50% on the tax on company earnings in the fourth and fifth year following the first three tax years for which the business benefited from total exemption from the tax on earnings or PIT.

The business is considered as belonging to a remote area from the moment its production units are set-up and 90% of the production unit workforce is working in the remote location.

The appraisal of a zone's location results from the exclusive competency of the National Investment Commission.

Incentives for social and cultural investment

All new businesses registered under (G) or (S) regimes carrying out investments of a social and cultural character may benefit from a fiscal reduction by ministerial decree of the Minister in charge of Finance and the Economy, upon the decision of the National Investment Commission.

These benefits may not, however, be added to those mentioned above and allocated to remote areas, even if the business concerned is set-up in such a location.

General measures

For the duration of the privileged regime, and subject to current texts, the company shall enjoy fiscal stability in terms of local and state taxes.

Privileged regimes (G) and (S) are allocated only once and are not renewable. The business may receive fiscal and customs advantages pertaining to the set-up period.

Fiscal advantages concerning the exploitation period are applicable only after the set-up period.

The end of the set-up period is certified by decision of the Minister in charge of Finance and the Economy after the adoption of the verification report by the National Investment Commission.

Respect of the aforementioned general requirements set out by the charter is a prerequisite for benefiting from these motivation measures.

Export incentives

A measure is reserved for businesses that export at least 20% of their production.

The benefits are as follows:

- The provisions of the CEMAC customs code, relating to asset improvement mechanisms.
- Exemption from customs duties and taxes on manufactured products, except computing fees and statistic tax.
- Application of a zero-rate VAT on exported products.

Non-manufactured goods remain subject to the common law export system.

Incentive to reinvest earnings

A measure is reserved for businesses that carry out new investments of at least one-third of existing assets.

The benefit conferred consists of a 50% reduction of the tax on company earnings for the three years following the realisation of the investment.

Notwithstanding, this benefit is granted upon the following conditions:

- The business declares to the permanent secretary of the National Investment Commission its investments, planned investment, and the state of existing capital assets.
- The National Investment Commission, on the report of checking teams, verifies if the new investments correspond to one-third of the preceding capital assets.
- All investments are realised within one year.
- Investments generate new employment.
- Investments increase capacity of production by at least 10%.
- The business has sound ethical concerns.

Institution of preferential tax regime for special economic and industrial zones and health free zones

The 2014 Finance Act provides for incentives in special economic zones as follows:

- CIT and dividend tax exemptions for six years.
- From seven to ten years: CIT and dividend tax rate of 5%.
- Beyond ten years: CIT rate of 15% and dividend tax rate of 10%, permanently.
- Single tax on remuneration rate of 2.5%, permanently.

- Exemption from registration fees for company creation and 50% reduced rates on transfer deeds.

The 2014 Finance Act provides for incentives in industrial zones as follows:

- CIT and dividend tax exemption for five years.
- From six to ten years: CIT rate of 10% and dividend tax rate at 5%.
- Beyond ten years: CIT rate of 20% and dividend tax rate of 10%, permanently.
- Single tax on remuneration rate of 2.5%, permanently.
- Exemption from registration fees for company creation and 50% reduced rates on transfer deeds.

The 2014 Finance Act provides for incentives in health free zones, as follows:

- CIT total exemption.
- Dividend tax rate of 5%.
- Single tax on remuneration rate of 2.5%.

It should be noted that eligibility requirements for the preferential regimes described above have not been set yet.

Foreign tax credit

There are no specific rules relating to foreign tax credits in the Republic of Congo.

Withholding taxes

Services, dividends, and attendance fees

Services

Services rendered by foreign suppliers are subject to a 20% WHT.

In addition, companies that have no tax residence in the Republic of Congo are subject to a 20% WHT if they earn revenues realised in the Republic of Congo or coming from the Republic of Congo, and which come from works or services of any nature performed or used in the Republic of Congo. This 20% WHT also includes premiums transferred abroad in reinsurance and collected by companies not domiciled in the CIMA member states (Benin, Burkina Faso, Cameroon, Republic of Congo, Cote d'Ivoire, Gabon, Guinea Bissau, Equatorial Guinea, Mali, Niger, Central Africa Republic, Senegal, and Togo).

WHT does not apply to resident suppliers of a country that has signed an international tax treaty with the Republic of Congo, provided certain conditions are met.

Payments made by building and public work companies to their sub-contractors

WHT is applicable on payments made by building and public work companies to their sub-contractors, including to engineering offices, at the following rates:

- 3% for sub-contractors taxable on their net profit.
- 10% for sub-contractors taxable on a deemed profit (*Régime du forfait*).

Non-observances, omissions, or underpayments are sanctioned by an XAF 5 million fine and by the non-deductibility of the amounts so paid. Late payments are sanctioned by a 2% penalty per month or portion of month, with a maximum penalty of 100%.

For the considered sub-contractors, said withholding is considered as an instalment of tax.

Dividends

Dividends distributed by a Congolese company are subject to a 15% WHT unless a different rate applies under an international tax treaty (e.g. France, Italy, Mauritius, CEMAC). The same rate applies for dividends distributed to a resident shareholder.

Under the tax treaties between France and the Republic of Congo and between Italy and the Republic of Congo, the applicable WHT rate is 15%.

Under the tax treaty between Mauritius and the Republic of Congo, the applicable WHT rate is 5%.

There is no specific rate defined in the CEMAC tax treaty.

Attendance fees

Attendance fees are subject to a 17% WHT unless a different rate applies under an international tax treaty (e.g. France, Italy, CEMAC).

Payments to local independent contractors

Payments to local independent contractors (self-employed contractors, i.e. those not registered with the Congolese Trade Registry) are subject to a WHT at the rate of 5% from such payments, to be remitted to the Public Treasury.

Late remittance of the WHT is subject to a late payment penalty of 50% within the first two months and 100% if the late payment exceeds two months.

The application of the 5% WHT also applies to companies regrouping professionals and increases penalties in case of non-payment (200% penalty, plus 5% interest per month for late payment).

Revenues of legal entities subject to CIT are excluded from the application of the WHT of 5%.

WHT rates summary

	WHT (%)		
Recipient	**Dividends**	**Interest**	**Royalties**
Resident corporations	15	0	0
Resident individuals	15	0	0
Non-resident corporations and individuals (Non-treaty)	15	20	20
Treaty with:			
France	15	0	15
Italy	15	0	10
Mauritius	5	0	0
CEMAC	20	0	0

Tax administration

Taxable period

The taxable period is the calendar year.

Tax returns

Companies are required to use the single tax return to file monthly taxes.

The annual CIT return is a specific form (*Déclaration Statistique et Fiscale* or DSF) that should be prepared in accordance with OHADA accounting principles. The form cannot be completed electronically.

Companies have to use the CEMAC CIT return form, which has been modified to be compliant with Congolese tax law (new form for the determination of the CIT basis and new tax balances for debts and liabilities).

The books must be maintained in French and in CFA francs. This accounting system must follow the OHADA chart of accounts. All entries have to be booked under OHADA standards throughout the year.

The annual CIT return must be filed on 20 May at the latest.

Payment of tax

Resident companies are required to pay quarterly instalments of tax (20 February, 20 May, 20 August, and 20 November), and these quarterly instalments are generally calculated with reference to the most recent CIT return. Special calculations of instalments apply to new taxpayers.

Based on the self-assessment system, when submitting annual tax returns due by 20 May every year, taxpayers must pay the amount of tax calculated in the annual tax return to the extent this amount exceeds tax instalments paid during the year.

Non-resident companies and individuals shall appoint tax representatives in the Republic of Congo. The Congolese resident shall be considered as tax representative if the non-resident person fails to appoint a tax representative.

Tax audit process

Tax audits are usually announced by a letter from the tax authorities to the entity concerned of their intention to audit, while stating the period to be audited and the taxes that will be covered by the audit.

The tax authorities may organise meetings with the taxpayer to inform the taxpayer of the preliminary outcomes of the audit, and the taxpayer has the possibility to make counter remarks.

Thereafter, the tax authorities notify the taxpayer, in writing, of their proposed tax adjustments, and the taxpayer makes counter remarks in writing within 30 days from date of receipt of the tax adjustment notice.

Based on whether the tax authorities find the counter remarks from the taxpayer grounded or not, a letter confirming the tax adjustments or renouncing the proposed tax adjustments shall be sent to the taxpayer, who has the choice to either pay the taxes claimed, negotiate for a reduction of fines, or open up a tax litigation process.

The taxpayer may negotiate the taxes, fines, and the mode of payment of the tax claimed by the tax authorities thereby renouncing one's right to open up tax litigation.

The taxpayer has the right to request from the Director General of Taxation and Real Estate a transactional mode of payment of fines or payment of tax by friendly settlement. If the taxpayer opts for the transaction, the taxpayer loses the right to object to the outcome of the transaction and is obligated to immediately pay the taxes due (principal and penalties) according to the agreement.

To open up a tax litigation process, the taxpayer will pay a prior deposit of 10% of the sum contested as guarantee (or a banking guarantee as security for litigation) and 5‰ (5 per thousand) of the sum contested for the treatment of the tax claim file and will submit the tax claim file to the Tax Head Office if the amount of the claim exceed XAF 30 million and to the Director of Tax Department if the amount claimed is less than XAF 30 million.

When the amounts challenged by a taxpayer, in the context of a contentious claim, exceed XAF 500 million, the said taxpayer must file a copy of one's claim with the Minister in charge of Finance.

The tax authorities will respond to the tax counter claim of the taxpayer, who, if not satisfied, could open a court claim.

Statute of limitations

Generally, the statute of limitations period for CIT is four years following the year in which the tax was due. However, this rule does not apply in the case of fraudulent acts reported by the tax administration.

Topics of focus for tax authorities

The tax authorities particularly focus on aspects such as:

- Compliance of deductible expenses.
- CIT compliance.

Egypt

PwC contact

Abdallah ElAdly
PricewaterhouseCoopers
Plot No 211
Second Sector
City Centre
New Cairo 11835, Egypt
Tel: +20 2 2759 7887
Email: abdallah.eladly@pwc.com

Significant developments

There have been no significant corporate tax developments in Egypt during the past year.

Taxes on corporate income

Resident companies are taxed on worldwide income. Non-resident corporations and partnerships pay tax on income derived from their permanent establishments (PEs) in Egypt.

The corporate income tax (CIT) rate in Egypt is 22.5% on the net taxable profits of a company.

The above rate applies to all types of business activities except for oil exploration companies, whose profits are taxed at 40.55%. In addition, the profits of the Suez Canal Authority, the Egyptian Petroleum Authority, and the Central Bank of Egypt are taxable at a rate of 40%.

Local income taxes

There are no governorate or local taxes on corporate income in Egypt.

Corporate residence

Foreign corporations and partnerships are classified as residents of Egypt if they meet one of the following conditions:

- The entity is established according to the Egyptian law.
- The government or a public authority owns more than 50% of the capital of the entity.
- The effective place of management is in Egypt.

The executive regulations of the law indicate that Egypt is considered as the effective place of management if the entity meets any two of the following conditions:

- Daily managerial decisions take place in Egypt.
- Members of the board of directors hold their meetings in Egypt.
- At least 50% of the board members or managers reside in Egypt.

- The major shareholders (owners of more than 50% of the shares or voting rights) reside in Egypt.

Permanent establishment (PE)

The PE concept is defined in the Income Tax Law as follows:

- Headquarters.
- Branch.
- Building used as sale outlet.
- Office.
- Factory.
- Workshop.
- Places of extraction of natural resources.
- Farms.
- Building site, construction or assembly point, installations, supervisory activities of the same.
- An agent who has the power to ratify contracts on behalf of a foreign company.
- An independent broker or agent who is proved to have dedicated most of one's time during the year in the interest of a foreign company.

A foreign company that is deemed to have a PE risk, according to the Egyptian Companies Law, should incorporate a legal entity in Egypt.

There are several legal forms existing under the Egyptian Companies Law from which a foreign company can choose to incorporate, and these are: joint-stock company, limited liability company, branch, or a representative office.

Other taxes

Value-added tax (VAT)

The standard VAT rate is 14% as of financial year 2017/18 (i.e. as of 1 July 2017; previously 13%). The standard rate is applicable on all goods and services, except for machinery and equipment used for the purpose of producing a commodity or rendering a service, which are subject to a 5% VAT (although buses and passenger cars are subject to different tax rates).

The VAT law exempts a number of basic goods and services that affect low-income earners (in addition to other exemptions listed within the law). It also includes a reverse-charge mechanism, whereby transactions involving non-residents providing services/royalties to Egyptian resident entities are subject to VAT in Egypt.

Customs duties

The liability for customs duty rests with the person who is importing the goods from abroad.

Customs duty rates on imported goods range from 5% to 40%, with the exception of vehicles for which different rates apply.

Where entities import machines and equipment as capital assets, and to establish a company's project, the machines and equipment will be charged customs duty at 5%.

Component parts, which are imported to be assembled in Egypt, are assessed customs duty based on the complete product. Then, it is reduced by a percentage ranging from 10% (if the local content of the final product is less than 30%) to a maximum of 90% (if the local content exceeds 60%).

Machines, equipment, and similar capital assets (with the exception of private motor cars) imported on a temporary basis are subject to fees at 20% of the original customs duty for each year or fraction of a year during which they remain in Egypt until they are exported.

Excise taxes

There are no excise taxes in Egypt.

Real estate taxes

The Real Estate Tax Law takes into consideration the different variables that can affect the value of a property, such as location, value of similar buildings, and the economic situation of the district in which the property is located. This is to be updated every five years (most recently in August 2014).

Real estate tax is levied annually on all constructed real estate units, with the exemption of schools, orphanages, charitable organisations, and private residences with a market value of less than 2 million Egyptian pounds (EGP). This tax covers land and buildings, excluding plant and machinery.

Such tax is assessed based on the rental value of the land and building, and these value assessments are set by the committees, after approval of the Minister or whomever the Minister delegates, and published in the Official Journal. Based on the announcement, any taxpayer can appeal the rental value assessment.

The real estate tax rate is 10% of the rental value, and the calculation of the rental value differs for residential units and non-residential units. Specific percentages of deductions are provided by the law to account for all the expenses incurred by the taxpayer, including maintenance costs.

Stamp tax

There are two distinct types of stamp tax, which are imposed on legal documents, deeds, banking transactions, company formation, insurance premiums, and other transactions, as follows:

- The nominal stamp tax is imposed on documents, regardless of their value. The tax rate for items such as contracts is EGP 0.9 for each paper.
- Percentage or proportionate stamp tax is levied based on the value of transactions.

An annual proportional stamp tax at the rate of 0.4%, shared by the bank and the client, is imposed on a bank’s loans. This stamp tax is due on a quarterly basis on the beginning balance of each quarter of credit facilities and loans and advances provided by Egyptian banks or branches of foreign banks during the financial year in addition to the amounts utilised within the quarter.

Loans from other establishments are not subject to this tax.

Stamp tax is imposed on advertisements at the rate of 20%.

Stamp tax on the disposal of shares

Stamp duty is now enacted on the disposal of shares as per the publication number 24 in the official gazette published on 19 June 2017. As per the publication, such stamp duty is imposed on the proceeds (i.e. value of the transaction) from buying or selling any kind of stocks regardless of whether they are Egyptian or foreign, listed or non-listed, without deducting any costs, where buyer and seller should apply the stamp duty on the total proceeds based on the following rates:

- 0.125% shall be paid by both seller and buyer till 31 May 2018.
- 0.150% shall be paid by both seller and buyer from 1 June 2018 till 31 May 2019.
- 0.175% shall be paid by both seller and buyer from 1 June 2019.

However, in case any of the below-mentioned conditions are met, then the rate of the stamp duty to be imposed in such case should be 0.3%:

- If the sale and purchase transaction involves 33% or more of the value or the number of shares or voting rights in a resident company, or
- If the sale and purchase transaction involves 33% or more of the assets or the liabilities of a resident company by another resident company in return of shares in the acquiring company.

In both cases above, the buyer and seller should each pay the 0.3% stamp duty on the gross transaction value without deducting any costs.

In case the total of sale and purchase transactions performed by one person in one entity has reached the limit mentioned above (i.e. 33% or more) in two years from the first transaction undertaken by such person and from the date of issuing and enacting this law, the whole transaction should be considered as one transaction and consequently be subject to the 0.3% stamp duty. The seller shall pay 0.3% once one reaches the exit limit, and the buyer shall also pay 0.3% when one reaches the acquisition limit and after deducting any stamp duty paid before.

The 0.3% stamp duty imposed on the transactions equalling 33% or more should not be considered as deductible expense for CIT purposes.

Payroll taxes

There is no payroll tax other than the employer's social insurance contribution (*see below*).

Social insurance (employer's contribution)

The social insurance contribution of the employer is 26% of the basic salary (up to EGP 1,370) and 24% of the variable salary (up to EGP 2,800).

Branch income

Branches of foreign corporations operating in Egypt receive tax treatment identical to that of corporate entities for the results of their activities in Egypt.

A branch, but not a subsidiary, may deduct a 'head office charge' of an amount of up to 10% of its taxable income.

According to law no. 53 of 2014, which imposed withholding tax (WHT) on dividend payments, a PE's profits will be deemed dividend payments (and thus subject to 5% WHT) if not repatriated within 60 days of the following financial year-end.

Income determination

Inventory valuation

Egyptian generally accepted accounting principles (GAAP) should be applied to inventory valuation, and all methods that are acceptable by Egyptian GAAP can be used. The methods acceptable are almost the same as those acceptable under International Financial Reporting Standards (IFRS).

Capital gains

The law defines capital gains as the difference between the acquisition cost and the fair market value/selling price of the share. However, for listed shares acquired before 1 July 2014 and sold after that date, the capital gain will be calculated as the difference between either the acquisition price or the closing price on 30 June 2014 (whichever is higher) and the selling price.

Capital gains tax treatment applicable to resident companies

- Shares/securities listed on the Egyptian stock exchange: Capital gains realised by a resident/non-resident company due to the disposal of shares listed on the Egyptian stock exchange should be subject to a capital gains tax at the rate of 10%. However, such tax imposed on the gains realised from the sale of listed shares was put on hold for two years starting 17 May 2015, and that ended on 17 May 2017. On 19 June 2017, the Egyptian government has announced the extension of such exemption of listed shares from capital gains tax for another three years, ending on 17 May 2020.
- Unlisted shares/securities: Capital gains realised from the sale of unlisted shares will be subject to a capital gains tax at the rate of 22.5%.
- Foreign shares/securities (invested abroad): Capital gains realised from shares invested abroad will be subject to a capital gains tax at the rate of 22.5%, with a credit to be given for the foreign tax paid.

Capital gains tax treatment applicable to non-resident companies

- Shares/securities listed on the Egyptian stock exchange: Capital gains realised from the sale of listed shares will be subject to 10% WHT. However, law no. 96 of 2015 has put the tax on capital gains on listed shares on hold for two years as of 17 May 2015 (i.e. until 17 May 2017). The Egyptian government has announced the extension of such exemption of listed shares from capital gains tax for another three years, ending on 17 May 2020.
- Unlisted shares/securities: Capital gains realised from the sale of unlisted shares will be subject to a capital gains tax at the rate of 22.5%.
- Foreign shares/securities (invested abroad): Capital gains realised from shares invested abroad will not be taxable in Egypt.

Capital losses

A capital loss can be offset against a capital gain arising during the same tax year, provided that they both arise from the sale of shares (i.e. gain and loss of listed shares are in a separate pool from the gain and loss of unlisted shares, so the loss from the sale of listed shares can only be offset against the gain from the listed shares and cannot be offset from the gain of unlisted ones). Excess capital losses that are not utilised during a tax year can be carried forward for a period of three years and should be offset against capital gains from the sale of shares.

Dividend income

Dividend income treatment applicable to resident companies

A 10% WHT will be imposed on dividends paid by Egyptian companies to resident corporate shareholders. The 10% WHT can be reduced to 5% if both of the following conditions are met:

- The shareholder holds more than 25% of the share capital or the voting rights of the subsidiary company.
- The shares are held for at least two years.

Dividends received by resident companies from other resident companies should not be added to taxable income, provided that the related/associated costs are not deductible from the recipient companies' taxable profit.

Dividend income treatment applicable to non-resident companies

A 10% WHT will be imposed on dividends paid by Egyptian companies to non-resident corporate shareholders. The 10% WHT can be reduced to 5% if both of the following conditions are met:

- The shareholder holds more than 25% of the share capital or the voting rights of the subsidiary company.
- The shares are held for at least two years.

Participation exemption

90% of the dividends distributed by a non-resident corporate shareholder to a resident one will be exempt from tax (i.e. only 10% of the amount of the dividends will be subject to tax). Such exemption can be benefited from if both of the following conditions are met:

- The shareholder holds at least 25% of the share capital or the voting rights of the subsidiary company.
- The company holds or commits to hold the shares of the subsidiary for at least two years.

Permanent establishments (PEs)

A PE's profits can be deemed dividend payments, and thus subject to the above treatment, if they were not repatriated to the parent company within 60 days of the PE's financial year-end.

Stock dividends

Stock dividends are not subject to tax in Egypt.

Interest income

Interest expenses are deducted from interest income when calculating the interest income to be included in taxable income, provided certain conditions are met.

Generally, interest income is not taxed separately; it is considered as part of the company's income and taxed accordingly (i.e. at the 22.5% CIT rate).

Rent/royalty income

Rent/royalty income are not taxed separately; they are considered as part of the company's income and taxed accordingly (i.e. at the 22.5% CIT rate).

Foreign income

Income from any source, domestic or foreign, received by a corporation within Egypt is subject to CIT. The scope of tax covers the activities carried out inside and outside Egypt, which are administered or managed within Egypt.

There is no provision for deferring income earned abroad.

Deductions

In order for expenses to be acceptable for tax deduction, such expenses must be:

- actual and supported by documents
- business related, and
- necessary for performing the company's activity.

Depreciation and amortisation

The tax law set the depreciation and amortisation rates for tax purposes to the following:

- 5% of the cost of purchasing, establishing, developing, and renovating buildings and establishments is deductible based on the straight-line method.
- 10% of the cost of purchasing, developing, and improving intangible assets is deductible based on the straight-line method.
- Computers, information systems, software, and data storage sets are depreciated at a 50% rate on a declining-balance method.
- All others assets are depreciated at a rate of 25% of the depreciation basis for each fiscal year, on a declining-balance method.

Accelerated depreciation

A company may have the option to deduct 30% accelerated depreciation from the value of the machines and equipment used in industries during the first fiscal year of their employment. This should be done by submitting a request to the tax authority prior to deducting the 30% accelerated depreciation.

Goodwill

According to Article 25 of the Egyptian Income Tax Law, goodwill is amortised at the rate of 10% using the straight-line method.

Start-up expenses

Start-up expenses are tax deductible, and the whole amount can be amortised for the first year.

Interest expenses

Interest expenses are deductible for tax purposes after offsetting any tax-exempt interest income.

Interest expense deductions are only allowed if the following conditions are fully met:

- The interest rate does not exceed twice the discount rate as determined by the Central Bank of Egypt at the beginning of the calendar year in which the tax year ends.
- The interest expense is in return for loans complying with the local thin capitalisation rule: 4:1 debt-to-equity ratio.
- The Egyptian transfer pricing rules (i.e. arm's-length principle) are being followed (*see Transfer pricing in the Group taxation section for more information*). In case of a tax audit, if the interest rate isn't proven to be at arm's length, the tax authority has the right to adjust this price to arrive at the 'arm's-length price' and re-calculate the taxes due accordingly.
- The loan is business related.

Bad debt

According to Article 28 of the Egyptian Income Tax Law, deduction of bad debts shall be allowed, subject to submitting a report from the external auditor indicating the fulfilment of the following conditions:

- The company is maintaining regular books and records.
- The debt is related to the company activities.
- That debt value was previously included within the company accounts and records.
- The company has taken serious procedures for settlement of such debt and has been unable to collect it after 18 months from its due date.

Charitable contributions

Donations to the government are tax deductible. Donations to Egyptian charities are also deductible, but only up to 10% of taxable income.

Fines and penalties

Financial fines and penalties paid by the taxpayer because they or one of their subordinates has committed a deliberate felony or misdemeanour are not deductible.

Taxes

Income tax payable according to the Income Tax Law is not deductible.

Other significant items

The following other items are not deductible:

- Reserves and appropriations of all different types.
- Profit shares, distributed dividends, and the attendance fees paid to shareholders for attending the general assembly's meetings.
- Compensation and allowances obtained by the chairmen and board members.
- Workers profit share to be distributed according to the law.

Net operating losses

A company may carry losses forward for a period not to exceed five years. Nevertheless, if a change occurs in the ownership of its capital exceeding 50% of the shares, stocks, or the voting rights, if the company is either a joint-stock company or a company limited by shares whose shares are not listed on the Egyptian Stock of Exchange, and if the company changes its activity, the company cannot carry the losses forward.

In general, companies cannot carry losses back, except for contracting companies (i.e. in case of long-term projects), which are allowed a loss carryback for an unlimited period of time (to the extent of the duration of the contract).

Payments to head office

A branch may deduct head-office charges of up to 10% of its taxable income. Moreover, the branch or subsidiary should withhold taxes before the payment of interest, royalties, and service fees to non-resident foreign corporations or affiliates.

Group taxation

The Egyptian tax law treats every company in a group of companies as a separate legal entity. Thus, affiliated companies or subsidiaries cannot shift the profits/losses within the group.

Transfer pricing

Transfer pricing rules follow the arm's-length principle, specifying that any transaction between related parties should be at arm's length (i.e. market value).

The law does not specify penalties with regard to transfer pricing. However, the law states that the Egyptian Tax Authority (ETA) may adjust the pricing of transactions between related parties if the transaction involves elements that would not be included in transactions between non-related parties, and whose purpose is to shift the tax burden to tax exempt or non-taxable entities. Where this is the case, the tax authorities may determine the taxable profit on the basis of the neutral price. The acceptable methods for determining such neutral price, according to the rule of the law, are as follows:

- Comparative free price (same as Comparable Uncontrolled Price method [CUP]).
- Total cost with an added margin of profit (same as Cost Plus method).
- Resale price.

On 29 November 2010, the ETA launched the Transfer Pricing Guidelines ('TP Guidelines'). The TP Guidelines are being issued as a series of parts, the first part of which was issued in final version to the public and provides guidance on the arm's-length principle, how to establish comparability, choosing the most appropriate transfer pricing method(s), and documentation requirements. The coming parts should cover more complex transfer pricing topics, specifically transactions involving intellectual property (IP), intra-group services, cost contribution arrangements, and advanced pricing agreements (APAs).

Taxpayers are required to prepare contemporaneous documentation studies to support the arm's-length nature of their controlled transactions. The ETA does not require the submission of transfer pricing documentation studies with the tax return; rather, they are required to be available upon request in a tax audit. Studies are acceptable in English, but a translation may be requested from the taxpayer.

The ETA explained that the TP Guidelines will be utilised as a practical guide to assist taxpayers and tax inspectors in understanding how to implement and examine transfer pricing transactions. The Egyptian TP Guidelines were compared to the Organisation for Economic Co-operation and Development (OECD) by an OECD representative and were found to be similar.

Thin capitalisation

The Egyptian thin capitalisation rule provided by the Egyptian Income Tax Law dictates that the debt-to-equity ratio is 4:1. Accordingly, the Law disallows the deductibility of debit interests of Egyptian companies on loans and advances if such loans and advances are in excess of fourfold the equity average (which is calculated according to the financial statements prepared pursuant to the Egyptian accounting standards).

Debt includes loans and advances, including bonds and any form of financing by debts, even if through securities with fixed/variable interest.

With respect to the debit interest, it includes all amounts paid by a taxpayer in return for the loans, advances of any kind obtained, bonds, and bills.

For determining the equity, the following items represent the basis for the calculation: the paid-up capital in addition to all reserves and retained earnings reduced by retained losses. In addition, revaluation gains should be excluded from the equation, in case they were not subject to tax. In case of retained or carryforward losses, they must be used to reduce retained earnings and reserves solely; the percentage is calculated on the basis of total loans and advances in proportion to the remaining equity amount, after deducting the retained losses with a minimum of the paid-up capital (in other words, they should be deducted from the retained earnings and reserves, where in case of a net loss balance, debt should be compared to the paid-up capital).

For the purpose of calculating the debt-to-equity ratio, average debt and equity balances are used.

It's worth noting that the following types of loans should be excluded from the above calculation:

- Interest-free loans.
- Loans with non-taxable interests.
- Loans with a grace period for settling the interest payment solely until the end of the loan period.

Controlled foreign companies (CFCs)

Egypt currently does not define specific rules for CFCs; however, in an effort to exert similar CFC provisions, investments are evaluated according to the Egyptian Accounting Standards and the equity rights method, where the profits generating from the disposal of such investments are determined on the basis of the difference between the cost of investment acquisition and its sale value.

Tax credits and incentives

Egypt offers no specific tax incentives unless a company is a free zone entity, which is considered tax exempt.

Foreign tax credit

The foreign tax paid by a resident company on its profits earned abroad is deductible from the tax payable in Egypt; however, losses incurred abroad are not deductible.

Withholding taxes

An Egyptian tax resident corporation paying invoices must withhold 0.5% to 5% of payments, depending on the services and commodities, to local taxpayers and remit them quarterly to the tax department.

A 10% WHT is imposed on dividends paid by Egyptian companies to resident corporate shareholders. *See Dividend income in the Income determination section for further information*.

Payments of dividends, interest, royalties, and services by a domestic corporation to foreign or non-resident bodies are subject to WHT as follows.

Dividends to non-residents

A 10% WHT is imposed on dividends paid by Egyptian companies to non-resident corporate shareholders (*see Dividend income in the Income determination section for further information*). However, an applicable double tax treaty (DTT) between Egypt and the foreign country may result in the reduction/elimination of such tax rate.

Interest to non-residents

Interest on loans with more than a three-year term entered into by private sector companies is exempt from WHT, while loans of less than three years are subject to 20% WHT on interest. However, an applicable DTT between Egypt and the foreign country may result in the reduction of such tax rate. *Please see below for the ministerial decree affecting the treatment of interest and royalty payments*.

Royalties to non-residents

Royalty payments are subject to 20% WHT. However, an applicable DTT signed between Egypt and the foreign country may result in a reduction in this rate. *Please see below for the ministerial decree affecting the treatment of interest and royalty payments*.

Service payments to non-residents

Service payments are subject to the 20% WHT. However, an applicable DTT signed between Egypt and the foreign country may result in the exemption of these payments if the services are performed abroad and not through PE in Egypt.

For payments withheld on behalf of non-resident entities, tax shall be remitted to the tax authority the day following the withholding of the amount.

Egypt

Tax treaties

Egypt has concluded DTTs with over 50 countries, which could change the tax treatment of transactions carried out between Egyptian entities and residents of a treaty country.

	WHT (%)		
Recipient	**Dividends**	**Interest**	**Royalties**
Non-treaty	5/10 (9)	20	20
Treaty:			
Albania	10	10	10
Algeria	10	5	10
Austria	15	15	-
Bahrain	0	-	-
Belarus	15	10	15
Belgium	15/20 (1)	15	15
Bulgaria	10	15	15
Canada	15/20 (1)	15	15
China	8	10	8
Cyprus	15	15	10
Czech Republic	5/15 (2)	15	15
Denmark	15/20 (2)	15	20
Finland	20	15	20
France	0	15	15% franchise 15% for other royalties
Georgia	10	10	10
Germany	15/20 (1)	15	15
Greece	10	10	10
Hungary	15/20 (1)	15	15
India	(3)	20	20
Indonesia	15	15	15
Iraq	(3)	20	16
Ireland	5/10 (2)	10	10
Italy	20	20	15
Japan	20	20	15
Jordan	15	15	20
Korea	10/15 (2)	15	15
Kuwait	10	10	10
Lebanon	10	10	5
Libya	(3)	-	-
Macedonia	10	10	10
Malaysia	0	15	15
Malta	10 (1)	10	12
Mauritius	5/10 (2)	10	12
Morocco	10/12.5 (2)	20	10
Netherlands	0/15 (4)	12	12
Norway	15	20	15
Oman	12.5	12.5	15
Pakistan	15/30 (5)	15	15
Palestinian Territories	15	15	15
Poland	12	12	12
Romania	10	15	15

	WHT (%)		
Recipient	Dividends	Interest	Royalties
Russia	10	10	15
Saudi Arabia	5/10 (8)	10	10
Serbia & Montenegro	5/15 (5)	15	15
Singapore	15	15	15
South Africa	15	12	15
Spain	9/12 (2)	10	12
Sudan	0/15	20	10
Sweden	5/20 (2)	15	14
Switzerland	5/15 (2)	15	12.5
Syria	15	15	20
Tunisia	10	10	15
Turkey	5/15 (2)	10	10
Ukraine	12	12	12
United Arab Emirates	0 (6)	10	10
United Kingdom	20	15	15
United States	5/15 (4, 7)	15	15
Yemen	N/A (6)	10	10

Notes

1. Dividends paid out by a company resident of Egypt to an individual of the other contracting state shall not be taxed more than the maximum amount mentioned. 15% in all other cases.
2. Reduced rate of the gross amount of dividends is applied if the beneficial owner is a company that holds at least 25% of the company's capital. Higher rate applies in all other cases.
3. In the absence of specific provisions, dividends may be taxed under the local law at 10%, which may be reduced to 5% under certain conditions.
4. Lower rate applies if the foreign company holds more than 25% of the capital in the company.
5. Lower rate applies if the beneficial owner is a company.
6. Taxed in both the resident and source state.
7. The reduction in the rate does not apply if the recipient is engaged in a trade or business in the United States through a PE that is in the United States. However, if the income is not effectively connected with a trade or business in the United States by the recipient, the recipient will be considered as not having a PE in the United States to apply the reduced treaty rate to that item of income.
8. Reduced rate of the gross amount of dividends is applied if the beneficial owner is a company that holds at least 20% of the company's capital. Higher rate applies in all other cases.
9. *See Dividend income in the Income determination section for descriptions of instances when the 5% rate applies.*

Procedures for applying the WHT on payments to non-residents

Ministerial decree no. 771 for 2009 dictates that the reduced rate of WHT on interest or royalties provided by an applicable DTT should not be automatically applied. The rate of 20% (Egyptian tax rate) should be imposed upon deduction. However, under certain conditions, the foreign recipient of payments will be able to get a refund for the amount resulting from the variance between the normal rate of 20% and the reduced treaty rate.

Certain documents should be submitted to the tax authority along with the refund claim.

A special unit responsible for interest and royalty WHT refunds is tasked with reviewing each refund case and with issuing refund letters (subject to compliance with the requirements of the 2009 ministerial decree). A refund letter is required to be able to get a refund of excess WHT from the tax office to which the taxes were actually paid.

Please note that free zone entities are obligated to withhold tax when dealing with non-resident entities and shall remit the tax to the tax authority.

In 2015, amendments were made to certain articles of the executive regulations of the Egyptian Income Tax Law no. 91 of 2005, among which was amending the article that forms the basis of the ministerial decree no. 771, whereby some provisions of this article were abolished.

However, practically, it is still a controversial issue whether (i) the decree is abolished and so the reduced rate of the DTT should apply automatically or (ii) the decree stands and the refund mechanism should apply. Consequently, we are of the opinion that taxpayers must have the necessary documents available at all times, as the ETA, upon tax audit, may seek to ensure that the recipient of the income is the beneficial owner of it and is a tax resident of the relevant state, to approve benefitting from a relevant DTT's privileges.

Tax administration

Taxable period

The tax year is the financial year of the taxpayer.

Tax returns

The taxpayer is required to assess taxes due for every financial year and settle them with the tax return.

The CIT return is due within four months from the end of the financial year; consequently, if a company's financial year ends 31 December, then the tax return has to be filed before the end of April of the following year.

For the filing requirements of the WHT on dividends, the entity executing the transaction should withhold 1% of the dividends distributed by an Egyptian entity (in case the dividends are distributed to an Egyptian tax resident individual), and remit it to the tax authority at a maximum date of the fifth day of the month following the month at which the distribution took place. This amount is considered part of the dividends tax. Later, the shareholder should remit the remaining amount of the tax to the tax authority.

Payment of tax

Advance payments are deducted from taxes assessed per the tax return, and the balance is payable in a lump sum at the date of submitting the tax return.

Note that tax on capital gains realised on shares listed on the Egyptian stock exchange should be remitted to the tax authority by the legal entity undertaking the sale transaction. However, in case the shares are unlisted in the Egyptian stock exchange, the tax on capital gains should be withheld by any party executing the transaction.

The advance payment (i.e. WHT) is submitted on a quarterly basis.

Penalties

If the taxpayer included a tax amount in the tax return that is less than the finally assessed tax, the taxpayer is liable to a fine based on the non-included percentage, as follows:

- 5% of the tax payable on the non-included amount if such amount is equivalent to 10%, up to 20% of the final tax due.
- 15% of the tax payable on the non-included amount if such amount is more than 20%, up to 50% of the final tax due.
- 40% of the tax payable on the non-included amount if such amount is more than 50% of the final tax due.

Tax audit process

The audit cycle proceeds as follows:

Inspection

The tax authority inspects the company based on its documents and records in order to assess the total tax due on the company and determines the difference in tax due as per the company declaration and the tax authority assessment. The authority issues an assessment including the total tax due on the company. If the company objects to the inspection result, the dispute is transferred to the Internal Committee.

Internal Committee

The dispute is transferred to the Internal Committee to discuss the dispute points that arose from the inspection further to issue a modified assessment based on its opinion. If the company objects to the Internal Committee result, the dispute is transferred to the Appeal Committee to review the dispute points arising from the Internal Committee.

Appeal Committee

The Appeal Committee's decision is final and binding on the company and the tax department unless a case is appealed by either of them at the court within 30 days of receiving the decision. Based on the fact that the total taxes due on the assessment as per the Appeal Committee are considered final if they are not paid within the appropriate period, there will be penalties for the late payment.

Court

If the decision of the Appeal Committee is not satisfactory for either party, the case will be transferred to the court system, which is considered the final stage of the disputes. Normally, the court will appoint an expert witness to investigate the case and prepare a report. The court process usually takes a long period of time.

Statute of limitations

The statute of limitations is five years according to the Egyptian Income Tax Law and is extended to be six years in case of tax evasion.

Topics of focus for tax authorities

The most important topic for tax authorities is transfer pricing.

General anti-avoidance rule (GAAR)

A GAAR is applicable to arrangements entered into on or after 1 July 2014. The primary objective of the GAAR is to deter taxpayers from entering into abusive arrangements for the purpose of obtaining an abusive tax advantage. The law stipulates that the tax effect of any transaction whose main purpose, or one of the main purposes thereof, is tax avoidance shall not be reckoned with. In this case, the crucial factor when making tax assessments is the real economic substance of the transaction in question. The burden of proving that the main purpose, or one of the main purposes, of conducting a transaction has been to avoid taxation lies with the tax authority.

Equatorial Guinea

PwC contact

Sinforiano NGOMI ELOMBA
Main Road Malabo 2 EGICO Tower
3rd and 4th Floor
P. O. Box 431
Equatorial Guinea
Tel: +240 333 09 14 34
Email: sinforiano.ngomi.elomba@cm.pwc.com

Significant developments

There have been no significant corporate tax developments in Equatorial Guinea (EG) during the past year.

Taxes on corporate income

The corporate income tax (CIT) must be paid by any resident entity.

Taxable profit is determined by deducting from gross income all expenses tied to the performance of taxable activities in Equatorial Guinea. In principle, all expenses are deductible, but the Tax Code provides deductibility rules for some of them.

Resident companies are subject to CIT on their worldwide income (even if, in practice, it is tolerated for CIT only to be applied to income related to activities carried out in Equatorial Guinea). Non-resident entities are subject to a 10% withholding tax (WHT) on gross income derived from sources in Equatorial Guinea.

The CIT rate is 35% on taxable profits.

Minimum income tax (MIT)

The MIT rate is 3% of the turnover of the company for the previous year. This amount cannot be lower than 800,000 Central African CFA francs (XAF) (even if the company does not generate any revenue).

MIT can be totally or partially deducted from the CIT liability to be paid.

Local income taxes

There are no provincial or local income taxes in Equatorial Guinea.

Corporate residence

A legal entity present in Equatorial Guinea more than three months within a calendar year, or more than six months within two consecutive calendar years, and performing an economic activity or providing paid services in the country is considered as a resident for taxation purposes.

The notion of residence applies equally to any kind of activity (even if there is some specificity in the oil and gas sector).

Permanent establishment (PE)

The notion of 'permanent establishment' is not defined in Equatorial Guinea's Tax Code. Authorities mainly refer to the notion of residence as defined above.

Other taxes

Value-added tax (VAT)

VAT is an indirect tax on consumption based on turnover.

All operations performed in Equatorial Guinea are subject to VAT unless they are included in the list of exemptions provided by the EG Tax Code or a specific tax regime.

VAT is generally chargeable on the following:

- Goods sold or assigned for valuable consideration.
- Services provided.
- Self-consumed goods and services.
- Imports.
- Other operations carried on by individuals or legal entities in their sphere of business, professional, and individual activities, including extraction activities.

The standard VAT rate is 15%.

A rate of 0% is applicable to a specific list of products and equipment provided in the Tax Code (e.g. certain medical products, some equipment for construction).

A reduced rate of 6% is applicable to a limited list of basic consumables and books.

Customs duties

The customs duties are based on the categories of goods as follows:

- Category I: Primary necessity goods: 5%.
- Category II: Raw material and materials: 10%.
- Category III: Intermediary goods and miscellaneous: 20%.
- Category IV: Current consumption goods: 30%.

Excise taxes

Excise taxes are applicable on specific goods, such as alcoholic drinks and tobacco. The EG Tax Code (article 296) provides a single rate of 30% applicable to products subject to excise taxes.

Real property tax

A 1% urban property tax applies annually to 40% of the value of the land and the buildings on such land. Urban property is defined by the Tax Code as "any land with or without buildings and the buildings built thereon, whenever located in urban areas".

Transfer tax

For the transfer of goods between residents and non-residents, and between non-residents, there is a 3% tax on the value of the goods.

Real estate transfers between residents are taxed at the rate of 5% on the value of the real estate. The rate increases to 25% on real estate transfers between residents and non-residents, and between non-residents.

Stamp duties

Stamp duties are payable on a variety of instruments and transactions and vary depending on the concerned legal act.

Payroll taxes

The personal income tax (PIT) liability is withheld from the employee's salary and declared and paid by the employer.

The tax tables applicable to individuals are provided in the Taxes on personal income section of Equatorial Guinea's Individual tax summary at www.pwc.com/taxsummaries.

Social security contributions

Employers contribute 1% of gross salary to the Work Protection Fund (*Fondo de Protección al Trabajo* in Spanish) and 21.5% to the National Institute of Social Security (INSESO for its Spanish acronym) on a monthly basis.

Employees contribute 0.5% of net salary to the Work Protection Fund and 4.5% to the INSESO on a monthly basis.

Both of these contributions are declared and paid by the company.

Branch income

Branch income is subject to CIT. We understand there is no branch remittance tax, even if tax authorities have tried to challenge this position in the past.

Income determination

Inventory valuation

Inventory is evaluated at cost price for tax purposes. The tax method generally matches the book method.

Capital gains

Capital gains are, in principle, subject to CIT.

Some exemptions and specific tax regimes can apply, as follows:

- Capital gains that come from the assignment, in the ongoing operation, of the components of the fixed assets will not be included in the taxable profit of the fiscal year in the course of which they have been obtained if the taxpayer puts them in a special account named 'capital gains to be reused' and is committed to reinvesting in new fixed assets in the company before the expiration of a period of time of three years, starting from the close of this fiscal year, an amount equal to the amount of these capital gains plus the cost of the assigned components.
- Capital gains different from those obtained on goods, resulting from free assignment of stock, corporate portions, or liabilities, as a consequence of the merger of

corporations, limited partnerships by shares, or limited companies, will be exempt from the tax regarding the profits made by those corporations, on condition that the take-over company or the new company has its corporate headquarters in Equatorial Guinea.

Dividend income

All dividends received by a resident company are subject to CIT.

A personal income WHT of 25% is applicable on dividends paid to individuals or companies not having their usual domicile or headquarters in Equatorial Guinea. This tax is a final tax for those taxpayers.

The net products of the shares owned and earned by the parent company from its subsidiary can be deducted from the total net profits of the parent company after offsetting from this amount 25% (expenses and charges lump sum amount) if the:

- shareholder holds at least 25% of shares of the subsidiary and
- shareholder guarantees the shares have always been registered in the name of the participating company and commits it will hold these shares for at least two consecutive years.

This proportional part is established at 10% of the amount of these products and represents the management expenses already deducted from overhead costs.

Interest income

Interest earned by companies established in Equatorial Guinea is subject to CIT (35% rate).

Interest earned by companies not having their usual domicile or headquarters in Equatorial Guinea is considered as dividend income and subject to WHT at a 25% rate.

Royalty income

Royalties over gross production for the oil and gas industry are paid based on the respective Production Sharing Contracts.

Foreign income

Resident companies are subject to CIT on their worldwide income.

There is no tax deferral in Equatorial Guinea.

Deductions

Depreciation

A straight-line method of computation of depreciation should be applied to fixed assets according to the normal useful lives of the assets involved, as provided by the Tax Code.

Goodwill

Goodwill is, in principle, not deductible.

Start-up expenses

Start-up expenses can be amortised (regarding tangible assets) or fully deductible (regarding registration costs and fees).

Interest expenses

Interest expenses are deductible if they do not exceed the limit for loans set up by the Central Bank.

Bad debt

Bad debts are deductible, given they are supported.

Charitable contributions

Charitable contributions are deductible, given they are for philanthropic, sport, educative, scientific, social, or family purposes and do not exceed 0.5% of the turnover for the fiscal year of the company.

Fines and penalties

Fines and penalties are not deductible.

Taxes

Only professional taxes are deductible.

Net operating losses

Net operating losses can be carried forward for three years (five years for companies belonging to the oil and gas sector). Losses cannot be carried back. Losses of one entity cannot be transferred to another entity in a reorganisation.

In theory, when the results of a company, no matter the kind of company, are negative during a maximum period of three consecutive years, this company will immediately be removed from the register by the Tax Administration for the practice of the activity for which it was registered, except when the company is newly created.

Payments to foreign affiliates

The deductibility of the technical assistance made by the parent company to its subsidiary is limited to 50% of the intermediary tax result (accounting result plus potential fiscal reintegration).

In case of a deficit, the relevant basis for the evaluation of the foreign technical assistance amount to be reintegrated will be the intermediary result of the last beneficiary fiscal year.

Group taxation

Equatorial Guinea law does not provide specific provisions for taxation of groups.

Transfer pricing

There are no specific rules regarding transfer pricing, even if there are indirect references in the Tax Code.

Indeed, according to the Tax Code, in order to determine the CIT liability of entities under dependence and control of companies located outside of Equatorial Guinea, any transfer of profits shall be recorded in the accounting's profits and losses.

Furthermore, the Economic and Monetary Community of Central Africa (CEMAC) Directive related to CIT states that head office costs are fully deductible if they correspond to real operations, and they are neither unusual nor exaggerated.

However, there is no regulation in force providing a definition of 'transfer of profits' and neither any criterion that would allow the determination of the 'exaggerated' nature of costs.

Thin capitalisation

According to the Tax Code:

"Interest paid to the partners for amounts made available to the company, in addition to their capital contributions, no matter the form of the company, will be admitted (for deduction) within the limits established for the advances of the Central Bank.

In incorporated or limited companies, the deduction of interest will not be allowed for partners or shareholders that have the right to hold, or actually hold, the company management except to the extent that the amounts deposited do not exceed the combination of the contributions of these partners or shareholders."

Controlled foreign companies (CFCs)

According to the Tax Code:

"Regarding legal entities located outside of Equatorial Guinea and which have subsidiary or interdependence ties with other legal entities or companies located in Equatorial Guinea, the place of their taxation will be the same as that of the legal entities or companies with which it maintains those ties (i.e. Equatorial Guinea). These latter are jointly and severally liable for the payment of the tax owed by the legal entities located outside of Equatorial Guinea."

Tax credits and incentives

Some tax and customs exemptions can be granted by the government for some specific economic sectors (e.g. oil and gas sector, public work sector). These exemptions shall be negotiated in the contract signed between the company and the administration (e.g. Production Sharing Contract, Public Work Contract).

Foreign tax credit

There is no foreign tax credit in Equatorial Guinea.

Withholding taxes

WHT in the general regime (i.e. any sector other than the oil and gas sector)

There is a 10% tax withheld on the gross incomes obtained in Equatorial Guinea by non-residents.

There is a 10% WHT on royalties for non-CEMAC residents.

Dividends and interests paid to non-residents are subject to 25% WHT.

WHT on the oil and gas sector

In Equatorial Guinea:

- a 6.25% WHT must be applied to payments made to a resident entity within the oil and gas sector and
- a 10% WHT must be applied to payments made to a non-resident entity within the oil and gas sector.

In practice, the tax authorities consider this tax only applies to sales of services.

The tax basis is composed of the gross amount paid to the provider.

Tax administration

Taxable period

The taxable period is from 1 January to 31 December for CIT purposes.

Tax returns

CIT returns must be filed within the first four months of the year following the taxable fiscal year.

Payment of tax

Payment of CIT must be made within 15 days from the day following the date of receipt of the tax liquidation issued by the Ministry of Finance and Budget.

The MIT of 3% of the previous year's turnover is payable before 31 March.

Penalties

Penalties of XAF 200,000 per month late, up to 75% of the tax owed, apply for late filing of CIT returns.

A penalty of 50% to 100% of the undeclared amount applies in case of shortfall in the return and in case of arbitrary settlement, 50% of the total amount if the good faith of the taxpayer is established or assumed and 100% wherever the taxpayer does not prove good faith.

Tax audit process

There is no specific provision related to the tax audit cycle in Equatorial Guinea.

Statute of limitations

The statute of limitations is five years from the date the tax is due.

Topics of focus for tax authorities

Topics systematically assessed by tax authorities in the framework of audits are:

- WHT of the oil and gas sector.
- PIT and social contributions.

In the framework of recent audits, the tax authorities are more and more interested in assessing transfer pricing operations.

Gabon

PwC contact

Christophe Relongoue
PricewaterhouseCoopers Tax and Legal
366 Rue Alfred-Marche
Libreville
Gabonese Republic
Tel: +241 01 74 59 11
Email: christophe.relongoue@ga.pwc.com

Significant developments

Further to the promulgation of the Financial Act for 2018, the following new tax measures have been introduced:

- Possibility to obtain tax benefits with regard to corporate income tax (CIT), value-added tax (VAT), and related withholding tax (WHT) during the stage of investment or construction, subject to the fulfilment of conditions, and for a period that does not exceed five years.
- The institution of thin capitalisation rules.
- The extension of the list of goods subject to excise duty, the reduction of the former excise duty's rates, and the institution of a specific tax based on quantities in addition to the 'ad valorem' rate.
- The institution of a monitoring fee for companies holding forestry, mining agricultural, or hydrocarbons' exploitation rights in the Gabonese Republic.
- The institution of a contribution to the African Union due on the products originating from states that are not members of the African Union that are imported in the customs territory for consumption.

Taxes on corporate income

Subject to the provisions of double tax treaties (DTTs), profits subject to CIT in Gabon are those obtained by companies exploited in Gabon or those relating to operations carried out in this country.

As the Uniform Act of the Organisation for the Harmonisation of Business Law in Africa (OHADA) relating to the law of companies and economic interest groups has introduced the simplified stock company (SAS) in the OHADA area, the General Tax Code has enlarged the application of the CIT to include the SAS. The Finance Act for 2018 has also enlarged the application of the CIT, on an optional manner, to companies of owners of ships or built and unbuilt properties, for the part of the shareholders indefinitely liable and whose identity is known by the Administration.

The CIT rate is fixed at 30%.

The CIT rate is 35% for companies operating in the oil and mining sectors and 25% for the following entities:

- Companies owning intellectual property (IP) shares.
- The Gabonese Development Bank.
- Authorised companies of property promotions.

- Public companies.
- Non-profit partnerships and collectives.
- Authorised companies of the tourism sector.

CIT is assessed on profits minus deductible expenses and charges. Profits are composed of all operations carried out in Gabon by companies during the period of taxation, including, notably, capital gains on fixed assets.

Non-resident companies shall be taxed via WHT at the rate of 20% for income raised in Gabon if they have no permanent establishment (PE) in Gabon.

In cases where non-resident companies have PE in Gabon, they shall be subject to CIT on the income raised in Gabon via the Gabonese PE.

Impôt Minimum Forfaitaire (IMF)

The IMF is a lower limit to the CIT and is calculated as 1% of the global turnover carried out during the fiscal year of taxation.

The turnover on which the IMF is calculated corresponds to all the revenues resulting from the operations carried out during the fiscal year, including the financial and exceptional profits.

Minimum de Perception (Minimum of Perception)

The Minimum of Perception is the ultimate lower limit to the CIT, as the amount of CIT paid by a taxpayer cannot be less than 1 million Central African CFA francs (XAF), even in the absence of profit.

New companies (as defined in Articles 194, and following, of the Gabonese Tax Code), without consideration of the sector of activity, are exempt from this minimum tax during the first two fiscal years of their existence.

Local income taxes

There are no local government taxes on income in Gabon.

Corporate residence

As a general rule, a resident company is a company that is incorporated under commercial laws in force in Gabon.

Permanent establishment (PE)

From a general treaty perspective, a PE designates a permanent business installation through which a company carries out the whole or part of its activity.

The expression ‘permanent establishment’ notably includes the following:

- Head office.
- Branch.
- Office.
- Plant.
- Workshop.
- Mine, oil or gas shaft, quarry, or other place of natural resources extraction.

- Building site or assembly line.

Other taxes

Value-added tax (VAT)

VAT is a cumulative tax levied on the sale of goods and the provision of services rendered or used in Gabon.

There are four rates of VAT:

- Standard rate: 18%, which applies to all transactions unless otherwise provided for by the law.
- Reduced rates:
  - 10%, which applies to manufacturing operations and sales of products mentioned in a limitative list provided by Article 221 of the Gabonese Tax Code, including mineral water, chicken, and sugar.
  - 5%, which applies to sales and services relating to cement.
- Zero-rate: 0%, which applies to exports and international transports.

Taxable persons are individuals or legal entities carrying out, usually or occasionally, in an independent manner, taxable operations in the scope of an economic activity and for an onerous consideration.

The aforesaid persons, subject to CIT or personal income tax (PIT), being registered or not, are liable to VAT should their turnover out of taxes reach XAF 60 million.

VAT on real estate

According to article 248 ter of the Gabonese Tax Code, operations in relation to the construction or sale of real estate, such as sales of lands to build on, delivery of new buildings, or self-delivery of some buildings, carried out by persons subject to VAT in the scope of their economic activities are subject to VAT on real estate.

The taxpayer of the VAT on real estate is the builder of the building.

The VAT is payable on the delivery date.

The deeds relating to the transfer of buildings subject to VAT on real estate are subject to registration formalities.

The VAT on real estate is calculated based on the sale price as determined by the parties or on the real value of the real estate in case it is superior.

The applicable rate is 18%.

Special Solidarity Contribution (SSC)

SSC is a tax levied on the sale of goods and the provision of services rendered or used in Gabon based on similar principles as VAT.

The SSC must be invoiced by the taxpayers (natural and legal persons) carrying out, on as usual or occasional basis, taxable transactions whose annual turnover, excluding taxes, is at least XAF 30 million.

The arrangements for the taxation of the said contribution are similar to those applicable to VAT.

This contribution aims to replace the contribution to Health Insurance (ROAM) that was formerly due by operators of the mobile telecommunication sector.

The SSC is calculated based on the amount invoiced, out of taxes.

The applicable rate is 1%.

Customs duties

Gabon is member of the Central African Economic and Monetary Community (CEMAC), a customs union that comprises countries from Central Africa.

Merchandise entering into the CEMAC customs territory is subject to importation duties registered into the Customs Tariff.

Four customs regimes are available in Gabon, notably one standard regime and three specific regimes (an exemption regime, a temporary admission regime, and a reduced tax regime).

Apart from customs duties, the importation of merchandise in Gabon is subject to the community tax of integration (CCI) at a rate of 0.4% and to the OHADA withholding (duty) at a rate of 0.05% of the customs value of the imported merchandise.

The Finance Act for 2018 has introduced, as of 1 January 2018, a contribution to the African Union (CAF) that is due on the importation within the custom territory of products originating from states that are not members of the African Union.

The CAF is paid at a single rate of 0.2% of the customs value of the products originating from states that are not members of the African Union.

Excise duty

Excise duty principally applies to luxury goods, such as alcoholic drinks, perfume and cosmetic products, caviar, salmon, cigars, and cigarettes.

The rates of the excise duty are between 5% and 25%.

The Financial Act for 2018 has extended the list of products subject to excise duties and has provided a decrease of the former excise duty rates.

The Finance Act for 2018 has also introduced, in addition to the ad valorem rate, a specific tax based on the quantities.

The excise duties are currently the following:

- Local and imported beers: 22% + XAF 80 per litre.
- Local and imported wines: 25% + XAF 80 per litre.
- Champagnes: 22% + XAF 200 per litre.
- Other beverages with more than 12° of alcohol: 22% + XAF 200 per litre.
- Soft drinks and other beverages with less than 12° of alcohol: 5%.
- Cigarettes, cigars, cigarillos, tobacco: 25% + XAF 300 per package produced or imported.

- Perfume and cosmetic products: 25%.
- Games of chance: 5% + XAF 100,000 per operated machine.
- Used vehicles: 25% + XAF 50,000 per sold vehicle aged 3 years at most and XAF 100,000 per sold vehicle aged more than 3 years.
- Caviar, foie gras, salmon: 25%.
- Mobile telecommunication activities (calls): 5%.

Tax on property

Tax on buildings (*Contributions Foncières des Propriétés Bâties* or CFPB) is levied annually at the rate of 15% of the rental value of the building after deduction of 25% for deterioration and maintenance. For properties booked into the assets of a company's balance sheet, the rental value of the premises is equal to 10% of the gross balance sheet value without being inferior to a tenth of the market value of the premises. However, in the hypothesis where the market value is unknown, only the gross balance sheet value has to be considered.

Tax on non-built property is levied annually at the rate of 25% of the taxable revenue corresponding to 4% to 5% of the rental value or 10% of the purchase value.

Transfer tax

The tax on funds transfer is due on remote transfer operations carried out in Gabon at destination of countries outside the Central Africa Monetary Union (UMAC) countries.

The tax is calculated on the amount of the funds to be transferred, except for related fees and commissions paid by the giver.

The rate of the transfer tax is 1.5%.

Stamp duty

A stamp duty is levied on all paperwork relating to civil and judicial actions and to documents that could be produced in court as evidence.

All signatories for mutually binding contracts, lenders and borrowers for loans, and ministerial officials who receive or modify deeds announcing unstamped deeds or books are jointly responsible for the payment of stamp duties and fines.

Business license tax

The business license tax applies to both individuals and entities, Gabonese and foreign, engaged in a profession, business, or industry in Gabon.

Business license tax corresponds to a professional tax borne annually. It is deductible from the taxable income for CIT purposes.

The rates of this tax vary according to the profession, business, and location within Gabon territory (this tax may vary between XAF 15,000 and XAF 540,000).

The head of the group of companies is exempted from the payment of the business license tax.

Franchise tax

The franchise tax is a fixed annual duty varying from XAF 10,000 to XAF 500,000, according to the size, nature, and location of the company. Each company that carries on a trade, business, or activity that is not expressly exempted is liable for franchise tax.

Activities that are expressly exempted from franchise tax are those carried out by companies of provident, craftsmen, teachers and professors, lyrical and dramatic artists, farmers, cattle-breeders, fishers, etc.

Registration duties

Registration duties in Gabon are fixed, proportional, or progressive, depending on the nature of the acts and transfers in question.

Payroll taxes

PIT and complementary tax on salary (TCS) are withheld monthly by the employer and paid to the Treasury before the 15th day of the following month.

Social security contributions

Employers must contribute to the social security system, which consists of the National Social Security Fund (CNSS) and the National Disease Insurance and Social Guarantee Fund (CNAMGS).

The taxable basis for social security contributions to the benefit of the CNSS is made up of gross salaries, including indemnities having the function of a salary and any benefits in kind. However, there is an annual ceiling of XAF 18 million (or XAF 1.5 million per month).

The taxable basis for social security contributions to the benefit of the CNAMGS is made up of gross salaries, including taxable indemnities, up to the limit of a monthly ceiling of XAF 2.5 million.

The social security contributions due by the employer for both funds are determined according to the following rates:

Contribution to CNSS	**Rate (%)**
Family allowances	8
Industrial accidents (work injuries)	3
Retirement pensions	5
Contribution to CNAMGS	**Rate (%)**
Health evacuation funds	0.6
Medication distribution	2
Hospitalisations	1.5
Total	**20.1**

Tax on insurance premiums

Insurance or annuity agreements made with insurance companies or any other Gabonese or foreign insurer are subject to an annual obligatory tax.

The tax is levied on the sums charged by the insurer and on any accessory payments made to this party by the insured party according to the following rates:

Nature of the policies	Rate (%)
Marine policies	5
Life policies	Exempt
Fire policies	30
Other (e.g. personal liability, transportation)	8
Reinsurance	Exempt

Branch income

Taxation of branch income is the same as for corporate income. However, a 20% WHT on profit is due at the time the profit is taken by the head office (located abroad) of the branch. This rate is reduced to 10% in case of the existence of a tax treaty.

Simplified tax regime for oil subcontractors

There is a simplified tax regime specific to the oil sector, which is a lump-sum tax regime granted for a biennial period. The request to benefit from such a tax regime is renewable for an additional period of two years, at least. Should the biennial period end after the first quarter of a considered year, the benefit from the simplified tax regime will apply until the end of the said year.

Features of this specific regime are as follows:

- The option for this regime is irrevocable for a period of two years, renewable once.
- The total duration of the benefit of such a regime can't exceed four years.
- The companies must perform their activities exclusively in the scope of oil operations.
- The option is granted by the Director of the General Tax Office to foreign companies.
- The subcontractor must have signed, with an oil company, a temporary agreement for the provisions of services to this company.
- The option is no longer granted to companies that have been in Gabon for more than nine years. The duration of nine years is calculated from the year during which the company started its activities in Gabon.
- The subcontractor must constitute a Gabonese branch office.

The rates for the 2017 and 2018 fiscal years are 35% for CIT and 20% for PIT of expatriate employees.

Specific regime for regional offices (quartiers généraux)

A regional office is a company or a branch that renders various administrative services, such as management or accounting, exclusively to other companies of the same group based in a given geographical area (usually a group of countries).

Taxation is based on the expenses of the regional office. A rate, between 5% and 12%, is applied to operating expenditures to determine the tax basis. The CIT rate is then applied to that basis.

Income determination

Inventory valuation

Stocks are estimated at cost price. If the market price is lower than the cost price, the company has to make provisions for depreciation of inventory.

Capital gains

Capital gains arising from the transfer of assets must be used for the calculation of taxable profits. However, the tax on capital gains can be deferred if a company reinvests an amount equal to the capital gain and the sale price of the transferred asset back into its fixed assets within three years.

Capital gains realised on the transfer of legal rights of persons or entities, whose asset is, in its majority, constituted of such rights or rights directly or indirectly owned in a company located in Gabon, are subject to CIT in Gabon.

Dividend income

The rate of transferable securities income tax (*Impôt sur le Revenu des Capitaux Mobiliers* or IRCM) is 20% on distributed dividends.

IRCM charged on the beneficiaries of the earnings is withheld at source by the distributing company. It is paid over to the Registration Officer within 30 days from the payment of the dividends.

Inter-company dividends

Inter-company dividends are taxed at a reduced rate in full discharge of the 20% WHT if paid and received by or from companies with their registered office in a CEMAC country, shares were allotted at the time of issue or kept for two years, and the Gabonese company owns more than 25% of the share capital of the subsidiary.

Interest income

Interest income paid to companies is subject to a 20% WHT in Gabon. When paid in respect of bonds of five years or more, it is subject to a 10% WHT.

Royalty income

Royalty income is subject to CIT at a rate of 30% (35% for companies operating in the oil and mining sectors).

Foreign income

Foreign interest, royalties, and dividends are included in taxable income, subject to international tax treaties. Note that tax treaties provide that certain/all types of income are not includable in Gabon taxable income. Gabon has tax treaties with Belgium, France, the other countries of CEMAC, and some countries that continue to apply the provisions of the African and Malagasy Common Organisation (OCAM) tax treaty.

The concept of deferred tax is not applicable in Gabon.

Deductions

Depreciation

The straight-line method and an accelerated depreciation method are permitted in Gabon. Tax and book conformity is obligatory (i.e. annual depreciation must be booked to preserve tax deductibility).

The main depreciation rates provided by the Gabonese Tax Code are the following:

Asset	Rate (%)
Buildings	5
Machinery, equipment	5 to 33.33
Office furniture	15
Office equipment	10
Vehicles	20 to 33.3
Computing equipment	25 to 100

Goodwill

There is no provision in the Gabonese Tax Code concerning the tax treatment of goodwill.

Start-up expenses

During the first five years of activity, a start-up can use an accelerated depreciation method on the acquired equipment goods under certain conditions and subject to specific provisions of the Gabonese Tax Code applicable to start-ups. Applicability of these provisions must be requested from the General Tax Manager prior to the incorporation of the company.

Interest expenses

Interest paid to shareholders with respect to the sums made available by them to the company is only deductible within the limit of those calculated on the intervention rate on invitation to tender (TIAO) of the Bank of the Central African States (BEAC) raised by 2%, provided that the share capital is fully paid up in case of incorporation of the company as well as in case of increase of the said share capital.

Concerning corporations or limited liability companies, the deduction is only allowed with regard to the sums made available by partners or shareholders assuming in right or in fact the management of the company, only for the part of these sums that does not exceed, for the whole partners and shareholders, one and a half of the share capital fully paid up.

Bad debt

Bad debt can be deducted from the result of the fiscal year during which the debt became completely unrecoverable, subject to the irrecoverable character of the compromised debt being justified due to the situation of the debtor.

Provisions

To be tax deductible, provisions must relate to existing liability or loss. General provisions are not deductible.

Expenditures on rent

The amount of the rentals granted to a company is allowed as a deductible expense under the condition that it does not exceed the average rentals applied for similar buildings and amenities.

However, an exception is provided with regard to the renting of premises by a partner owning at least 10% of the shares of the company.

Charitable contributions

Charitable contributions do not, in principle, constitute expenses deductible from the taxable result. However, contributions for charity can be deducted, provided that the donation is made to the profit of organisms of public interest located in Gabon and that the donation is justified.

The deduction is limited to 1/1,000 of the company's turnover for the considered fiscal year.

Fines and penalties

Fines and third-party taxes borne by companies are not tax deductible.

Social security contributions paid to foreign retirement funds

The deductibility of social security contributions paid by the employer to foreign retirement funds are only allowed when paid to the benefit of employees in secondment and within a limit of 15% of the gross salary paid to these employees.

Taxes

Only professional taxes for which the recovery proceeding has started in the current fiscal year and for which the company is effectively liable due to operations carried out in Gabon can be deducted.

Net operating losses

The Gabonese Tax Code does not provide the possibility to carry back losses. It does, however, provide for a five-year carryforward for net operating losses.

Regarding depreciation deferred in the accounts, they can be carried forward indefinitely.

Payments to foreign affiliates

Management fees paid to a foreign parent company are deductible if they meet all of the following conditions:

- They reflect real transactions.
- They do not present an abnormal characteristic.
- They are not exaggerated.

Management fees determined on a lump sum basis are not deductible.

Management fees exceeding 10% of the taxable profit before deduction of the said fees are not deductible.

Interest paid to shareholders is deductible only within the limit of the BEAC's normal rate for advances plus 2%, on the condition that the registered capital is entirely paid. The portion exceeding the ceiling is not deductible and is thus subject to taxation.

Concerning corporations or limited liability companies, the deduction is only allowed with regard to the sums made available by partners or shareholders assuming in right or in fact the management of the company, only for the part of these sums that does not exceed, for the whole partners and shareholders, one and a half of the share capital fully paid up.

Group taxation

Specific group tax regime

There is a specific tax regime derogatory to the common law tax regime that is applicable, under conditions, to groups of companies.

According to the provisions of Article 11 b. of the tax measures applying to groups of companies, groups of companies are those constituted by companies subject to CIT, or a foreign equivalent tax, united between them through direct or indirect capital links of at least 50% and that allow one of them or several companies, jointly, to control the others.

The control is defined as:

- either the direct or indirect holding of the majority of the vote in another company or
- the nomination, during two consecutive years, of the majority of the members of the board of directors of another company.

To be eligible for this specific tax regime, and without any prejudice of other activities performed to the profit of third parties, the head of the group of companies must perform to the profit of other companies of the group an activity relating exclusively to the following fields:

- Provisions of services of any kind, notably technical, accounting, financial, administrative, data processing, legal, human resources, and commercial corresponding to functions of management, coordination, and control of the group's companies.
- Research and development (R&D) to the sole profit of the group.
- Management of the intra-group finance.

Each company subject to CIT that is a member of the group and fulfils the conditions provided by the law will be subject to a separate taxation of its results according to the rules of common law and subject to amendments expressly provided by the law for the determination of the taxable result.

The express amendments provided in the scope of the specific tax regime applicable to groups of companies are the following:

Capital gains

Net capital gains are taxed at a reduced rate of 20% when they are realised in the scope of intra-group operations.

Expenses deductible from the taxable result subject to CIT

The following expenses are deductible within the group:

- Head office fees and management fees determined on a lump sum basis, according to the conditions of allocation of the expense between the companies' members of the group defined in a previous ruling with the tax authorities.
- The whole of the interests on partners' current accounts (i.e. on the sums put, by the partners, at the disposal of a company of the group) within the sole limit of the intervention rate TIAO of the BEAC (equivalent to 2.85%) raised by 2%.
- Rents of movables carried out within the group by the mother company or between companies of the same group.

20% WHT

Sums subject to CIT according to the provisions of Article 206 of the Gabonese Tax Code paid by a Gabonese debtor member of a group of companies to a foreign company member of the same group are exempted from the 20% WHT even though no DTT aiming to avoid double taxation has been concluded between Gabon and the country of residence of the beneficiary of the remunerations.

Transferable securities income tax (IRCM)

Companies of the group that benefit from transferable securities income originating from Gabon are exempted from IRCM when the said revenues are paid by a company member of the group.

In return, payments carried out by the head of the group of companies to the profit of its partners (individuals or legal entities) are subject to IRCM at a unique and at source rate of 10% (instead of 20%).

It is to be noted that the transferable securities incomes having their source abroad and which gave rise to taxation in their country of origin give the right in Gabon to a tax credit of the amount of the taxation that is deductible from the CIT of the fiscal year of perception of the incomes. The aforesaid tax credit applies even though no DTT aiming to avoid double taxation has been concluded between Gabon and the country of origin of the incomes.

VAT

The head of the group of companies is liable for VAT.

Members of a group of companies could, however, on option, consider the following provisions of services performed within the group as being out of the scope of application of VAT:

- Provisions of services of any kind, notably technical, accounting, financial, administrative, data processing, legal, human resources, and commercial.
- Fees relating to studies.
- Putting at disposal of personal.
- Management of finance.

The option for the subjection of the above-mentioned operations must be formulated by the concerned taxpayers on express request addressed to the General Tax Manager.

Registration duties

Deeds relating to incorporation, increase or reduction of share capital, breaking up with or without clearance, merger, scission, partial contribution of assets, and transfer of shares of a company member of a tax group, are subject to a fixed duty of XAF 50,000.

In the absence of a more favourable duty provided by the common law of registration, the changes of ownership and use that are not provided at Article 6 of the Gabonese Tax Code are subject to a proportional rate of 1% when carried out by members of the same tax group.

Requirements relating to declaratory obligations

The adherence to the group tax regime must be notified in writing by the head of the group of companies to the General Tax Manager accompanied by the list of the companies included in the tax perimeter of the group.

Each company remains liable for the periodical returns applicable to its activity.

For the purpose of calculation and verification of the returns, each tax return relating to the CIT of each company of the group will be gathered and filed at the same time by the head of the group of companies before the Tax Office.

Transfer pricing

The Gabonese Tax Code provides rules regarding transfer pricing issues.

According to these rules, any payment considered to be a result of mismanagement will be subject to the CIT rate at 30% (35% for companies operating in the oil and mining sectors) plus penalties.

Indeed, Article 12 of the Code provides that “By virtue of law or in fact, for companies which are dependent of companies or groups of companies located outside the CEMAC area, or for those which possess the control of companies located outside the CEMAC area, payments or expenses realised by any mean whatsoever or any kind of advantages or help granted to third parties without equivalent counterpart for the company, comparable to abnormal act of management, constitute transfer of profits subject to corporate income tax”.

It is applicable for the following:

- Payments constituting an increase or decrease of purchases or sales.
- Payments of excessive royalties or royalties without compensation.
- Relinquishment of revenues (underestimated sale price, free of charge service provision, granting of a free loan or a loan with low interests).

The abnormal act of management is not limited to expenses; it also includes any form of advantages or allowances granted to third parties without any equivalent compensation for the company.

Article 13 of the Gabonese Tax Code provides that “The advantages or assistance granted by companies belonging to the same group can only be considered as resulting from a normal management if the company which grants these advantages or assistance demonstrates the existence of its own interest in acting as such. The general interest of the group is not sufficient to justify such practices”.

Further to the Financial Act for 2017 implementing the Organisation for Economic Co-operation and Development (OECD) regulation, a Master file containing information about the group structure and a Local file in relation to the structure, transfer pricing policy, and group transactions of the local entity must be provided to the tax authorities on a yearly basis, at the same time as the Annual Tax Return (DSF).

The Financial Act for 2017 has also introduced penalties, in case of failure to provide the Master and Local files, corresponding to 5% of the transactions realised with companies of the group with a minimum of XAF 65 million per year.

In addition, a Country-by-Country (CbC) report must be filed by the ultimate parent company of the group before the tax administration of which it depends.

Thin capitalisation

Thin capitalisation rules have been introduced by the Finance Act 2018.

When the company paying the interest is deemed to be thinly capitalised, only a portion of that interest may be deductible from the taxable result.
A company is deemed thinly capitalised when the amount of interests paid on inter-company loans exceeds, simultaneously, the three following limits during the same fiscal year:

- The product of interest payments on inter-company loans x ((1.5 x equity)/loans granted to group affiliates).
- Interests received by the company by affiliates.
- 25% of the profits before tax + interests paid + depreciation taking in consideration to be deducted from the considered tax profit + share of the rents of leasing taken into account for determining the transfer price of the property at the end of the contract.

In a thinly capitalised company, the fraction of interests exceeding the highest of the above-mentioned ratios would not be tax deductible in the course of the considered fiscal year.

Controlled foreign companies (CFCs)

There is no specific tax rule under Gabon legislation related to CFCs.

Tax credits and incentives

Foreign tax credit

DTTs include provisions relating to the attribution of foreign tax credits. Such tax credits aim to limit the double taxation of profits that are subject to taxation in both member states of the treaty.

Tax credits for job creation

There is a mechanism in place for granting corporate tax credits for any salaried appointments of Gabonese personnel.

This tax credit is equal to 20% of the gross salary paid to new employees and is subject to the creation of a minimum number of jobs, according to the size of the company as follows:

- Two jobs, for companies with less than 20 employees.
- Three jobs, for companies with 20 to 50 employees.
- Five jobs, for companies with more than 50 employees.

Note that the tax credit is granted only on newly created jobs since the preceding fiscal year. Contracts concluded with the employees must also be for an undetermined duration, and the new jobs must not result from the diminution of existing jobs.

Inbound investment incentives

Due to the provisions of the Investments Law, any private investment in Gabon can benefit from:

- A common law framework.
- Privileged frameworks.
- Specifically agreed frameworks.

Depending on the frameworks it is eligible for, a company can benefit from customs privileges and tax breaks.

Industrial companies already set up in Gabon and wishing to increase their production capacity can be admitted to a preferential tariff framework. This entails the application of a global reduced rate of 5% for duties and taxes paid on imports of equipment (excluding materials, furniture, and spare parts), provided that these correspond to an investment schedule and their value is in excess of XAF 100 million.

New industrial companies can also benefit from this framework, provided they are not subject to any of the other privileged frameworks outlined by current legislation.

The granting of this privileged tariff framework occurs on the basis of a decision by the Minister of Finances, following a proposal from the Director of Customs and Indirect Taxes.

Capital investment incentive

New companies are exempt from the IMF, the minimum taxation of CIT, during the first two years of operations.

Social housing incentive

There are some tax exemptions applicable exclusively to authorised companies during the performance of a social housing investment project.

Favourable measures are applicable with regards to the importations of materials, engines, and equipment destined to authorised companies. Indeed, such importations are exempt from customs duties. They can also be imported under the normal temporary admission.

The concerned companies may apply before the customs authorities in order to benefit from the above-mentioned regime.

The concerned companies are those authorised for the planning of urban lands intended for social habitat and the building of housings of a socio-economic nature and industrial units of manufacturing of materials and other inputs used for the building of social housings. The above-mentioned tax exemptions relate to CIT, VAT, and business license tax.

Tourism incentive

Companies having hotel activity in the tourism sector are exempted from CIT during the first three years of existence, provided that the amount of the investment equals or exceeds XAF 300 million. If not (i.e. investment of less than XAF 300 million), aforesaid authorised companies investing in the tourism sector can benefit, during a five-year period, from a 5% tax credit.

Withholding taxes

20% WHT

When they are paid by a debtor established in Gabon to individuals or companies subject to CIT or PIT that do not have a permanent professional base in Gabon, the following amounts are subject to a 20% WHT:

- All amounts paid pursuant to the practice of an 'independent profession' in Gabon.
- Payments received by inventors, payments relating to copyrights, and all payments relating to intellectual and commercial property as well as assimilated rights.
- All amounts paid for services materially rendered or effectively used in Gabon.
- Interest, arrears, and all others fixed-income investment-products pertaining to income declared as professional revenue of the beneficiary.

Net profits carried out by branches of foreign companies having their head offices abroad are also subject to a 20% WHT in Gabon before they are taken into account by the foreign companies.

The WHT of 20% may not apply in the context of the application of a DTT, as follows:

	WHT (%)		
Recipient	**Dividends**	**Interest**	**Royalties**
Non-treaty	20	20	20
Treaty:			
Belgium (1)	18	15	10
Canada (1)	15	10	10
France (2)	15	10	10
Morocco (2)	15	10	10

Notes

1. If the beneficial owner of the dividends, interest, or royalties is a resident of the other contracting state.
2. If the person receiving the dividends, interest, or royalties is the beneficial owner.

Transferable securities income tax (IRCM)

IRCM is due at a 20% rate on revenues from stocks and shares paid to legal entities. It is due by beneficiaries of these revenues and must be withheld by the distributing company.

Tax administration

Taxable period

Companies are required by law to have a 31 December closing of any fiscal year.

Tax returns

Returns for the previous calendar year are to be filed before 30 April of each year.

Payment of tax

Tax is payable to the General Tax Office in two instalments on 30 November and 30 January. The balance of the tax due must be paid by 30 April. The first instalment must equal one-quarter of the tax assessed in the previous year and the second instalment must equal one-third of this tax.

Tax audit process

The rules concerning the tax audit procedure are provided by the Gabonese Tax Code.

There is no specific rule on the selection of companies to be subject to a tax audit. However, it has to be noted that, generally, the tax administration proceeds by sectors of activities.

The Tax Inspectors proceed to audits at the head office or at the place of the taxpayer's main establishment.

The main steps of the tax audit are the following:

- Notification of a tax audit by which the taxpayer is informed on the date of performance of the tax audit.
- Performance of the audit.
- Provisions of a notification of reassessment.
- Provision, by the taxpayer, of its answers to the notification of reassessment (to be provided within a delay of 20 days from the receipt of the notification).
- Reply of the tax administration to the answers of the taxpayer (to be provided within a delay of 60 days from the receipt of the above-mentioned answer from the taxpayer).
- Closing of the tax audit.

Statute of limitations

The tax administration can proceed to tax audit until the fourth year following the year for which the tax is due.

Topics of focus for tax authorities

The tax administration shall particularly focus on the following aspects:

- Compliance of deductibility of management fees.
- Compliance of deductibility of corporate expenses.
- Compliance of WHT on payments made to foreign services providers.
- Payment of VAT on behalf of third parties.

Other issues

Legal reserve

According to the provisions of the OHADA Uniform Act relating to commercial companies and economic interest groups, one-tenth of the year's profits, reduced, if applicable, by any previous losses, must be put into a reserve account named 'Legal Reserve'.

The endowment of this reserve ceases to be obligatory when its value reaches one-fifth (20%) of the company share capital.

Tax regime of merger and similar operations

There is a specific tax regime derogatory from the common law applicable to the following operations:

- Mergers.
- Scissions.
- Partial transfers of assets.
- Subsidiarisation.

This regime only applies to operations performed by companies liable to CIT.

The benefit of this specific tax regime is also subject to the fulfilment of conditions listed in the Finance Act for 2015.

This Finance Act also provides the provisions applicable to the above-mentioned operations regarding the following taxes:

- CIT.
- VAT.
- Registration duties.

Ghana

PwC contact

George Kwatia
PricewaterhouseCoopers
No. 12 Airport City
Una Home, 3rd Floor
Accra
Ghana
Tel: +233 302 761 459
Email: george.kwatia@pwc.com

Significant developments

Temporary tax amnesty regime ending 30 September 2018

On 29 December 2017, the Tax Amnesty Act (Act 955) received assent to grant amnesty to persons who have not complied with the tax laws at all or are in partial compliance with the tax laws.

The tax amnesty provides for the waiver of taxes, interest, and penalties to persons who will come forward to register with the Ghana Revenue Authority (GRA). Similarly, non-compliant registered taxpayers are eligible for a waiver of penalties and interest.

A person who qualifies for benefits under this amnesty is required to submit a written application and the tax returns required to be filed with the Commissioner-General (C-G) by 31 August 2018.

Introduction of an Africa Union Import Levy

The African Union Import Levy Act, 2017 (Act 952) was passed to impose a levy of 0.2% on the cost, insurance, and freight (CIF) value of eligible imports from Non-African Union Countries.

The GRA officially commenced the collection of the levy from 12 January 2018.

Enforcing the affixing of the excise tax stamp

Effective 2018, qualifying excisable products that are imported or locally manufactured are required to be affixed with GRA's specific tax stamps before they are delivered ex-factory, cleared from any port of entry, or sold at any commercial level.

This is in accordance with the provisions of the Excise Tax Stamp Act, 2013 (Act 873), and all importers and manufacturers of the affected products are required to register with the GRA.

Introduction of automatic exchange of financial account information

The Standard for Automatic Exchange of Financial Account Information Act, 2018 (Act 967) was passed to impose on financial institutions an obligation to report to the GRA information regarding certain financial accounts of an individual or entity and conduct due diligence with respect to those financial accounts.

With the presidential assent of the Act on 4 May 2018, the financial institutions are required to comply with requirements in the Act to enable Ghana to fulfil its international obligations to exchange financial account information from the year 2018.

Use of fiscal electronic device by value-added tax (VAT) registered persons

VAT-registered persons are to use a GRA-approved fiscal electronic device to issue a fiscal receipt to each customer. The fiscal receipt is to contain the information as specified in the Taxation (Use of Fiscal Electronic Device) Act, 2018 (Act 966). The VAT-registered person is also required to keep another fiscal electronic device as a back-up at a location on the premises of the person as determined by the C-G.

Amendments

One of the key targets of the government of Ghana is to shift the focus of economic management from taxation to production. In lieu of this, Parliament has passed into law the following amendments to provide additional incentives and increase compliance:

Direct taxes

- Providing accelerated depreciation over a period of two years on machinery and equipment imported in order to affix the excise tax stamp on excisable goods by an importer or manufacturer of excisable goods.
- Exemption from tax on income of privately-owned universities so long as they plough back all their profit into the business.
- Exemption from tax the income of an approved unit trust scheme, mutual fund, or real estate investment trust (REIT).
- Removal of the 5% tax on lottery winnings.
- Extension of the 5% National Fiscal Stabilisation Levy (NFSL) to the 2019 year of assessment.

Indirect taxes

- Amendment to the VAT (Exemption of Active Ingredients, Selected Inputs, and Selected Drugs or Pharmaceuticals) Regulations.
- Provision of letters of credit, bank guarantees, or insurance covered by an importer who intends to keep imported goods in a bonded warehouse.
- Introduction of a 7% VAT withholding on the taxable value of VAT-standard-rated supplies (subject to VAT of 17.5%) by appointed VAT-registered withholding agents.
- Extension of the 2% Special Import Levy to December 2019.

Initiatives

The 2018 budget also seeks to focus on granting concessions, widening the tax net, and improving tax compliance. As such, the following tax policies or initiatives have been proposed by the government to be undertaken during 2018:

Direct taxes

- Granting additional tax incentives to support agro-processing businesses under the Akufo-Addo Program for Economic Transformation (AAPET).
- Abolishing income tax on commissions to lotto agents to discourage illegal lottery activities.

- Inculcating the culture of filing income tax returns by linking access to government services to proof of filing of returns.
- Unifying pension schemes in line with the National Pensions Act to create some fiscal space for the government and streamline the pensions payment process.

Indirect taxes

- Abolishing duties on some agricultural produce processing equipment and machinery.

Tax administration

- Making Tax Clearance Certificates a requirement for significant private contracts to expand the tax net.
- Introducing the Voluntary Disclosure Procedures (VDP) regime to encourage voluntary compliance.
- Introducing Alternative Dispute Resolution (ADR) for timely resolution of tax disputes.

Taxes on corporate income

A resident person's worldwide income is assessed for tax. Income from business and investment (from both Ghanaian and foreign sources) is included in determining the resident person's assessable income.

The business and investment income of a non-resident person is included in the assessable income for a year of assessment if that income has a source in Ghana. Where a non-resident person has a Ghanaian permanent establishment (PE), any income connected with the PE is assessed to tax.

The general corporate income tax (CIT) rate is 25%.

Mining and upstream petroleum companies pay CIT at a rate of 35%, while companies principally engaged in the hotel industry pay a reduced rate of 22%.

The CIT rate for companies engaged in non-traditional exports is 8%, while banks lending to the agricultural and leasing sectors pay a CIT rate of 20% on income from those businesses.

National Fiscal Stabilisation Levy (NFSL)

The NFSL applies to specified companies and institutions to raise revenue for fiscal stabilisation of the economy. The NFSL is 5% on the profit (accounting profit) before tax on specified companies. The specified companies and institutions include:

- Banks (excluding rural and community banks).
- Non-bank financial institutions.
- Insurance companies.
- Telecommunications companies liable to collect and pay the communications service tax (CST) under the CST Act, 2008 (Act 754).
- Breweries.
- Inspection and valuation companies.
- Companies providing mining support services.
- Shipping lines, maritime and airport terminals.

The levy shall apply to the aforementioned industries irrespective of any existing exemption granted to an entity under any other laws in Ghana. The tax payable shall not be a deductible expense in arriving at the CIT liability of an entity, and the C-G shall issue an assessment to an entity for the amount of tax payable for the period.

NFSL is payable in four equal instalments at the end of each quarter (i.e. March, June, September, and December).

The NFSL was initially scheduled to end in December 2017. However, an Act of Parliament has extended the levy to 2019.

Local income taxes

Ghana has no local, state, or provincial government taxes on income. However, other local authority bodies (i.e. District Assembly/Municipal Authority) may also apply levies based on location of business properties.

Corporate residence

A company is resident if it is incorporated under the laws of Ghana or has its management and control exercised in Ghana at any time during a year of assessment.

Permanent establishment (PE)

The Income Tax Act, 2015 (Act 896) (ITA) recognises both Ghanaian PE and foreign PE.

A Ghanaian PE includes:

- a place in the country where a non-resident person carries on business or that is at the disposal of the person for that purpose
- a place in the country where a person has, is using, or is installing substantial equipment or substantial machinery
- a place in the country where a person is engaged in a construction, assembly, or installation project for 90 days or more, including a place where a person is conducting supervisory activities in relation to that project, or
- the provision of services in the country.

A foreign PE means a fixed place of business situated in a foreign country where the business is conducted continuously for at least six months, but excludes any place at which only activities of a preparatory or auxiliary nature are conducted.

Other taxes

Value-added tax (VAT)

Other than exempt goods and services, VAT and National Health Insurance Levy (NHIL) are charged on the following:

- Supply of goods and services made in Ghana.
- Importation of goods.

The standard VAT rate is 15% and the NHIL is 2.5%, except for supplies of a wholesaler or retailer of goods, which is a total flat rate of 3%.

VAT and NHIL are charged on the supply of goods and services where the supply is a taxable supply and made by a taxable person in the course of business.

Taxable persons or VAT-registered persons are to use a GRA-approved fiscal electronic device to issue a fiscal receipt to each customer. The fiscal receipt is to contain the information as specified in the Taxation (Use of Fiscal Electronic Device) Act, 2018 (Act 966).

VAT and NHIL are payable by the taxable person making the supply in the case of taxable supply and by the importer in the case of imported goods.

Most professional services are also subject to the same VAT and NHIL rates, including the following:

- Management services.
- Insurance brokerage and other services.
- Financial, tax, and economic consulting.
- Engineering and technical services.
- Accounting services.
- Courier services.
- Legal services.
- Provision of satellite television.
- Architectural services.
- Services rendered by surveyors.

Exports of goods and services are zero-rated. Unless specifically exempt, supplies of all goods and services are subject to VAT.

A person entitled to relief is required to pay the tax and apply for refund unless otherwise directed by the Minister responsible for finance.

The GRA's appointed VAT-registered withholding agents are expected to withhold 7% of the taxable value of goods and services when making payments for supplies subject to VAT at the standard rate of 17.5%.

Customs and excise duties

Customs and excise duties are imposed on the importation of goods at the port of entry and certain manufactured goods produced or imported into Ghana.

The following rates of excise duties apply on the ex-factory price:

Product	Rate (%)
Sachet water	0
Bottled water	17.5
Malt drink	2.5 to 17.5
Beer	10 to 47.5
Spirits	0 to 25
Cigars and cigarettes	175
Snuff and other tobacco products	175

The excise duty payable on malt drinks, beer, and stout, other than indigenous beer, is determined by the percentage of local raw materials used. Local raw materials do not include *water*.

In accordance with the Excise Tax Stamp Act, 2013 (Act 873), qualifying excisable products that are imported or locally manufactured are required to be affixed with tax stamps specified and supplied by the GRA before they are delivered ex-factory, cleared from any port of entry, or sold at any commercial level.

The affected products are:

- All cigarettes and other tobacco products.
- Alcoholic beverages whether bottled, canned, contained in kegs for sale, or packaged in any form.
- Non-alcoholic carbonated beverages whether bottled, canned, or packaged in any form.
- Bottled water.
- Any other excisable product prescribed by the Minister of Finance.

In addition, the Special Import Levy Act imposes a levy of 2% on the CIF value of certain imported goods.

The African Union Import Levy Act, 2017 (Act 952) also imposes a levy of 0.2% on the CIF value of eligible imports from Non-African Union Countries.

Property taxes

Property tax rates are payable by owners of immovable property to the local District Assembly/Municipal Authority. The rate of property tax differs depending on the location of the property.

Stamp taxes

Stamp duty is paid, at rates ranging between 0.25% to 1% and 0.05 Ghana cedi (GHS) to GHS 25, depending on the type of transaction and the instrument. A stamp duty of 0.5% applies on the initial stated capital and any subsequent increase in the stated capital.

The stamp duty is not a tax on transactions but on documents brought into being for the purposes of recording transactions. It is therefore a tax on documents or specific instruments that have legal effect, such as the following:

- Insurance policies.
- Awards of cost in matters of dispute.
- Conveyances or transfers on the sale of any property.
- Appointment letters of new trustees.
- Natural resource leases or licences (e.g. mining, timber).
- Agreements or memoranda of agreement.
- Bills of exchange (e.g. issue of cheques).
- Bills of lading.

Payroll taxes

Employers are required to withhold tax (pay-as-you-earn or PAYE) on employees' salaries and other emoluments, including benefits in kind, on a monthly basis at the graduated rates, with the highest rate at 25%. Employers are to remit the withheld taxes to the GRA by the 15th day of the subsequent month.

Failure to withhold the tax and remit to the GRA on the due date attracts an interest penalty of 125% of the statutory rate, compounded monthly and applied to the amount outstanding at the start of the period.

Employers are also required to file annual returns of employees by 31 March of the year following the year to which the returns relate.

Social security contributions

The social security contribution scheme is structured into three tiers, with the first two requiring mandatory contributions and the last one being voluntary. The employee is required to contribute 5.5% with the employer contributing 13%. Of the total contribution of 18.5%, 13.5% is contributed to the first tier and 5% to the second tier schemes.

Communications service tax (CST)

CST of 6% is levied on charges payable by both individual and corporate users of electronic communication services (ECS) provided by service providers other than private electronic communication services. The levy is also applicable to any form of recharge and is payable once a person makes a payment for ECS regardless of whether or not that person is authorised or permitted to provide ECS under the Electronic Communication Act (Act 755). Note that the definition of electronic communication includes interconnection.

Local business permits

Business ‘permits’ are payable annually to local District Assemblies or Municipal Authorities. The amount is dependent on the physical location where the business activity is conducted. It is therefore possible that if a taxpayer operates from two business locations in different regions, such permits would be paid to two different local authorities.

Branch income

The CIT rate on branch profits is the same as that on corporate profits.

However, a non-resident person that conducts activities in Ghana through a branch pays tax at 8% on earned repatriated profits, payable within 30 days. The portion of net profit of the resident person that corresponds to interest of the non-resident shareholders is treated as repatriated profits. The repatriated profit is also treated as a dividend distributed in accordance with the respective shares of the non-resident person.

Income determination

Inventory valuation

Section 11 of the ITA provides general guidance on the principles of stock (inventory) valuation for income tax purposes. A person making a determination of the cost of trading stock is required to use the absorption cost method. The owner of a trading stock or other fungible assets may determine the cost of that asset by using the first in first out (FIFO) method or the average cost method. The closing value of inventory is valued for tax purposes at the lower of cost or market value.

Capital gains

Capital gains are included as part of business income and taxed at the applicable CIT rate.

Dividend income

A dividend paid to a resident company by another resident company is exempt from tax where the company receiving the dividend controls, directly or indirectly, 25% or more of the voting power in the company paying the dividend.

Stock dividends

The issue of stock dividends is permitted under Section 74 (1) of the Ghana Companies Code 1963, Act 179. It is, however, subject to income tax at the dividend withholding tax (WHT) rate of 8%.

Interest income

Interest received by a resident company from another resident company is subject to WHT at a rate of 8%.

However, WHT does not apply to interest received by a resident financial institution.

Royalty income

Royalty income received by a company is included in the investment income and taxed at the applicable corporate tax rate with a general rate of 25%.

Mineral royalties

The mineral royalty rate is 5% of the total revenue earned from minerals (excluding petroleum and water) obtained from mining operations by a holder of a mining lease, restricted mining lease, or small-scale mining licence.

Exempt income

Specific exemptions from tax include the following:

- Income of a local authority.
- Income of a statutory or registered building society where only individuals are eligible to be members and the organisation does not engage in political party activities.
- Non-business income of a charitable organisation.
- Pensions.
- Income of organisations formed for the purpose of promoting social or sporting amenities.
- Income of a registered trade union.
- Gain or profit from the business of operating ships or aircraft by non-resident persons if an equivalent exemption is granted by the person's country of residence to persons resident in Ghana.
- Retirement contributions received by a retirement fund.
- Gains from the realisation of Ghana Stock Exchange (GSE) listed securities and Securities and Exchange Commission (SEC) approved securities.

- Income of an approved unit trust scheme, mutual fund, or REIT.
- Income of privately-owned universities when they plough back all their profit into the business.

Foreign income

Resident corporations are taxed on their worldwide income. Foreign income is taxed together with other income derived in Ghana, and double taxation is avoided through treaties or foreign tax credits. No special rules exist for taxing undistributed income of foreign subsidiaries.

Deductions

Depreciation and depletion

Depreciation of depreciable assets in the accounts of a business is not an allowable deduction in computing taxable profits. It is instead replaced by capital allowances at prescribed statutory rates, as follows:

Class	Assets	Rate
1	Assets pooled (allowance calculated on a reducing-balance basis). Mainly computers and data handling equipment together with peripheral devices.	40%
2	Assets pooled (allowance calculated on a reducing-balance basis). Mainly automobiles, buses, mini buses, construction and earth-moving equipment, trailers and trailer-mounted containers, plant and machinery used in manufacturing.	30%
3	Assets pooled (allowance calculated on a reducing-balance basis). Mainly railroad cars, locomotives and equipment, vessels and similar water transportation equipment, aircraft, public utility plant and equipment, office equipment and fixtures, and any other depreciable asset not elsewhere classified.	20%
4	Buildings, structures, and similar works of a permanent nature (allowance calculated using the straight-line method).	10%
5	Intangible assets.	Useful life
	Mining and petroleum expenditure (allowance calculated using the straight-line method).	20%
	Machinery and equipment imported in order to affix the excise tax stamp on excisable goods by an importer or manufacturer of excisable goods (allowance calculated using the straight-line method).	50%

Allowances are granted only on the following conditions:

- The taxpayer must own the asset.
- Capital expenditure must be incurred.
- The asset must be used in the trade.
- The asset must be in use up to the end of the basis period.
- Capital allowances are granted for every year in which the asset is in use. Balancing allowances and charges are made, as the case may be, on disposal of the asset.

For intangibles, such as goodwill, patents, trademarks, and copyrights, the law allows for capital allowance deduction over the useful life of the asset.

Start-up expenses and pre-operating costs

Although the tax law does not specifically mention start-up expenses or pre-operating costs, generally a deduction is allowed for start-up and pre-operating costs incurred by a business, provided such expenses are wholly, exclusively, and necessarily incurred in the production of income of the taxpayer.

Interest expenses

Interest incurred on loans used to generate the income of a business is ordinarily deductible. Restrictions apply on interest payments on related loans. *See Thin capitalisation in the Group taxation section*.

Financial costs

Deductions for financial costs other than interest are limited to the sum of:

- financial gains derived by the person that are to be included in calculating the income of the person from the investment or business for the year of assessment, and
- 50% of the chargeable income of the person for the year from the business or investment calculated without including financial gains derived by the person or financial costs incurred by the person.

Bad debts

A deduction is allowed for bad debts incurred in the normal course of business, other than advances made on capital accounts. A bad debt is allowed as a deduction if the C-G is satisfied that the taxpayer has taken all reasonable steps to pursue payment and the person reasonably believes payment will not be made.

Any amounts recovered in respect of a bad debt previously written off should be included in income and subject to tax accordingly.

An existing debt that becomes a bad debt after a 50% or more change in underlying ownership is not allowed as a bad debt deduction after the change in ownership has taken place.

Charitable contributions

The following contributions/donations are allowable as deductions in ascertaining the taxable income of a person:

- Contributions made to a charitable institution or fund approved by the government.
- Payments towards a scholarship scheme approved by the government for a technical, professional, or other course of study.
- Donations made for the purpose of any rural or urban area and approved by the government.
- Donations for the purpose of sports development approved by the government.
- Donations to the government for worthwhile government causes approved by the C-G.

Fines and penalties

Fines and penalties arising as a result of non-compliance with the provisions of the tax law are generally not allowable deductions.

Taxes

Any income taxes, profit taxes, or other similar taxes are not deductible in determining taxable income.

Other significant items

No other special deductions are allowed. Principal non-deductible expenses include the following:

- Domestic or private expenses, including cost of travel between residence and place of business or employment.
- Any disbursement or expense not being wholly and exclusively paid or expended for the purpose of acquiring income.
- Capital withdrawn or any sum employed or intended to be employed as capital.
- Capital employed in improvement.
- Any sum recoverable under an insurance contract of indemnity.
- Rent of or any expense in connection with premises or a part of premises not occupied or used for the purpose of producing business income.
- Any payment to a savings or other society or fund unless specifically allowed by the C-G.

Net operating losses

Tax losses can be carried forward for all sectors and deducted from assessable income for the three years immediately following the year in which the loss was incurred. Specified priority sectors can carry forward their tax losses for up to five years.

Carryback of losses is permitted for persons deriving income relating to a long-term contract (except where there is a more than 50% change in underlying ownership within a period of three years).

A long-term contract of a business includes a contract for manufacture, installation, or construction that is not completed within the company's accounting year in which it is commenced.

Payments to foreign affiliates

The Transfer Pricing Regulations 2012, (LI 2188) require that payments or transactions between persons in a controlled relationship are conducted at arm's length. A transaction is conducted at arm's length between persons in a controlled relationship if the terms of the transaction do not differ from the terms of a comparable transaction between independent persons. The C-G may disregard or disallow transactions if they are deemed to be fictitious or do not have a substantial economic effect and the form does not reflect its substance.

Group taxation

No form of combined reporting of results of operations by a group or affiliates is permitted.

Transfer pricing

The Transfer Pricing Regulations follow the internationally accepted guidelines published by the Organisation for Economic Co-operation and Development (OECD), only with a much broader perspective on the nature of entities and transactions.

The Regulations cover transactions between related parties, including PEs and employees, and also prescribe the transfer pricing methods and documentation that entities are required to maintain and retain.

The Regulations also require entities with related-party transactions to file a return on an annual basis.

Thin capitalisation

Interest expenses and foreign exchange currency losses incurred on related-party debt by an entity (other than a financial institution) in which 50% or more of the underlying ownership or control is held by an exempt person, either alone or together with an associate, are not allowed as a deduction in arriving at the chargeable income of the entity if the entity is thinly capitalised. An entity controlled by an exempt person is deemed to be thinly capitalised if its debt-to-equity ratio exceeds the ratio 3:1.

Thin capitalisation provisions do not apply to resident financial institutions.

Controlled foreign companies (CFCs)

There are no provisions for CFCs in the tax laws of Ghana.

Tax credits and incentives

Foreign tax credit

A resident is entitled to a credit in respect to any foreign income tax paid, to the extent to which the tax paid is in respect of the resident's foreign taxable income. The foreign tax credit available on a specific income type should not exceed the average rate of Ghanaian income tax of the resident for a year.

Inward investment

Under the Ghana Investments Promotion Centre Act, 2013 (Act 865), various incentives are available to encourage strategic or major investments in the country, particularly in the areas of agriculture; manufacturing industries engaged in export trade or using predominantly local raw materials or producing agricultural equipment, etc.; construction and building industries; mining; and tourism.

Incentives generally include exemption from customs import duties on plant and machinery; reduced CIT rates; more favourable investment and capital allowances on plant and machinery; reduction in the actual CIT payable, where appropriate; retention of foreign exchange earnings, where necessary; guaranteed free transfer of dividends or net profits, foreign capital, loan servicing, and fees and charges in respect of technology transfer; and guarantees against expropriation by the government.

Capital investments

Venture capital tax incentives include the following:

- Relief from stamp duty in each year on subscriptions for new equity shares in venture capital funds.
- Interest and dividends from investment in a venture capital company are subject to tax at 1% for the first ten years of assessment.
- Chargeable income is subject to tax at 1% for the first ten years of assessment.
- Carryforward of losses for five years after the year of disposal.

- Carryforward of losses from disposal of investment in a venture capital subsidiary for five years after the ten years of assessment.

Free zone developers/enterprises

Companies registered to operate as free zone developers/enterprises do not pay CIT for the first ten years of operation. After the ten year corporate tax holiday has expired, the CIT rate on export outside the domestic market is 15% while income earned from sales in the domestic market is taxed at 25%.

Construction of residential premises

The income of a certified company from a low cost housing business is subject to tax at 1% for a period of five years of assessment.

Withholding taxes

Income	WHT rate (%)	Final tax
Resident persons:		
Interest (excluding individuals and resident financial institutions)	8	No
Dividend	8	Yes
Rent (on residential properties as investment income)	8	Yes
Rent (on commercial properties as investment income)	15	Yes
Royalties and natural resource payments	15	No
Fees to lecturers, invigilators, examiners, part-time teachers, and endorsement fees	10	Yes
Commissions to insurance agents and sales persons	10	No
Fees, emoluments, and other benefits to a resident director, manager, or board member of a body of persons	20	No
Commissions to lotto agents	10	No
Supply of goods exceeding GHS 2,000	3	No
Supply of works exceeding GHS 2,000	5	No
Supply of services exceeding GHS 2,000 (payments to persons other than individuals)	7.5	No
Payment to individuals for provision of services	7.5	No
Payment to petroleum subcontractors	7.5	No
Payment for unprocessed precious minerals	3	No
Non-resident persons:		
Dividend	8	Yes
Royalties, natural resources payments, and rents	15	Yes
Management, consulting, and technical service fees, and endorsement fees	20	Yes
Repatriated branch after tax profits	8	Yes
Interest income	8	Yes
Short-term insurance premium	5	Yes
Income from telecommunication, shipping, and air transport	15	Yes
Payment to petroleum subcontractors	15	Yes

Double tax treaties (DTTs)

Ghana has DTTs with the following countries for the relief from double taxation on income arising in Ghana:

Recipient	Dividends (%) (1)	Interest (%)	Royalties (%)	Technical or management service fees (%)
Belgium	5/15	10	10	10
Czech Republic (4)	6/6	10	8	8
Denmark	5/15	8	8	8
France	7.5/15	10	10	10
Germany	5/15	10	8	8
Ireland (4)	7	7	8	10
Italy	5/15	10	10	10
Mauritius (4)	7	7	8	10
Morocco (4)	5/10	10	10	10
Netherlands (3)	5/10	8	8	8
Singapore (4)	7/7	7	7	10
South Africa	5/15	5/10 (2)	10	10
Switzerland (3)	5/15	10	8	8
United Kingdom	7.5/15	12.5	12.5	10

Notes

1. The lower rate applies where the recipient holds at least 10% of the shares. The higher rate applies in any other case.
2. 5% for non-resident banks. 10% in any other case.
3. The DTT between Ghana and the Netherlands, which has been in force since 2009, has been amended. The agreement adds a new article on entitlement to benefits, replaces the article on assistance in tax collection, and amends the articles on exchange of information and territorial extension.

   The DTT between Ghana and Switzerland has been amended to include procedures for information requests.

4. The Parliament of Ghana is yet to ratify the DTTs with the Czech Republic, Ireland, Mauritius, Morocco, and Singapore.

The government of Ghana is pursuing DTTs with various countries, including Sweden, Syria, the United Arab Emirates, and the United States.

Tax administration

Taxable period

The tax year runs from 1 January to 31 December. Companies with financial periods other than the calendar year are taxed on their financial period ending during the calendar year.

Tax returns

Companies are expected to submit a tax return not later than four months after the end of the financial year. They may file an application for extension of filing time for not more than two months.

Payment of tax

CIT is due for payment at the same time as the due date for filing the return. The tax is payable in four equal instalments at the end of each quarter (i.e. March, June, September, and December) in each year of assessment, but such payments are not deemed to be the actual tax payable.

At the end of the year, all taxpayers are required to file final tax returns and pay any tax outstanding. The final return and tax are due within four months after the financial year-end.

There are also instances where the C-G may issue an additional assessment after conduct of an audit. Where such assessment is served, the tax is payable within 30 days after service of the notice. At the discretion of the C-G, the time for payment may be extended.

Penalties

Where tax is not paid by the due date, a penalty is calculated at 125% of the statutory rate, compounded monthly, and applied to the amount outstanding at the start of the period.

Tax audit process

The GRA assesses taxpayers on a regular basis. The ITA gives powers to persons authorised by the C-G to gain full and unlimited access to the taxpayers' premises, records, and electronic information. Industries such as mining, upstream oil and gas, and financial institutions are more likely to be selected for a tax audit. Also, request for a tax refund is also likely to lead to a tax audit. The GRA usually gives notice of its intention to perform a tax audit and, after performance, prepares a report on its findings, which is then shared with the taxpayer.

Statute of limitations

The Revenue Administration Act, 2016 (Act 915) (RAA) requires all taxable persons to maintain records of all receipts and payments, revenue and expenditure, and all assets and liabilities for a period of not less than six years. This is in conjunction with the fact that the Statute of Limitation bars actions to recover tax after 12 years.

Automatic exchange of financial account information

The Standard for Automatic Exchange of Financial Account Information Act, 2018 (Act 967) imposes on financial institutions an obligation to report to the GRA information regarding certain financial accounts of an individual or entity and conduct due diligence with respect those financial accounts.

The reporting financial institution is required to submit an annual report no later than six months following the end of the calendar year to which the report relates.

Topics of focus for tax authorities

Topics of focus for the tax authorities include:

- Tax refunds.
- CST.
- Transfer pricing sensitisation of taxpayers.
- NFSL.

Other issues

Local Content and Local Participation Regulations

The Minerals and Mining General Regulations 2012 (LI 2173) applicable to mining entities obligate mining contractors and subcontractors to conform to the requirements for recruitment of expatriates, train Ghanaians, and give preference to local products and services in their operations.

The Petroleum (Local Content and Local Participation) Regulations, 2013 (LI 2204) aim at providing a transparent monitoring system to meet the objectives of the government's Local Content Policy. Further, the Regulations are expected to help facilitate job creation through the use of local expertise for goods and services, business, and financing in the petroleum industry value chain.

The Energy Commission (Local Content and Local Participation) (Electricity Supply Industry) Regulations, 2017 (LI 2354) compels businesses operating in the electricity supply industry (including renewable energy) to comply with the defined percentages of Ghanaian equity ownership, utilisation of local human and material resources, and services in their businesses.

Ring fencing for mining and petroleum entities

In determining the chargeable income for a basis period, mining companies are not able to deduct expenses incurred in one mining area against revenue from another mining area.

Similarly, companies engaged in petroleum operations are required to treat the activities of a petroleum right as an independent activity separately from other rights.

Tax Amnesty

With the enactment of the Tax Amnesty Act (Act 955), the government promises to forgive persons who will come forward to register with the GRA their taxes, interest, and penalties for all years up to and including 2017 years of assessment. Such a person must register with the GRA on or before 30 September 2018.

Similarly, existing taxpayers who partially fulfilled their tax obligations once they pay all outstanding taxes will be eligible for a waiver of penalties and interest. The taxpayer must submit the tax returns on or before 30 September 2018 and pay all assessed and outstanding taxes.

A person who qualifies for benefits under this amnesty is required to apply and file the mandatory tax returns to the C-G by 31 August 2018. The amnesty does not cover taxes or sanctions the GRA is already considering.

Ivory Coast (Côte d’Ivoire)

PwC contact

Dominique Taty
PricewaterhouseCoopers Tax and Legal S.A.
Immeuble Alpha 2000
20th Floor
Rue Gourgas - Plateau
Abidjan 01
Côte d’Ivoire
Tel: +225 20 31 54 60
Email: d.taty@ci.pwc.com

Significant developments

The FY18 Financial Law has enforced base erosion and profit shifting (BEPS) provisions with regard to country-by-country (CbC) reporting obligations for large multinational companies with operations in Ivory Coast (Côte d’Ivoire), and major changes have been enforced with regard to deduction of interest on related-party loans.

Taxes on corporate income

Taxable corporate income in Côte d’Ivoire is based on worldwide income for resident companies (*for exceptions, see Foreign income in the Income determination section*).

Tax on industrial and commercial profits in Côte d’Ivoire is levied at 25%, subject to a minimum tax. The rate is 30% for companies in the telecommunication, information technology, and communication sectors.

Non-resident entities are subject to withholding tax (WHT) at 20%, subject to existing double tax treaties (DTTs), on their Côte d’Ivoire source income when they do not have a permanent establishment (PE). Non-residents with a PE are taxed in the same way as a resident.

Minimum tax

The minimum tax is based on total turnover and is calculated at the rate of 0.5%, with a minimum tax of 3 million *Communauté financière d’Afrique* (Financial Community of Africa or CFA) francs (XOF) and a maximum tax of XOF 35 million.

Local income taxes

The income tax is levied at the national level. There is no local income tax.

Corporate residence

In Côte d’Ivoire, companies are considered resident in tax jurisdictions where they have a registered fixed establishment (e.g. subsidiaries, branches, representative offices).

Permanent establishment (PE)

A non-resident is considered as having a PE in Côte d’Ivoire when its activities involve a comprehensive commercial cycle in Côte d’Ivoire or when it operates through a dependent agent in Côte d’Ivoire.

According to DTTs, a non-resident is considered as having a PE in Côte d’Ivoire when it has a registered establishment, including a subsidiary, a branch, a representative office, a mine or an oil well, a building site, a manufacture plant, or a trading establishment. Sometimes, a time threshold of six months is considered.

Other taxes

Value-added tax (VAT)

VAT is a non-cumulative tax levied on the sale of goods and services at the rate of 18%. Subject to certain restrictions, VAT is recoverable.

The rate is reduced to 9% for milk, pasta products that contain 100% durum wheat semolina, and equipment designed for the production of solar energy.

Customs duties

Customs duties rates range from 0% to 35%, depending on the classification of the imported goods according to the customs tariff.

Upon import, goods are also subject to the statistical duty (1%), to community levy (0.5%), and to VAT (18%).

Special taxes, depending on the nature of the imported goods, may apply, such as excise duties.

Statistical duty

The statistical duty is levied together with the customs duties during the customs clearance procedures of imported goods.

The rate of the statistical duty is 1% on the cost, insurance, and freight (CIF) value of the imported goods.

Community levy

The community levy is due together with the customs duties during the customs clearance procedures of imported goods.

The rate of the Economic Community of West African States (ECOWAS) community levy is 0.5% on the CIF value of the imported goods.

Products imported from outside the West African Economic and Monetary Union (WAEMU) remain subject to the community levy at 0.8% for five years from January 2015.

The community levy does not apply to goods imported from member countries of the WAEMU, which includes Côte d’Ivoire, Senegal, Burkina Faso, Mali, Benin, Togo, Niger, and Bissau Guinea.

African Union import duty

A duty called the African Union import tax applies on imports of items outside the African Union at the rate of 0.2%.

Excise duties

Excise duties apply on cigarette imports, alcoholic or non-alcoholic beverages, and oil products.

Real estate tax

A real estate tax is imposed at the following rates:

- 1.5% for undeveloped lands.
- 4% on land revenue.
- 11% on developed land or 15% when the built property is used by the company itself. The rate is reduced to 4% for unoccupied buildings.

Transfer taxes

In the case of the transfer of property through a direct sale, taxes are assessed at the following rates:

- 10% for lease transfers.
- 4% for sales of real estates.
- 10% for sales of businesses.

For mortgages, the rate is 5% for the financial lessor at the acquisition of the good and 1% for acquisition of the immovable property by the lessee from the exercise of the option.

Stamp duty

A direct tax is paid for any document subject to a registration procedure, for an acknowledgement of a cash payment, and for bills of exchange.

Payroll taxes

Taxes are levied at the rates of 2.8% for local employees and 12% for expatriate employees on the total taxable remuneration, including salaries, benefits, and benefits in kind.

Social security contributions

Employers must contribute to the social security system (CNPS) at the following rates:

Contribution	Contribution rate (%)	Monthly ceiling (XOF)
Family allowance	5.75	70,000
Work injury	2.0 to 5.0	70,000
Retirement pension	7.7	1,647,315*

* Note that even though the retirement contribution ceiling (XOF 1,647,315) is calculated on the basis of 45 times the minimum wage, this amount has not been updated since the minimum wage increased from XOF 36,607 to XOF 60,000.

Special tax for equipment

A special tax is paid by all taxpayers for the purpose of the equipment of the government. The tax is calculated on 0.1% of total turnover and is paid monthly. This tax is scheduled to end on 31 December 2019.

Ivory Coast (Côte d’Ivoire)

Business franchise tax

The business franchise tax includes a turnover tax and a proportional tax. The turnover tax is calculated on turnover at the rate of 0.5%, with a minimum tax of XOF 300,000 and a maximum tax of XOF 3 million. The proportional tax rate is 18.5% and is based on the rental value of the professional office location (based on general office rents).

Tax on banking operations

A cumulative tax of 10% is levied on bank services rendered. Tax on banking operations charged by banks to companies is fully deductible from output VAT.

Registration taxes

Registration of capital contributions is taxed, whether the capital contribution or increase in capital is made in cash or in kind. The rate is 0.3% for contributions exceeding XOF 10 million to XOF 5 billion and 0.1% for contributions over XOF 5 billion, with a minimum tax of XOF 18,000. Increases in capital by incorporation of reserves are taxed at 6%.

In the event of a capital increase through a merger, the increase in the share capital of the acquiring company is taxed at half of the rates above.

The transfer of shares held in a company located in Côte d’Ivoire is liable to a 1% registration duty on the sale price or market value of the shares when the transfer does not trigger the disappearance of the company or the creation a new legal entity.

Tax on insurance premiums

Insurance premiums are subject to tax as follows:

Policy type	Tax rate (%)
Marine policies	7.0
Life policies	Exempted when contract’s duration is more than three years
Fire policies	25.0
Health policies	8.0
Export credit insurance	0.1
Other (e.g. personal liability, transportation)	14.5

Premiums paid under commercial shipping insurance policies for maritime risks are exempt. The tax may be paid by the insurance company, its agent, or the subscriber in cases where the subscriber had to pay the premium to a foreign insurance company.

Tax on telecommunication companies

A specific tax of 5% is applicable on the turnover of mobile telecommunication, information technology, and communication companies.

Companies renting passive infrastructures and telecom towers to telecom companies are not within the scope of this tax.

Companies operating in the telecommunication, information technology, and communication sector must also invest 20% of the amount of dividends transferred abroad in bonds of the public Treasury or any borrowing instrument issued by the government of Côte d’Ivoire.

Tax on telecommunication services

A special tax of 3% is applicable on telecommunication services provided to the public. The tax is invoiced and collected by companies operating mobile or land telecommunication and internet services in Côte d'Ivoire.

Surtax on rent

A special tax of 20% is applicable to the amount of rent on accommodation or professional premises that exceeds the two-month guarantee and one-month upfront payment at the beginning of the lease.

Branch income

The tax rate for branch income is the same as that for corporate income. After-tax branch earnings are subject to a 15% tax (*Impôt sur le revenu des valeurs mobilières* or IRVM) calculated on 50% of the taxable profit. This is analogous to the WHT on dividends.

Income determination

Inventory valuation

Inventory is generally stated at the lower of cost or market value. Last in first out (LIFO) and first in first out (FIFO) methods are permitted. Book and tax conformity is required.

Capital gains

Capital gains are normally taxed at full corporate rates. However, the tax on capital gains, exclusive of recaptured depreciation, can be deferred if the gain is reinvested within three years.

Dividend income

Dividends are brought into taxable income at 50% of the net amount earned by the company (after 15% WHT).

The exemption is increased to 95% for dividends received from a subsidiary if a parent company domiciled in Côte d'Ivoire owns 10% of the subsidiary.

Stock dividends

Stock dividends are unusual, but in the event they are declared, they are not taxable to the recipient.

Interest income

Interest from loans is brought into taxable income at 50% of the net amount earned by the company (after 18% WHT).

Royalty income

Royalty income received by a local taxpayer is included in its annual revenue and subject to corporate income tax (CIT).

Royalty income paid by a local taxpayer to a non-resident is subject to a 20% WHT, subject to the existence of a DTT between Côte d'Ivoire and the country of the effective recipient of the royalties.

Most DTTs will provide a reduced rate of 10% or 5% for WHT on royalties.

Royalties are defined by tax treaties.

In the absence of a DTT, the 20% WHT applies to all services payments to non-residents, including royalties.

Foreign income

Resident corporations are taxed on their worldwide income, except for profits derived from business conducted through a PE outside Côte d'Ivoire. Since income derived from business conducted outside Côte d'Ivoire is not taxable, no tax credit is allowed.

Interest and dividends from foreign sources are entitled to certain deductions to alleviate instances of double taxation. Subject to provisions of tax treaties, no deductions or tax credits are allowed for revenue from royalties and services.

Deductions

Depreciation and depletion

Depreciation is generally computed on a straight-line basis over the useful life of the asset (e.g. 20 years for buildings, 3 years for automobiles). Accelerated depreciation is sometimes permitted for machinery. The following depreciation rates are generally accepted for tax purposes:

Assets	Depreciation rate (%)
Buildings	5
Machinery, equipment (rate depending on equipment)	8/10/20
Office furniture	10
Office equipment	20
Vehicles	33.3
Computing equipment	20 to 50

A time coefficient is applied to the rate of depreciation to obtain the declining balance. Depreciation rates may be amended, but only after agreement with the tax authorities.

New plants and equipment may be depreciated at twice the normal rate in the first year of use, provided they are depreciated over at least six years. Under certain circumstances, buildings used for staff housing may be depreciated at 40% of cost in the first year. Annual depreciation must be booked to preserve tax deductibility. The whole or any part of the annual charge can then be deferred in annual accounts for fiscal years showing a tax loss. Recaptured depreciation is taxed at full rates. Tax and book conformity is obligatory.

Depletion allowances, as such, do not exist, but tax incentives are available for exploration to replace depleted natural reserves.

Goodwill

Goodwill (capital gain) deriving from the transfer of assets is included in taxable profit. The gain may be exempt from the income tax basis if the taxpayer commits to reinvest the purchase price of the transferred assets plus the goodwill in the three following years.

If the reinvestment is not completed in the three years, the gain will be subject to income taxation.

Start-up expenses

Start-up expenses (e.g. legal fees, registration duties on share capital subscription, the costs of any registration procedure, advertisement expenses) have to be amortised over a period from two to five years.

Interest expenses

Interest paid to shareholders may be deducted. The deduction is limited to the interest on a loan where the amount of the loan does not exceed the company's share capital (except for local holding companies).

The maximum interest rate allowed is related to the *Banque Central des Etats de l'Afrique de l'Ouest* (BCEAO) rate plus two points.

The reimbursement of the loan must take place in the five years following the loan.

Total interest must not exceed 30% of the company's pre-tax book income before interest, depreciation, and reserve.

The company's share capital must be paid out entirely.

Bad debt

Provisions for bad debts are deductible, provided that a minimum set of collection procedures have been engaged.

Bad debts are deductible for income tax purposes unless the debt results from abnormal business decisions.

Charitable contributions

Charitable contributions to recognised sport and health associations are deductible.

Charitable contributions to individuals or non-recognised beneficiaries are not tax deductible.

Fines and penalties

Fines borne by corporations are not tax deductible.

Taxes

Regular taxes paid by corporations are deductible for income tax purposes.

Third party taxes (such as WHT on non-resident service providers) borne by corporations are not tax deductible.

Other significant items

In respect to legal reserves, 10% of net profit must be transferred to a reserve for legal fees until the reserve equals 5% of the paid-up share capital.

To be tax deductible, provisions must relate to existing liability or loss. General reserves are not deductible.

Net operating losses

Losses may be carried forward for five years.

Losses derived from depreciation can be carried forward indefinitely.

Losses cannot be carried back.

Payments to foreign affiliates

Reasonable royalties, interest, and management and service fees paid to foreign parent companies are tax deductible. However, the deductions should not exceed 5% of the turnover and 20% of the overhead. Otherwise, the portion exceeding the ceiling is not tax deductible. The onus is on the taxpayer to prove that expenses are justified and reflect real transactions.

Where payments are made to a beneficiary located in a non-cooperative country or a tax haven country, deduction of sums paid is capped at 50% of their amounts. Non-cooperative and tax haven countries are those recorded on the Organisation for Economic Co-operation and Development (OECD) black list. The excessive portion is added back to the CIT basis.

Deduction of expenses from group transactions is subject to the filing of transfer pricing documentation.

CbC reporting is applicable when the group consolidated turnover threshold is met (i.e. XOF 491.97 billion).

Group taxation

Group taxation is not permitted in Côte d'Ivoire.

Transfer pricing

Profits directly or indirectly transferred to related non-resident companies are disallowed from the income tax basis.

The tax administration may inquire on transfer pricing when local subsidiaries having most of their transactions with non-resident group companies record losses.

A transfer pricing report on group transactions must be filed together with annual financial statements.

Country-by-country (CbC) reporting

A CbC report must be filed when group consolidated turnover of XOF 491.97 billion is met.

Thin capitalisation

The deduction of the interest of loans granted on top of the share capital by related parties is subject to restrictions (*see Interest expenses in the Deductions section*).

When, because of losses, the equity of the company is less than 50% of the share capital, the company must be recapitalised in the two following years, unless the company is dissolved.

Controlled foreign companies (CFCs)

There are no CFC rules in Côte d'Ivoire.

Tax credits and incentives

Foreign tax credit

Since income derived from business conducted outside Côte d'Ivoire is not taxable, no tax credit is allowed.

Investment zones

The aim of the Investment Code is to:

- help create companies in other regions than the economic capital city (Abidjan)
- help the employment of nationals
- help companies doing business in a sustainable manner
- develop the regions of the country, and
- favour the existence of local small and medium-sized enterprises (SME).

The Investment Code regimes involve the creation of three zones (A, B, and C), depending on the location of the company:

- Zone A covers Abidjan District.
- Zone B covers any town in Côte d'Ivoire with more than 60,000 inhabitants.
- Zone C covers any town in Côte d'Ivoire with less than 60,000 inhabitants.

The duration for the granted tax benefit is:

- 5 years for Zone A.
- 8 years for Zone B.
- 15 years for Zone C.

The Investment Code includes two specific tax incentive regimes: the Investment Declaration Regime and the Investment Approval Regime. Both regimes apply to all economic activities, excluding finance and banking, non-industrial buildings builders, and commerce activities. However, investment related to the creation or the development of important shopping centres could qualify for the exemptions if certain conditions are met.

The Investment Declaration Regime has no minimum investment threshold, but has special requirements related to the activities of the company.

For the Investment Approval Regime, the minimum investment cost is XOF 200 million (VAT and working capital exclusive).

The benefit from the Investment Code is granted by the Centre for the Promotion of Investments (named CEPICI), after an application is filed by the requestor.

During the investment period, the beneficiary enjoys the following:

- Reduction of 50% of the customs duties on the equipment and materials included on the filed list together with the first spare parts when the investment is less than XOF 1 billion.
- Reduction of 40% of the customs duties on the equipment and materials included on the filed list together with the first spare parts when the investment is more than XOF 1 billion.
- Exemption from VAT on purchase of equipment, materials, and first spare parts.

After the completion of the investment, the beneficiary enjoys the following exemptions during a period that depends on the zone the company is located in:

- Exemption from CIT.
- Exemption from business franchise tax.
- Exemption from real estate tax (only for Zone C in the Investment Declaration Regime).
- Exemption from registration taxes on share increases (only for Zone C in the Investment Declaration Regime).
- Reduction of the payroll taxes due on employee's wages. The reduction is 80% for Zone B and 90% for Zone C in the Investment Declaration Regime and 50% for Zone A, 80% for Zone B, and 90% for Zone C in the Investment Approval Regime.

These incentives may not be combined with sector-specific investment programs, such as those for mining and hydrocarbons.

Capital investment incentives

With prior approval of the tax authorities and varying with geographical location, 35% to 40% of the total investment in fixed assets related to commercial, industrial, or agricultural activity may be deducted from taxable income. The deduction is limited to 50% of taxable profits. The balance of deduction of the first year may be carried forward over the three following years.

Export incentives

No VAT is levied on export sales.

Export incentives for the mining industry

During the exploration phase, investments may be exempt from payroll tax; VAT on goods and services; additional tax (on the sale of goods) on imports and purchases; all import taxes and duties, including VAT on materials, machines, and equipment used in research activities; registration duties applicable to in-kind or cash share-capital contributions; real estate tax; CIT; and minimum tax.

In the exploration phase, mining subcontractors can benefit from the same import VAT and customs exemptions granted to mining title holders.

During the production phase, mining activities may have a five-year exemption from CIT and relief from all import duties, including VAT on recovered investments required for exploitation, special equipment tax, business franchise tax, etc. In addition, they may be granted temporary admission of machines and equipment that facilitate research and exploitation. Mining subcontractors are exempt from customs duties, including VAT on importing of liquid or gas fuels, lubricants, and chemical or organic products intended for the treatment of minerals, for the whole duration of the mine.

A tax on profit is levied as soon as investment funds are recovered. Mining enterprises may not combine these incentives with those of the Investment Code.

Export incentives for petroleum service contractors

A special and optional tax treatment applies to petroleum service contractors that meet established criteria. CIT, distribution (i.e. dividend) tax, payroll tax, income tax on salaries, and the tax on insurance premiums are calculated on the turnover of the contractor. The total taxes represent 5.786% of turnover. Standard rates apply for business franchise tax and social security contributions for local personnel. The exemption from customs duties and VAT for oil companies is extended to petroleum service contractors.

Withholding taxes

WHTs are levied as follows:

- *Impôt sur le revenu des valeurs mobilières* (IRVM): 15% on dividends and directors' fees.
- *Impôt sur le revenue des créances* (IRC): 18% on interest payments, reduced to 13.5% (individuals) and 16.5% (businesses) on bank deposit interest. The revenue realised by individuals on Treasury Bonds is subject to 10% tax on terms of up to 12 months and to 5% tax when ranging from three years to five years. Foreign banks are subject to 18% tax on loan interest or 9% on equipment loans with minimum three-year terms.
- *Impôt sur les benefices non commerciaux* (BNC): 25% of 80% of revenues on royalties, licence fees, and management and service fees paid by Ivorian companies to foreign companies (effective rate: 20% of net amount paid). *See Treaty rates below for reduced rates on royalties and management fees*.
- Interest on certificates of deposit (*bons de caisse*): 25%.

WHT on public contracts for services

Any payment made by government bodies or public institutions to non-resident persons or companies for a contract for goods or services is subject to a 20% WHT, subject to DTTs (*see Impôt sur les benefices non commerciaux above*).

Resident persons or companies are not subject to this WHT, except for individual service (or goods) providers registered under the standard tax regime for small companies (*see below*).

WHT on small-size businesses

A 5% WHT is applicable on the remunerations paid to individual service providers registered under the standard tax regime for small companies.

A 10% WHT is applicable on payments made by government bodies or public institutions for a contract for services (or goods).

Ivory Coast (Côte d’Ivoire)

WHT on writers’ revenue

A 7.5% WHT applies to occasional revenue paid to individuals or companies as royalties on books, scientific studies, and artistic productions.

Treaty rates

The Ivorian DTT Network:

	WHT (%)		
Recipient	**Dividends**	**Interest**	**Royalties**
Non-treaty	15	18	20
Treaty:			
Belgium	15	16	10
Canada	15	15	10
France	15	15	10
Germany	15	15	10
Italy	15	15	10
Morocco	10	10	10
Norway	15	16	10
Portugal	10	10	5
Switzerland	15	15	10
United Kingdom (1)	15	15	10
WAEMU (2)	10	15	15

Notes

1. Management fees (‘*honoraires de gestion*’) attract the 10% WHT in the United Kingdom (UK) DTT.
2. The West African Economic and Monetary Union (WAEMU) states are: Benin, Burkina Faso, Côte d’Ivoire, Guinea-Bissau, Mali, Niger, Senegal, and Togo.

Tax administration

Taxable period

Companies are required by law to have a 31 December fiscal year-end.

Tax returns

The deadline for filing is 30 June for companies subject to audit requirements and 30 May for other entities.

Taxpayers with a turnover between XOF 5 million and XOF 50 million are taxed under the ’synthetic’ tax regime and are required to produce electronic and paper financial statements.

The simplified real taxation scheme (*Réel simplifié d’imposition*) applies to taxpayers with turnover ranging from XOF 50 million to XOF 150 million. Under the simplified real taxation scheme, annual financial statements have a lighter presentation.

The ‘real’ taxation scheme applies to taxpayers with a turnover above XOF 150 million. Companies under the real taxation scheme are allowed to submit tax returns electronically and perform tax payments via wire transfer.

Financial statements are filed annually, according to local generally accepted accounting principles (GAAP).

Payment of tax

Payment of CIT is made in three instalments in April, June, and September following the end of the fiscal year, depending on the sector of activity and taxpayer's office, as follows:

- Medium and large-size companies tax office:
  - 10 April, 10 June, and 10 September for industrial, oil and gas, and mining companies.
  - 15 April, 15 June, and 15 September for commercial companies.
  - 20 April, 20 June, and 20 September for service providers.
- Companies with other tax offices:
  - 15 April, 15 June, and 15 September.

Tax audit process

Many types of tax audits are available to the tax administration, which may request any accounting-related document for the purpose of tax audit.

The most common is the general tax audit of the taxpayer's situation, which covers the statute of limitation period. It is carried out with a notice at least five days before the beginning of the audit. The audit is carried out on the premises of the taxpayer for a maximum of six months (with a possibility to extend for a period of three additional months), and a primary tax assessment is issued.

The taxpayer then has 30 days to agree or challenge the assessment, and the definitive assessment is issued within a maximum of three months following the primary tax assessment notification date.

The definitive tax assessment has to be issued within a maximum of two months for taxpayers with annual turnover up to XOF 500 million.

The tax administration is entitled to release tax assessments electronically.

Further challenge of the definitive assessment is possible before the head of the tax administration and the court.

Statute of limitations

The statute of limitations covers the current year and the three prior years.

Topics of focus for tax authorities

The tax administration generally focuses on compliance with the CIT filing deadline and on the payment of the instalments.

For consistency of the tax returns, the tax administration focuses on the filing of the additional records (Annual Financial Statements, Etat 301: Annual Salary Statement, Etat 302: Annual Fees Statement), records of the provisions, tax losses, and amortisations carried forward.

During tax audits, the focus is on transactions with non-resident related parties.

Kenya

PwC contact

Steve Okello
PricewaterhouseCoopers
PwC Tower
Waiyaki Way/Chiromo Road, Westlands
P.O. Box 43963
00100 Nairobi, Kenya
Tel: +254 20 2855116
Email: steve.x.okello@pwc.com

Significant developments

Tax amnesty on foreign income

The Finance Act, 2016 (which was assented to law on 13 September 2016) introduced a provision effective 1 January 2017 in the Tax Procedures Act (TPA) that will grant a tax amnesty to taxpayers who received untaxed Kenya-sourced income or assets, which are now located outside Kenya.

The Commissioner will refrain from assessing or recovering taxes, penalties, and interest in respect of any year of income ending on or before 31 December 2016 and from following up on the sources of income under the amnesty where:

- the income has been declared for the 2016 tax year by a person earning taxable income in Kenya, and
- the returns or accounts for the 2016 tax year are submitted on or before 30 June 2018.

The amnesty shall not apply:

- to income earned in Kenya where the person earning the income has already been assessed to tax in Kenya, and
- where a person making an application for the amnesty is under a tax audit or investigation by the Commissioner.

Under the Finance Act, 2017 (assented into law on 21 June 2017), the amnesty deadline was extended from 31 December 2017 to 30 June 2018. Further, on 17 July 2017, the Kenya Revenue Authority (KRA) issued revised guidelines on the amnesty (which are dated 10 July 2017). The original guidelines were published by the KRA on 8 March 2017.

The Finance Act, 2017 and the revised guidelines have clarified that for taxpayers to be eligible for the amnesty, declared funds will need to be transferred back to Kenya. Where no funds have been transferred within the period of the amnesty (period up to 30 June 2018), there shall be a five-year period (i.e. up to 30 June 2023) for the remittance, but a penalty of 10% shall be levied on the remittance. Funds have been defined as ‘cash declared in the returns or accounts for purposes of transfer back into the country’.

The guidelines provide that an application for the tax amnesty should be made by filing an Amnesty Return on i-Tax, making full and accurate disclosure of assets and income, including confirmation of the actual cost or best estimate of the market value of all assets. The return shall take the format of Form A/37B as set out on i-Tax. The Amnesty Return can be accessed by logging onto your individual i-Tax account and downloading the return. An acknowledgement notice will be issued upon submission of the return declaration and thereafter a certificate will be issued upon approval of the application, where all the requirements are met.

The guidelines do not stipulate any preclusions for taxpayers to transfer the funds repatriated to Kenya under the amnesty back to the foreign country thereafter.

Proposed tax reforms

The government of Kenya's strategy on tax and revenue reforms aims to significantly grow revenue in the 2017/18 fiscal year. To this end, several tax policies and revenue administration reforms have been put in place to enhance taxpayer education, make greater use of technology, and implement a simplified tax regime for the informal sector.

Specific changes introduced

Incentives for businesses operating in special economic zones (SEZs)

The Finance Act, 2017 has introduced a 100% investment deduction for capital expenditure on buildings and machinery. For SEZs located outside Nairobi and Mombasa, an investment deduction equal to 150% is applicable on capital expenditure on buildings and machinery.

The Finance Act, 2017 has exempted withholding tax (WHT) on dividends payable to non-residents by SEZ enterprises, developers, and operators.

Further, a WHT rate of 5% is now applicable on management fees, professional fees, training fees, and royalties payable by SEZ enterprises, developers, and operators to a non-resident person.

Interest payments payable by SEZ enterprises, developers, and operators to a non-resident person have also been incentivised under Finance Act, 2017 and shall now attract WHT at the rate of 5%.

Taxes on corporate income

Resident companies are taxable in Kenya on income accrued or derived from Kenya. Resident companies with business activities outside Kenya are also taxed on income derived from business activities outside of Kenya.

Non-resident companies are subject to Kenya corporate income tax (CIT) only on the trading profits attributable to a Kenyan permanent establishment (PE).

The rate of CIT for resident companies, including subsidiary companies of foreign parent companies, is 30%. The CIT rate for branches of foreign companies and PEs is 37.5%.

Special rates

There are special rates for certain resident and non-resident companies as set out below.

Entity	CIT rate (%)
Export processing zone (EPZ) enterprises:	
First ten years	0
Next ten years	25
Thereafter	30
Registered unit trusts/Collective investment schemes	Exempt (subject to conditions)
Newly publicly listed companies:	
20% of shares listed: first three years after listing	27
30% of shares listed: first five years after listing	25
40% of shares listed: first five years after listing	20
Companies listed on securities exchange	25 (first five years)
SEZ enterprises, developers, and operators	10 (first ten years); 15 (succeeding ten years)
Local motor vehicle assembly companies	15 (first five years); 15 (succeeding five years, subject to conditions)
Rates on gross income of non-residents derived from Kenya:	
Transmission of messages	5
Ownership or operation of ships and aircraft	2.5

Local income taxes

There are no county or provincial taxes on income, as all taxes are collected by the national government. However, county governments are empowered by the Constitution to impose property and entertainment taxes at the county level.

Corporate residence

Kenya-incorporated companies are treated as Kenyan-tax resident. Additionally, companies incorporated overseas are also treated as Kenya resident if their 'management and control is exercised in Kenya in a particular year of income under consideration'. A company may also be declared a tax resident in Kenya pursuant to a declaration in a legal notice by the Cabinet Secretary for the National Treasury.

Permanent establishment (PE)

A business carried on in Kenya through a fixed place of business gives rise to a PE, as does a building site, or a construction or assembly project, that has existed for six months or more.

The definition of a PE has been extended to include a dependent agent that habitually concludes contracts on behalf of others. This definition is closer to that contained in the Organisation for Economic Co-operation and Development (OECD) Model Convention on Double Tax Treaties (DTTs).

Note that the definition of a PE may be modified by a DTT.

Other taxes

Value-added tax (VAT)

VAT is levied under the VAT Act, 2013. VAT is a tax on value addition and is accounted for using an input-output mechanism. There are four types of supplies that attract different VAT rates: 16% for taxable supplies, 0% for zero-rated supplies, exempt supplies, and out of scope supplies.

VAT registration is required for persons making taxable supplies over 5 million Kenya shillings (KES) in a 12-month period. In determining the threshold, it excludes the:

- sale of capital assets
- sale of a person's enterprise, or
- cessation of business permanently.

A person making taxable supplies below the registration threshold may voluntarily apply to the Commissioner and register for VAT.

Input tax on a taxable supply or import may be deducted from the tax payable by a registered person on supplies made by one in a tax period to the extent that the supply or importation was acquired to make taxable supplies. Input tax is allowable for deduction within six months after the end of the tax period in which the supply or importation occurred.

Changes introduced by the Finance Act, 2017

The Finance Act, 2017 (the Act) has effected numerous changes, focusing primarily on zero rating as the core VAT incentive and targeted at economically significant sectors of the economy, to assist with their development. The prominent VAT changes are outlined below:

- In a bid to stimulate local manufacturers and the agricultural sector, the Act has zero-rated agricultural pest control products and all inputs and raw materials, whether produced locally or imported, supplied to manufacturers of agricultural pest control products. This exemption will allow local manufacturers to be more competitive and also promote the agricultural sector by reducing the cost of production.
- The Act has exempted from VAT the supply of locally assembled tourist vehicles. This is a positive move towards promoting local assemblers as well as the tourism sector.
- The Act has exempted from VAT asset transfers and other transactions related to the transfer of assets into Real Estates Investment Trusts (REITs) and Asset Backed Securities (ABSs). This exemption will reduce the overall cost of setting up REITs and ABSs.
- VAT exemption for Sharia-compliant finance products. The Act has harmonised the VAT incentives offered across the financial services industry by providing for similar VAT treatment of Islamic finance products as with conventional finance products.
- The Act has zero-rated taxable goods supplied to marine fisheries and fish processors. This is aimed at reviving the fisheries sector and ensuring increased utilisation of marine resources as part of the economic growth agenda.
- Milk and cream, not concentrated nor containing added sugar or other sweetening matter, are now zero-rated by the Act.
- The Act has zero-rated food commodities, such as cassava flour, maize (corn) flour, wheat or meslin flour, and ordinary bread.

Value Added Tax Regulations, 2017

The Value Added Tax Regulations, 2017 (the Regulations) have been published by the Cabinet Secretary for the National Treasury more than three years since the enactment of the Value Added Tax Act, 2013 (VAT Act) in September 2013. Taxpayers have been relying on outdated Value Added Tax Regulations, 1994. The Regulations, which took effect from 4 April 2017, are subsidiary legislation meant to facilitate the efficient implementation of the principal legislation, the VAT Act.

The most notable amendment in the Regulations are procedures relating to the exportation of goods and services. Regulation 13 stipulates that:

- Goods are exported from Kenya when they are entered for export under the EAC Customs Management Act and delivered to a recipient outside Kenya.
- Services are exported from Kenya if they are provided to a recipient outside Kenya for use, consumption, or enjoyment outside Kenya; however, export of services does not include the following:
  - Taxable services consumed on exportation of goods unless the services are in relation to transportation of goods that terminates outside Kenya.
  - Taxable services provided in Kenya but paid for by a person who is not a resident in Kenya.

The documentation required as a proof of exportation of goods and services include:

- A copy of the invoice to the recipient.
- Proof of payment for the exported goods or services.
- For goods, a bill of lading, road manifest or airway bill, the export or transfer entry certified at the port of exit.
- For excisable goods, documents as per the Excise Duty Act, 2015.
- For services, other documents to prove that services were consumed outside Kenya.

Where the Commissioner has reasonable grounds to believe that the goods were not exported, the Commissioner may require evidence from a competent authority outside Kenya confirming that the goods were duly landed and entered for home consumption at a place outside Kenya.

It is important to note that the VAT Act defines services exported outside Kenya to be services provided for use or consumption outside Kenya.

While Regulation 13 requires an invoice showing the recipient of services to be a person outside Kenya as proof of exportation of services, the Regulation, on the other hand, excludes from the scope of exported services those services paid for by ‘a person who is not resident in Kenya’.

The Regulation has not addressed the issue of how to determine the place of use, consumption, or enjoyment; the Regulation has rather introduced location of recipient of the services and the location from where payment for services is made as additional tests for determination of export of service. This appears to be a shift from the ‘destination principle’ enshrined in the VAT Act.

Import (customs) duty

Import duty is levied under the East African Community (EAC) Customs Management Act. Imported goods are generally subject to import duty at varied rates, including 0% for raw materials and capital goods (also exempt from VAT), 10% for intermediate goods, and 25% for finished goods. However, a different rate of duty can be prescribed by the Council of Ministers of the EAC partner states. Enterprises established in an EPZ are exempt from customs duty on machinery and inputs for products manufactured for export while licensed oil and gas contractors with a Production Sharing Contract

(PSC) with the government of Kenya are exempt from customs duty on importation of machinery, spares, and inputs used in exploration activities, excluding motor vehicles.

In addition, enterprises that are established under the SEZs enjoy import duty exemption. Where raw materials that are not subject to 0% import duty are used to manufacture goods for use locally within the EAC and for export outside the EAC, one may apply for remission under the EAC duty remission scheme. This is subject to a requirement for proof of export, and one may be required to execute a bond/bank guarantee. Further, assemblers of motor vehicles and motor cycles, among others, enjoy import duty remission under the scheme.

Additionally, there is a list of other items and persons that are exempted from import duties under the Act.

Changes introduced by the EAC Gazette Notices

The EAC Gazette Notice in June 2017 that introduced budgetary changes for all EAC partner states brought with it a number of changes, including a decrease in the import duty rates for worn clothing and other worn articles from 35% or 0.40 United States dollars (USD)/kg to 35% or USD 0.20/kg, whichever is higher; rice in the husk, husked brown rice, semi milled or wholly milled rice, and broken rice from 75% or USD 345/MT to 35% or USD 200/MT, whichever is higher; and poly vinyl alcohol (form of plastic used in various industries other than beverage) from 10% to 0%, among others. This has the effect of incentivising some key sectors of the economy and addressing a shortage of some commodities in the local market.

On the other hand, the import duty rate increased for various products, including the following: structures of iron and steel from 25% to 25% or USD 250/MT, whichever is higher; liquid petroleum gas (LPG) cylinders from 0% to 25%; road tractors for semi-trailers (tractor heads that pull semi-trailers) from 10% to 25%; and paper and paperboard products from 10% to 25%. The overall effect of these changes is to boost the local industries by protecting them from cheap imports.

The Gazette also granted remission of duty on some items for further manufacturing in Kenya, including wheat grain, with the applicable rate being 10% instead of 35%. A full duty remission on raw sugar for manufacture of sugar for industrial use has been granted on condition that if the finished product is sold within the EAC, then such goods shall attract duties, levies, and other charges provided in the EAC Common External Tariff (EACCET). Other products to be imported at 0% duty rate include inputs for ship assembly, inputs for assemblers of equipment specifically designed for the use by disabled, blind, and physically handicapped persons, raw materials and equipment to be used in the manufacture of textiles and footwear, iron and steel products of HS.7228.20.00 imported for the manufacturer of automobile bolts, nuts, and leaf springs, and inputs for the manufacture of filters. In addition, various assemblers of motor cycles (24 motor cycle assemblers) have been authorised to import specific quantities of completely knocked down (CKD) kits for manufacture of motor cycles at a duty rate of 10% for 12 months under the duty remission scheme.

The Gazette also amended the Fifth Schedule of the EAC Customs Management Act (EACCMA) by removing electrical energy saving bulbs for lighting (compact fluorescent bulbs) from the exemption schedule. Separately, machinery and inputs imported for use in the distribution of oil, gas, and geothermal have been included in the exemption schedule. The exemption was previously restricted to machinery or inputs used in oil, gas, and geothermal exploration and development only and not the machinery or input used for the distribution of these products.

Following the review and modification of the Harmonised Commodity Description and Coding System (HS Code) Version 2012 by the World Customs Organisation (WCO), the Council has reviewed the EACCET into a 2017 version in line with the modified WCO HS Code. This move ensures that the EACCET is up-to-date with regards to global advancement in technology and innovation

In addition to the above WCO HS Code update, in the EAC, the HS Code is usually updated every five years to include new products introduced in international trade that are not accommodated by the existing tariff codes, remove products that are no longer traded, and to take into account the concerns and feedback from international trade players. In this regard, the EACCET has released the new CET 2017.

Excise duty

Excise duty is imposed on the local manufacture or the importation of certain commodities and services. Excisable commodities include items such as bottled water, soft drinks, cigarettes, alcohol, fuels, and motor vehicles. Excisable services include mobile cellular phone services, fees charged for money transfer services, and other fees charged by financial institutions.

Below are the different categories of excisable products and their corresponding rates of excise duty. These include the changes introduced by the Finance Act, 2017.

Category	Goods description	Excise duty rates
Spirits	Spirits of undenatured ethyl alcohol; spirits liqueurs, and other spirituous beverages of alcoholic strength exceeding 10%	KES 200 per litre
Other alcoholic beverages	Wines	KES 150 per litre
	Beer, cider, perry, mead, opaque beer, and mixtures of fermented beverages with non-alcoholic beverages and spirituous beverages of alcoholic strength not exceeding 10%	KES 100 per litre
	Powdered beer	KES 100 per kg
Tobacco and tobacco products	Cigarettes with filters (hinge lid and soft cap)	KES 2,500 per mille
	Cigarettes without filters (plain cigarettes)	KES 1,800 per mille
	Cigars, cheroots, cigarillos, containing tobacco or tobacco substitutes	KES 10,000 per kg
	Electronic cigarettes	KES 3,000 per unit
	Cartridge for use in electronic cigarettes	KES 2,000 per unit
	Other manufactured tobacco and manufactured tobacco substitutes; homogeneous and reconstituted tobacco; tobacco extracts and essences	KES 7,000 per kg
Soft drinks	Fruit juices and vegetable juices	KES 10 per litre
	Water and other non-alcoholic beverages, not including fruit or vegetable juices	KES 5 per litre
Other excisable products	Plastic shopping bags	KES 120 per kg
	Food supplements	10%
	Motor vehicles of tariff heading 87.02, 87.03, and 87.04	20%
	Motor cycles of tariff heading 87.11 (excluding motor cycle ambulances and locally assembled motor cycles)	KES 10,000 per unit

Category	Goods description	Excise duty rates
Excisable services	Mobile cellular phone services and other wireless telephone services	10%
	Money transfer services	10%
	Financial services by financial institutions	10%

Finance Act, 2017 provisions

Inflationary adjustment

Effective 1 January 2018, the Finance Act provides for an inflationary adjustment to the rates of excise duty every two years instead of the provision for an annual adjustment as was provided for in the Excise Duty Act, 2015. This is a welcome move specifically for business planning purposes.

Relief for paint and resin manufacturers

Paint and resin manufacturers who use illuminating kerosene to manufacture paint and resin are now required to be registered with the KRA in order to be entitled to a refund of the excise duty already paid for this purpose.

Other changes

The following are the other changes introduced by the Finance Act:

- The excise duty rate for spirits and other spirituous beverages of alcoholic strength exceeding 10% has increased from KES 175 to KES 200 per litre.
- There has been an introduction of a two tier excise duty structure for cigarettes from the current single rate of KES 2,500 per mille. Cigarettes without filters are now chargeable to excise duty at the rate of KES 1,800 per mille while cigarettes with filters are chargeable at KES 2,500 per mille.
- Powdered beer has been defined to mean any powder, crystals, or any other dry substance that, after being mixed with water or any other non-alcoholic beverages, ferments to or otherwise becomes an alcoholic beverage.

Excisable goods supplied to St. Johns Ambulance for official use in the provision of relief supplies in Kenya have been exempted from excise duty. This is in addition to the goods already exempted under Part A of the Second Schedule to the Excise Duty Act, 2015.

Excise Duty Regulations

The Cabinet Secretary for the National Treasury also published regulations for the administration of the provisions of the Excise Duty Act, 2015. The introduction of The Excise Duty (Remission of Excise Duty) Regulations, 2017 has revoked the Customs and Excise (Remission of Excise Duty) Regulations, 2013. These Regulations empower the Cabinet Secretary to grant remission of excise duty with respect to beer made from sorghum, millet, or cassava, or any other agricultural produce grown in Kenya. The remission granted is 80% of the excise duty due and does not apply in respect of beer made from barley.

In addition, the coming into force of The Excise Duty (Excisable Goods Management System) Regulations, 2017, which has also revoked the Customs and Excise (Excisable Goods Management System) Regulations, 2013, requires all classes of excisable goods to be affixed with excise stamps, with the exception of motor vehicles. These regulations specify different stamp prices for different classes of excisable goods ranging from KES 0.6 to KES 2.8 per stamp.

Further, these regulations prescribe a robust system that addresses the loopholes in the entire supply chain from production of excisable goods to retail; including a requirement for retailers of excisable goods to ensure compliance with excise stamp requirements before they stock these products in their premises. These measures are likely to boost revenues for the exchequer while at the same time creating an even ground for the manufacturers and importers of excisable goods by reducing incidences of non-complying excisable goods.

Stamp duty

Stamp duty is payable on transfer of properties, leases, and securities. The Finance Act, 2017 has, however, introduced a provision exempting stamp duty on the transfer of title relating to *Sukuk* arrangements.

For other properties, other rates of stamp duty apply as specified in the Schedule to the Stamp Duty Act. The rates of stamp duty are shown below:

Activity	Stamp duty rate
Transfer of immovable property:	
Urban	4%
Rural	2%
Creation or increase of share capital	1%
Registration of a company (nominal share capital)	0%
Transfer of unquoted shares or marketable securities	1%
Transfer of quoted shares of marketable securities	Exempt
Registration of a debenture or mortgage:	
Collateral security	0.05%
Supplemental security	KES 20 per counter part
Lease:	
Period of three years and under	1% of annual rent
Period over three years	2% of annual rent

Tax on capital gains (CGT)

After being suspended for 30 years, the Finance Act, 2014 reintroduced CGT on transfer of property situated in Kenya. Therefore, gains derived on the sale or transfer of property by an individual or company carried out on or after 1 January 2015 are subject to a final tax at the rate of 5%. The definition of 'property' is widely drawn and includes securities in Kenyan resident private companies (though a specific exemption from CGT exists for securities listed in Kenya).

The High Court recently ruled that Paragraph 11A of the Eighth Schedule of the Income Tax Act cannot impose an obligation on a taxpayer to pay CGT on or before presenting a transfer instrument for registration as opposed to upon registration of the transfer instrument. The KRA has appealed the Court's ruling, but no final decision is available at this date.

Compensating tax

Where a company pays dividends out of profits that have not been subject to CIT, the company will be liable to pay a compensating tax. The compensating tax rate is 42.8%.

The aim of this tax is to ensure that all dividends are paid out of profits that have suffered CIT.

Turnover tax for small business taxpayers

A resident taxpayer whose annual gross turnover does not exceed KES 5 million will be taxed at the rate of 3% per quarter of one's turnover. In such a case, the taxpayer will not be required to register for VAT. Turnover tax does not apply to rental income, management or professional fees, training fees, income subject to WHT as a final tax, and income of incorporated companies. Loss making businesses are allowed to make an election to be exempted from turnover tax. A written application for exemption has to be made to the Commissioner, and there is a procedure to be followed.

Payroll taxes

Payroll taxes are administered through the pay-as-you-earn (PAYE) mechanism of deducting income tax from employment income (salaries, wages, bonuses, commissions, etc.). PAYE also applies to taxable non-cash benefits.

It is the employers' obligation to deduct and account for payroll taxes on a monthly basis.

The PAYE deducted thereof should be paid to the KRA by the 9th day of the following month.

The employer should submit a monthly PAYE return (can be filed online using the KRA's electronic platform, i-Tax). This return, known as form P10, declares the PAYE for a specific month.

The tax tables applicable to individuals are provided in the Taxes on personal income section of Kenya's Individual tax summary at www.pwc.com/taxsummaries.

Employers' National Social Security Fund (NSSF) contributions

Employers and employees are obligated to contribute monthly to the NSSF a standard contribution of KES 200 each. However, the new NSSF Act provides for a higher contribution rate of 6% of pensionable earnings with matching contribution from the employer. The implementation of the new Act awaits conclusion of a pending court case.

National Hospital Insurance Fund (NHIF) contributions

An employer has an obligation to deduct and remit NHIF contributions on a monthly basis.

NHIF is payable by the employee at graduated bands, up to a maximum of KES 1,700 per month. The maximum contribution is reached at a salary level of KES 100,000 per month. There is no corresponding employer contribution.

Business permit

Every person who carries on a business in Kenya is required to apply for a business permit from the relevant local authority. The business permit is usually based on the size of one's business and is renewable on an annual basis.

Tourism levy

The tourism levy is payable to the Tourism Fund by establishments dealing in tourism activities and services as listed in the Tourism Act at a rate of 2% of turnover.

National industrial training levy

All employers are required to pay to the Directorate of Industrial Training a monthly levy of KES 50 per employee. The only exemption is for employers remitting the tourism levy.

Railway development levy (RDL)

The RDL is payable on all imports into the country at 1.5% of the customs value of the goods. This was implemented to provide funds for the construction of a standard gauge railway track.

National construction levy

The National Construction Authority introduced a construction levy for all construction works that commenced after 6 June 2014. The levy is payable at the rate of up to 0.5% of the contract value of any construction project whose construction value exceeds KES 5 million. The levy is in relation to all construction projects relating to buildings, roads, water works, electrical works, and other works that require the service of a contractor.

Advance tax on motor vehicles

Advance tax is payable at varying annual rates depending on the motor vehicles and is creditable against any CIT payable for the year.

Fringe benefit tax (FBT)

The FBT is payable by an employer on interest-free or low-interest loans granted to employees, company directors, and their relatives. FBT is due, whether the employer is exempted from tax or not, at the resident CIT rate of 30%. The benefit is the difference between actual interest charged and the interest computed using the Commissioner's prescribed rate published quarterly. The directors and employees are not personally taxed on the benefit.

Betting, lottery, and gaming taxes

The Finance Act, 2017 has increased the amount of betting, lottery, and gaming taxes with effect from 1 January 2018 as follows:

Tax type	Current rate/Tax base	New rate/Tax base
Betting tax	7.5% of gaming revenue	35% of gaming revenue
Lottery tax	5% of lottery turnover	35% of lottery turnover
Gaming tax	12% of gaming revenue	35% of gaming revenue
Prize competition tax	15% of total gross turnover	35% of total gross turnover

Local government rent and rates

Rent and rates are levied annually on properties in Kenya, and the rateable value that is payable to the county government shall vary in each county based on various forms of ratings, such as area rate, agricultural rental value, or site value.

Branch income

The profit of a PE is taxed at the branch income tax rate of 37.5%, but there is no further taxation on the distribution of branch profits. There are certain restrictions with respect to the tax deductibility of certain costs, such as royalties, interest, and management fees, paid to the head office. However, these payments are also not subject to WHT.

Income determination

Inventory valuation

Inventory is stated at the lower of cost or net realisable value, with the exception of biological assets, whose value is prescribed by the Commissioner.

Capital gains

Tax on capital gains (CGT) has been reintroduced. *See Tax on capital gains (CGT) in the Other taxes section for more information*.

Dividend income

Kenya-source dividends are taxable income in Kenya unless the recipient is a Kenya resident company holding 12.5% or more of voting power of the company paying the dividend. However, for companies holding less than 12.5% of the votes, and other resident taxpayers, the 5% WHT is the final tax. Dividends paid to non-residents and any overseas holding company attract 10% WHT.

Dividends issued in a ratio not proportionate to shareholding of the existing equity are considered as taxable dividends to the extent of the disproportionate increase in the value of the ownership of the company.

Interest income

Interest income is generally included in the determination of taxable income unless expressly exempted for income tax.

Royalty income

Royalty income is subject to CIT at 30%. Given that royalties attract WHT, the WHT credit can be used to offset against the tax liability arising from the royalty income.

Foreign income

In Kenya, companies are taxed on income accrued or derived from Kenya. Resident companies with business activities outside Kenya are taxed on worldwide profits.

Deductions

The general principle in Kenya is that, unless expressly provided otherwise, expenses are tax deductible if they are incurred wholly and exclusively to generate taxable income.

Depreciation and depletion

No deduction is allowed for accounting depreciation or impairment. However, capital allowances are permitted at varying rates (on a straight-line basis) for certain assets used for business purposes, including buildings and machinery used in manufacturing, industrial buildings and hotels, machinery and plant, agricultural works, and mining.

Capital deductions	Rate (%)
Investment deduction:	
Qualifying investment exceeding KES 200 million (outside Nairobi or the municipalities of Mombasa or Kisumu)	150
Other qualifying investment	100
Industrial building allowance: *	
Certified education buildings (straight-line)	50
Qualifying rental residential or commercial building allowance (straight-line)	25
Other qualifying buildings (including hotels, straight-line)	1
Wear and tear allowance:	
Plant and machinery (reducing-balance):	
Class 1	37.5
Class 2	30
Class 3	25
Class 4	12.5
Telecommunication equipment (straight-line)	20
Other allowances:	
Computer software (straight-line)	20
Capital expenditure under a concessionaire arrangement	Equal proportions over the period of the concession
Mining specified minerals:	
Year one	40
Year two through seven	10
Farm works (straight-line)	100

* Different percentages apply for previous years.

Goodwill

Cost acquisition of goodwill and amortisation of goodwill are not deductible since they are capital in nature.

Start-up expenses

There is a specific provision allowing the deduction of certain start-up expenses, provided that the required conditions have been met.

Interest expenses

A deduction for interest is allowed only to the extent that the borrowings are used for the purpose of trade. Where a non-resident person controls a company alone or with four or fewer other persons, interest restriction or 'thin capitalisation' rules apply (*see Thin capitalisation in the Group taxation section*).

Bad debts

Bad debts are deductible in the year in which it is evident that the debt has become irrecoverable. Detailed rules apply for making this determination.

Charitable contributions

Donations to qualifying charities and for certain public works are deductible, subject to certain conditions.

With effect from 3 April 2017, the Finance Act, 2017 provides that expenditure incurred by a taxpayer on donations for the alleviation of distress during national disaster as declared by the President will be deductible expenses for the taxpayer when determining taxable income. Deductible donations will be those made to:

- the Kenya Red Cross
- county governments, or
- any other institution responsible for the management of national disasters to alleviate the effects of a national disaster declared by the President.

Fines and penalties

Generally, fines and penalties are not deductible as they are not considered to be expenses incurred for producing profits chargeable to tax.

Taxes

Kenyan income taxes are not deductible while computing income tax of a person. However, foreign income taxes incurred are generally deductible as an expense if tax credit relief is not available under a DTT.

Net operating losses

Losses calculated under the tax rules may be carried forward against income from the same source for a maximum of ten years, including the year in which the losses arise. Losses cannot be carried back, except for petroleum companies, where losses can be carried back indefinitely.

Payments to foreign affiliates

Transfer pricing rules based on OECD principles apply to transactions with foreign affiliates (both companies and branches/PEs). Additionally, there are restrictions on the deductibility of expenses incurred outside of Kenya by non-residents with a Kenyan PE.

Group taxation

Each company in a group is taxed as a separate entity in Kenya.

Transfer pricing

A company that has related-party transactions is required to ensure such transactions are at arm's length. The company is therefore required to prepare a transfer pricing policy to justify the pricing arrangements. The Commissioner is allowed to specify conditions and procedures on the application of the methods for determining the arm's-length price and to adjust the prices if they do not conform to the arm's-length principle. The policy should be prepared and submitted to the KRA upon request.

Thin capitalisation

In Kenya, a company is thinly capitalised if all of the following occur:

- The company is controlled by a non-resident person alone or together with four or fewer persons.
- The company is not a bank or financial institution.
- The highest amount of all loans held by the company at any time exceeds the sum of three times the revenue reserves (including accumulated losses) and the issued and paid up share capital of all classes of shares of the company.

A company that is thinly capitalised cannot claim a deduction on the interest expense incurred by the company on loans in excess of three times the sum of revenue reserves and issued and paid up capital of all classes of shares of the company. The company also cannot claim a deduction for any foreign exchange loss realised by the company with respect to any loans from its shareholders in the period that the company remains thinly capitalised.

For companies in the extractive sector, the debt-to-equity ratio is 2:1.

Deemed interest

The Kenyan tax legislation gives the Commissioner for Domestic Taxes the discretion to 'deem interest' on interest-free borrowings received by foreign-controlled entities in Kenya. The 'deemed interest' is based on the Commissioner's prescribed rates.

This means that WHT is due on the 'deemed interest' as if this was an actual finance charge. The WHT rate on payments of interest to non-residents is currently 15% (in the absence of a DTT).

Controlled foreign companies (CFCs)

Kenya has no specialised rules regarding CFCs.

However, there are restrictions on the deductibility of interest and foreign exchange losses of companies that are foreign controlled and thinly capitalised.

Tax credits and incentives

Foreign tax credit

There is no tax credit for foreign tax paid on business income except as provided for by a DTT (if applicable) between Kenya and the other country. However, foreign tax paid can be deducted as an expense.

Investment deduction

Qualifying investments exceeding KES 200 million incurred outside Nairobi or the municipalities of Mombasa or Kisumu are allowed an investment deduction of 150%. All other qualifying investments are allowed a 100% investment deduction in the year the asset is put into use.

Export processing zone (EPZ)

Companies located in an approved EPZ, principally to export goods, are taxed at a 0% CIT rate for ten years from its commencement and at a rate of 25% for the next ten years.

Special economic zones (SEZs)

Companies registered under the SEZ Act benefit from a reduced CIT rate of 10% in their first ten years of operation. The CIT rate in the succeeding ten years is then 15%.

The Finance Act, 2017 has introduced the following additional tax incentives to SEZ enterprises, developers, and operators with effect from 1 January 2018:

- Dividends payable to non-residents by SEZ enterprises, developers, and operators are exempt from WHT.
- Management fees, professional fees, training fees, and royalties payable by SEZ enterprises, developers, and operators to a non-resident person shall be subject to WHT at the rate of 5% (down from 20%).
- Interest payments payable by SEZ enterprises, developers, and operators to a non-resident person shall be subject to WHT at the rate of 5% (down from 15%).
- 100% investment deduction allowance for capital expenditure on buildings and machinery by an SEZ enterprise.
- 150% investment deduction allowance for capital expenditure on buildings and machinery by an SEZ enterprise located outside Nairobi and Mombasa counties.
- Supply of taxable goods and services to SEZ enterprises, developers, and operators licensed under the SEZ Act, 2015 are VAT exempt.

It should be noted that the 100% investment deduction is granted to the SEZ enterprise and not the SEZ developer who may have incurred considerable costs in putting up the buildings in the SEZ site.

The reduced CIT rate (of 10% for the first ten years of operation and 15% for the next ten years) for SEZ enterprises, developers, and operators has also been clarified to be applicable whether the SEZ enterprise sells its products to markets within or outside Kenya.

The Miscellaneous Fees and Levies Act, 2016 has also been amended to provide that export levy on the goods listed in the Schedule to that Act shall not apply to exports to SEZs. Goods destined for SEZs shall also be exempt from payment of import declaration fees (IDFs).

Listed companies

Companies listed on the Nairobi Securities Exchange are entitled to reduced rates of income tax for a period depending on the percentage of share capital listed (*see the Taxes on corporate income section for the rates*).

Withholding taxes

WHT is levied at varying rates (3% to 30%) on a range of payments to residents and non-residents. Resident WHT is either a final tax or creditable against CIT. Non-resident WHT is a final tax.

Payments	Resident WHT rate (%)	Non-resident WHT rate (%)
Dividend > 12.5% voting power	Exempt	10
Dividend < 12.5% voting power	5	10
Interest:		
Bearer instruments	25	25

Payments	Resident WHT rate (%)	Non-resident WHT rate (%)
Government bearer bonds (maturity ≥ 2 years)	15	15
Bearer bonds (maturity ≥ 10 years)	10	N/A
Other	15	15
Qualifying interest:		
Housing bonds	10	N/A
Bearer instruments	20	N/A
Other	15	N/A
Royalty	5	20
Winnings from gaming and betting (1)	Varied	Varied
Management or professional fees	5	20
Consultancy fees - Citizen of EAC member states	5	15
Training (including incidental costs)	5	20
Rent/leasing:		
Immovable property	N/A	30
Others (other than immovable)	N/A	15
Pension/retirement annuity	Varied (2)	5
Contractual fees	3	20
Sale of property or shares in oil, mining, or mineral prospecting companies	10	20

Notes

1. The taxation of the betting, lottery, and gaming sector has undergone significant change in Finance Act, 2017. *See the Other taxes section.*
2. This will vary depending on the payments paid out.

Oil and gas sector WHT rates

WHT rates applicable on payments to non-residents in the oil and gas sector are shown in the table below:

Payments	Non-resident (oil and gas) WHT rate (%)
Dividends	10
Interest	15
Natural resource income	20
Management or professional fees	12.5

Double tax treaties (DTTs)

Lower rates may apply to non-residents where there is a DTT in force. The table below shows the maximum rates of tax that recipients in those countries with a DTT with Kenya can be charged on dividends, interest, royalties, and management and professional fees. The table only includes agreements that are currently in force.

	WHT (%)		
Recipient	Dividends	Interest	Royalties and management/ professional fees
Canada	15	15	15
Denmark	20	20 (1)	20
France	10	12	10 (5)
Germany	15	15 (1)	15

	WHT (%)		
Recipient	Dividends	Interest	Royalties and management/ professional fees
India	10 (4)	10 (4)	10 (4)
Iran	5	10	10
Norway	15	20 (1)	20
South Africa	10	10	10 (5)
South Korea	10 (6)	12	10
Sweden	15	15	20
United Arab Emirates	5	10	10
United Kingdom	15	15 (1)	15 (2)
Zambia	0 (3)	0 (3)	0 (3, 5)

Notes

1. Interest paid by the government and the Central Bank of Kenya is tax-exempt.
2. The rate is 12.5% for management and professional fees.
3. No Kenya tax is due if subject to tax in Zambia.
4. These rates are effective from 1 January 2018.
5. Management and professional fees subject to normal WHT rates.
6. 8% if the beneficiary holds at least 25% of the capital of the company paying the dividends.

Where the treaty rate is higher than the non-treaty rate, the lower rate applies.

Treaties awaiting conclusion and/or ratification: Italy, Kuwait, Mauritius, Netherlands, Qatar, Seychelles, Singapore, and Thailand.

Tax administration

Taxable period

A company has discretion to determine its financial year-end, provided it is a 12-month period. However, any changes in this must be approved by the Commissioner of the KRA.

Tax returns

Resident companies and PEs of non-resident companies must file a self-assessment tax return annually. The return is accompanied by a tax computation and financial statements, amongst other schedules. The return is due within six months following a company's financial year-end.

Payment of tax

Instalment tax payments must be made quarterly during the year based on the lower of 110% of the previous year's liability or an estimate of the current year's liability. Agricultural companies are required to pay estimated tax in two instalments of 75% and 25% during the year. Any balance of tax at the end of the year must be paid within four months of the financial year-end.

Payment of agency taxes

The tax withheld from payments must be paid by the 20th day of the month following the month in which the deduction is made.

Penalties for non-compliance

If a self-assessment tax return is not submitted by the due date, a penalty of 5% on the unpaid tax for the year may be imposed, subject to a minimum of KES 20,000. Failure or late submission of an EPZ company return will be subject to a penalty of KES 2,000 per day for as long as the failure continues.

A penalty of 20% and interest at 1% per month are imposed on underestimation and late payment of instalment tax and any balance of tax. Interest is charged only on the principal tax due, capped at the amount of the principal tax due.

Failure to make a deduction or to remit the WHT deducted attracts a penalty equal to 10% of the amount of tax involved (subject to a maximum of KES 1 million) and accrues interest at 1% per month.

Tax Procedures Act (TPA)

The TPA, which entered into force on 19 January 2016, aims to provide uniform procedures for consistency and efficiency in the administration of tax laws, facilitate tax compliance by taxpayers, and promote the effective and efficient collection of tax.

The TPA also harmonises and consolidates tax procedural rules. For example, the TPA provides that a taxpayer should keep records for five years. Previously, the different tax laws, such as the VAT Act 2013, Income Tax Act, and Excise Act, prescribed different timeframes that records should be kept by a taxpayer. Given that it is a relatively new piece of tax legislation, there are some inconsistencies when you mirror the TPA and other tax legislation, though we expect these inconsistencies to be addressed with time.

The Tax Appeal Tribunal Act

The Tax Appeal Tribunal Act, which entered into operation on 1 April 2015, establishes one tribunal that will hear appeals for all tax areas. Previously, income tax matters would be heard by the Local Committee whereas VAT matters would be heard by the Tax Tribunal.

Tax audit process

There is no prescribed audit process, as an audit can be triggered by various factors as determined by the KRA. Generally, tax audits should be carried out after every two to four years. The audit or inspection will commence with a request from the KRA for the taxpayer to make available any such records or information as may be required.

Statute of limitations

The tax authorities must commence an audit before the expiry of seven years after the end of a year of income. The KRA may go back past seven years where fraud is suspected. There is no time limit for completing tax audits. However, they are normally completed within a reasonable time, especially if there are no major disputes.

Topics of focus for tax authorities

- Implementation of an aggressive stop filer and nil filer programme to reverse the trend towards non-filing and non-payment.
- Linking of the counties' databases with KRA systems to facilitate identification of potential tax defaulters from the payers of the various license fees/levies and suppliers of goods and services.

- To detect fraudulent behaviour and potential tax evasion by using risk-based approaches and by providing analytic capability and intelligence information to users for better decision making and revenue growth.

Madagascar

PwC contact

Andriamisa Ravelomanana
PricewaterhouseCoopers Tax&Legal
Rue Rajakoba Augustin,
Ankadivato,
Antananarivo 101
Madagascar
Tel: +261 20 22 217 63
Email: andriamisa.ravelomanana@mg.pwc.com

Significant developments

Change of threshold for impôt synthetic

The threshold to determine whether an entity is subject to impôt synthetic of 5% on revenue or to income tax of 20% on profit is changed from 20 million Malagasy ariary (MGA) to MGA 100 million. Companies having annual revenue of more than MGA 100 million are subject to corporate income tax (CIT) of 20%.

Change of threshold for value-added tax (VAT) vendor status

The threshold to determine whether an entity is a VAT vendor or not is changed from MGA 200 million to MGA 100 million.

Tax deductibility of benefit in kind

50% of the difference between the total benefits in kind and the value of benefits in kind included in the tax base of salary income tax are not deductible expenses.

Taxes on corporate income

Taxation of residents

Resident corporate entities are subject to CIT based on realised worldwide income.

A corporate entity having an annual turnover of less than MGA 100 million is subject to CIT at a rate of 5% of 70% of turnover, with a minimum tax of MGA 16,000.

A tax reduction of 2% of the amount of purchases of goods and equipment subject to regular invoices is applicable. However, tax due cannot be less than 3% of the turnover.

A corporate entity registered in Madagascar and having an annual turnover exceeding MGA 100 million is subject to CIT at a rate of 20%.

The tax payable cannot be less than 5/1,000 of turnover plus a fixed amount of MGA 100,000 for taxable persons carrying on agricultural, artisan, transportation, industrial, hotel, or mining activities. The minimum tax cannot be less than 5/1,000 of turnover plus MGA 320,000 for other activities.

Taxation of non-residents

Only Madagascar-source income is taxable for non-residents.

Revenue of foreign businesses providing services to a Madagascar taxpayer that do not have a permanent establishment (PE) in Madagascar is subject to withholding tax (WHT) at a rate of 10% of any income realised in Madagascar. However, dividend income is exempt and financial loan interest is subject to WHT of 20%. *See the Withholding taxes section for more information*.

Local income taxes

No regional or local income taxes are applicable in Madagascar.

Corporate residence

Companies are considered resident in Madagascar if they are registered in Madagascar or have a legal existence in Madagascar.

Permanent establishment (PE)

PE refers to a fixed place of business through which a company carries out the whole or part of its activities, including:

- Management offices.
- Branches.
- Offices.
- Factories.
- Workshops.
- Mining sites, oil or gas wells, quarries, or any other places for the extraction of natural resources.
- Building sites, construction or installation projects, or supervising activities lasting for more than six months in relation to those projects.
- Provision of services by a company, including advisory services, via employees or other staff hired by the company to this end, only if such activities are carried out in Madagascar for a total period of 183 days for a 12-month period either starting or ending during the fiscal year involved, for the given or a related project.

PE does not include:

- The use of facilities for the storage or display of goods or merchandise belonging to the company.
- Exploiting a stock of goods or merchandise belonging to the company for the sole purpose of either storage or display or of being processed by another company.
- Exploiting a fixed place of business for the sole purpose of:
  - either purchasing merchandise or collecting information for the company
  - carrying out any other activity of preparatory or auxiliary character for the company, or
  - pursuing any combination of the activities mentioned above, conditional on the overall activity of the fixed place of business, as resulting from this combination, remaining of preparatory or auxiliary character.

Other taxes

Value-added tax (VAT)

The VAT rate is 20%, and the VAT rate on export is 0%. VAT input is recoverable under certain conditions.

VAT is applicable to all transactions realised in Madagascar by a VAT vendor. Services are considered to be performed in Madagascar if such services are used in Madagascar or invoiced to a taxpayer established in Madagascar.

Business engaged in e-commerce is subject to VAT.

Transport companies are allowed to claim VAT input on gasoline used for land transportation. The objective is to reduce the impact of cost of oil and gas on transportation fees.

Any corporate entity or individual person who realises an annual turnover exceeding MGA 100 million is a VAT vendor. For a business realising annual revenue less than MGA 100 million, VAT vendor registration is an option.

A foreign company that has no PE in Madagascar but renders services to a Madagascar taxpayer must appoint a tax representative to collect and pay VAT on its behalf. Otherwise, the beneficiary of the services must collect and pay VAT on behalf of the foreign supplier.

All transactions made by a VAT vendor with a non-VAT vendor must be done via the banking system when the value of the transaction exceeds a threshold fixed by Decree.

Any suppliers not registered as VAT vendors engaged in public market transactions are subject to VAT at a rate of 8%, which is representative of income tax. VAT is withheld by the public treasury and paid directly to the tax authorities.

Customs and import tax

The importation of goods is subject to payment of customs and import tax payable to the customs office.

In addition, Gasynet fee, corresponding to 0.5% of the cost, insurance, and freight (CIF) value of goods, is applicable on importation of goods.

Excise duty

Excise duty applies on a range of goods and services, such as tobacco, alcohol, lighters, and communication by mobile phones. Excise duty rates range from 5% to 325% or are a fixed amount per litre or per unit.

Real estate ownership tax

Real estate ownership tax is imposed annually at the rate of 5% to 10% on the rental value of the property. Land ownership is also taxable at a rate depending on the nature of the land.

Registration fees

Registration fees are applicable to transfers of title ownership (e.g. sales, donations) of movable and immovable assets, to transfers of interests, to share capital increases, and to lease agreements.

Registration fee rates are 0.5% to 5%, depending on the nature of the transaction. The rate of 5% is applicable mainly on transfers of assets and transfers of business.

Payroll tax

Salary income taxes, called *Impôt sur les Revenus Salariaux et Assimilés* (IRSA), are levied at a rate of 20% on the total taxable remuneration of employees, including salaries, allowances, and benefits in kind. Employers are responsible for withholding and paying salary income taxes on behalf of employees.

Social security contributions

Employers must contribute to *Caisse Nationale de Prévoyance Sociale*, Madagascar's national social security fund, which includes pensions and accident insurance. The contribution is capped at 13% of eight times the legal minimum salary per employee.

Health contributions

Employers must contribute to the health system assessment at a rate of 5% of the total amount of taxable remuneration of its employees. The contribution may or may not be capped at 5% of eight times the legal minimum salary per employee, depending on the health system organisation where the company is affiliated.

Tax on insurance contracts

All insurance or life annuity conventions concluded with a company, insurance firm, or with any other Madagascan or other insurer are subject to an annual tax on insurance contracts at a rate of 3% to 20% levied on the insurance premiums.

Para-fiscal taxes

Concerning local tax, generally called 'para-fiscal taxes', the following are introduced in the tax code applicable from January 2017. These local taxes are not new since they already existed; however, their introduction to the tax code results from the principle that only a financial act can introduce tax. The following are the maximum rates/amounts:

- Civil protection tax: MGA 5,000 per domestic animal or bladed weapon (*arme blanche*).
- Residence tax for development: MGA 5,000.
- Tourist tax (or stay tax): MGA 500 to MGA 2,000 per night/room.
- Tax on mineral waters: MGA 5 per litre.
- Advertising tax: MGA 30 to MGA 30,000 per square metre.
- Tax on water and/or electricity: 10%.
- Tax on entering parties, shows, and various events: 3% to 5%.
- Tax on pylons, antennas, relays, or masts: MGA 600,000.
- Tax on radio and television games: MGA 10/sms; MGA 20/call.

Branch income

The tax on branch income is the same as for corporate income. The branch income tax base is the income realised by the branch in Madagascar.

Income determination

Inventory valuation

There are no provisions for valuing inventories or determining inventory flows in Madagascar. The tax treatment will follow the accounting treatment.

Capital gains

Capital gains realised from the sale of shares held in a company of which the entire or partial value is derived, either directly or indirectly, from goods located in Madagascar, or from rights thereof, are subject to income tax at a rate of 20%.

Capital gains made by a company on the sale of assets and interests are considered as normal business income that is subject to CIT.

Dividend income

Dividends received by a company are considered as business income subject to CIT.

Certain dividends from a subsidiary may be excluded from CIT (*see Dividends exclusion in the Group taxation section*).

Stock dividends

Stock dividends are unusual, but they are considered as business income that is subject to CIT.

Interest income

Interest income received by a resident taxpayer from another entity established in Madagascar is subject to WHT at a rate of 20%. Revenue already subject to WHT is no longer taxable to CIT.

Royalty income

Royalty income received by a resident taxpayer is considered as normal business income subject to CIT.

Foreign income

Foreign income earned by corporate bodies situated in Madagascar is considered as normal business income subject to CIT unless a tax treaty is established and indicates otherwise. There is no provision for tax deferral in Madagascar.

Deductions

Depreciation

The amount of deductible depreciation should not exceed the amount that is calculated according to the following rates of depreciation provided by the law:

Asset	Depreciation rate (%)
Industrial buildings	5
Plant and machinery	10
Mining exploration and development (licence)	33
Transportation (car)	20
Transportation (utility cars, vans, trucks)	25
Computers	25
Electricity generators	10

With the exception of buildings, it is also possible to practise a graduated depreciation. In this case, the annual depreciation corresponds to 30% of the net book value of the asset.

In case of loss, depreciation of assets can be deferred and carried forward to the next financial years until absorption.

Goodwill

There is no provision concerning deductibility of goodwill in the Madagascar tax code.

Start-up expenses

There is no specific tax provision on start-up expenses. Accounting rules are applicable for the profit and loss recognition.

Start-up and prospecting expenses for the installation of an overseas establishment, as well as the costs of running such a foreign establishment, for the first three years are tax deductible. However, the amounts deducted must be reported, in equal amounts, to the taxable income of the five consecutive years from the fifth year following the creation of the foreign establishment.

Interest expenses

Interest expenses are deductible. However, interests on inter-company loans are subject to thin capitalisation rules (*see Thin capitalisation in the Group taxation section for more information*). In addition, interest on inter-company loans is not deductible if the loan agreement is not documented by a written agreement submitted according to registration procedures.

Bad debt

To be tax-deductible, provisions for doubtful debt must be subject to justification of existence of amicable or judicial settlement. The claims must be individualised.

Charitable contributions

Payments made for the benefit of educational, social, or cultural recognised public associations; accredited bodies for scientific research; or for the promotion and creation of businesses for achievement of planned economic and social development are deductible within the limits of 0.5% of annual turnover.

Gifts in kind or in cash granted in case of natural calamities and donations in cash granted to a corporation established by decree for the interest of the nation are also deductible.

Any other charitable contributions are not deductible.

Deductible social expenses for mining companies

Donations and expenses related to the social responsibility of mining companies are deductible if they are mandatory or provided in the *Cahier des charges*.

Expenditures for site security and high intensity of manpower (haute intensité de main d'oeuvre or HIMO), provided that expenses were subject to WHT at a rate of 5%, are also deductible.

Deductible wages

Salaries and wages that are not included in salary income taxes or not declared to *Caisse Nationale de Prévoyance Sociale* are not deductible.

Only 50% of the difference between the total benefits in kind and the value of benefits in kind included in the tax base of salary income tax are deductible expenses.

Fines and penalties

Fines and penalties are not deductible for CIT purposes.

Taxes

Except for CIT, taxes in relation to business in Madagascar are deductible.

Third-party taxes borne by the company are not tax-deductible.

Net operating losses

Accumulated loss can be carried forward for the next five financial years following the period in which the loss occurs. Carryback of losses is not permitted in Madagascar.

Payments to foreign affiliates

For branches, the deductible amount of overhead that the head office can charge to the branch is limited to 1% of the turnover of the branch.

For interest on inter-company loans, see Thin capitalisation in the Group taxation section.

Payments to foreign companies established in a country having a very favourable fiscal regime

Payments made to a foreign company established in a country having a very favourable fiscal regime are not tax deductible unless there is proof of effectiveness of the services and reasonability of the amount.

Group taxation

There is no provision regarding group taxation in Madagascar, except for the following:

For entities subject to the actual tax regime, a parent-subsidiary regime option is established by which the net dividends received by the parent company from its subsidiary are excluded from the tax base of the parent company. However, a share of fees and expenses, uniformly fixed at 5% of the amount of dividends paid, must be reintroduced into the tax base.

Transfer pricing

There is a provision in the tax law allowing the tax authority to claim a tax adjustment in cases where the transactions between a Madagascar entity and a foreign entity controlling or controlled by the Madagascar entity are not concluded at fair market value.

The following transfer pricing methodologies are acceptable:

- Methods of comparable prices on the free market.
- Resale price method.
- Cost plus method.
- Transactional method on net margin.
- Transactional method on profit split.

Effectiveness of services and fair market value must be justified by appropriate documentation.

Thin capitalisation

Under Malagasy tax law, deductible inter-company financial interest cannot exceed the interest calculated on twice the share capital at the rate of the Central Bank of Madagascar plus two points (the rate of the Central Bank of Madagascar is 9.5%).

Inter-company loan agreements must be submitted according to registration formalities within two months from the execution date. Failure of submission of an inter-company loan agreement according to registration formalities implies non-deductibility of interest on the inter-company loan.

Dividends exclusion

Dividends received by a shareholder holding more than 75% share capital from its subsidiary are excluded from business revenue subject to income tax.

Controlled foreign companies (CFCs)

There is no special provision in relation to CFCs in Madagascar.

Tax credits and incentives

The following activities benefit from a special tax and/or customs regime:

Microfinance activity

Microfinance benefits are available for entities specialising in lending money on the basis of small or medium scale value. Entities duly licensed to practise microfinance activities are exempt from CIT during the first five years. After this period, the microfinance company is subject to CIT at a rate of 20%.

Free zone (free trade zone)

Free zone law is available for industrial and other service providers that export all of their products. If eligible under the free zone law, a CIT exemption is provided during the first two to five years and a reduced CIT of 10% is levied thereafter. Exemption from customs duties on importation is also provided.

Companies investing in renewable energy, tourism, industrial, civil work and construction, and transformation

Companies investing in renewable energy, tourism, industrial, civil work and construction, and transformation can benefit from a tax reduction equal to the tax calculated on 50% of the amount of investment that they realised during the related tax year. The right to reduction that can be used for the tax year cannot exceed 50% of tax actually due. The balance is carried forward with the same limitation to subsequent years, until clearance.

Big investment mining

A mining company committing to invest more than 50 million United States dollars (USD) is considered a big investment mining company. The big investment mining law provides a minimum income tax exemption, a reduced CIT rate for the transformation entity (i.e. the entity in charge of processing the extracted minerals), exemption from custom and importation duties, and VAT reimbursement on locally purchased equipment and investments.

Petroleum code

The petroleum code provides a custom and importation duties exemption for hydrocarbon research, exploration, and exploitation activities.

Leasing law

The leasing law provides that leasing activities can benefit from CIT exemption and reduction of tax rate during the first four years.

Foreign tax credit

Except under a tax treaty, there is no foreign tax credit rule under Malagasy tax law.

Withholding taxes

WHTs are levied as follows:

- Purchases of goods and services from non-registered suppliers by a registered supplier are subject to WHT at a rate of 5% payable to the tax authorities within 15 days following the month of payment of the supplier.
- *Impôt sur les revenus des capitaux mobiliers* (IRCM): WHT on interest of 20% is applicable on financial loan interest. However, interest paid to banks, financial institutions, and foreign financial organisations is exempt.
- WHT of 20% is applicable on remuneration of a member of a board of directors or a single director.
- Income tax for non-resident entity: Management fees, royalties, technical and assistance fees, licence fees, equipment rental fees, and any income realised by foreign suppliers is subject to WHT at a rate of 10%.

Madagascar has signed two tax treaties.

	WHT (%)		
Recipient	**Dividends**	**Loan interest**	**Royalties, management fees, services fees**
Non-treaty	0	20	10
Treaty:			

Madagascar

Recipient	WHT (%)		
	Dividends	Loan interest	Royalties, management fees, services fees
France	25 (max)	15	15 (max)
Mauritius	10 (max)	10	5 (max)

Tax administration

Taxable period

The financial year may be spread over any period of 12 months. There is no need to obtain prior authorisation in order to close the financial year on a date other than 31 December or 30 June.

Tax returns

CIT returns are due before 15 May each year for companies whose financial year ends at 31 December, before 15 November each year for companies whose financial year ends at 30 June, and no later than the 15th day of the fourth month from the date of closing of the financial year for all other year-ends.

Payment of tax

CIT is payable bimonthly in provisional instalments. The balance is payable before 15 May each year for companies whose financial year ends at 31 December, before 15 November each year for companies whose financial year ends at 30 June, and within four months from the date of closing of the financial year for all other year-ends.

Taxpayers can decide to suspend the payment of bimonthly income tax instalments, but they must pay a penalty of 80% if the final tax due is more than the previous year's income tax.

WHT on foreign services is payable to the tax authorities within one month of the date of payment.

WHT on interest and on payments to members of boards of directors are payable before 15 May each year for companies whose financial year ends at 31 December, before 15 November each year for companies whose financial year ends at 30 June, and no later than the 15th day of the fourth month from the date of closing of the financial year for all other year-ends.

Tax audit process

The tax authority carries out audits of a selection of tax returns, usually at the taxpayer's place of business. Audits may be carried out at any time prior to the expiration of the statute of limitations.

During tax audit, tax authorities can access all the taxpayer data available on servers, terminals, and any supporting systems.

After examination of available information, the tax authority issues a primary notice, and the taxpayer has 30 days after the date of reception of the primary notice to answer and submit its written objection to the tax authority.

The tax authority then issues the notice of assessment. 15 days from the notice of assessment, the taxpayer may request the opinion of the Tax Commission (CoFi). After obtaining the CoFi's opinion, the tax authority issues the final notification accompanied with the perception title.

30 days from the final notification, the taxpayer can file a claim to the Tax Director in Charge of Legislation and Dispute. The Tax Director in Charge of Legislation and Dispute has 60 days to issue its decision. The decision of that body may be further appealed to the Court (State Council) within 30 days.

Statute of limitations

The tax limitation period is three years.

Topics of focus for tax authorities

Areas where tax authorities usually claim adjustment are:

- VAT reverse on foreign services.
- Completeness of VAT output on revenue.
- Sales without invoices.
- Expenses without invoices.
- Employees' remuneration not subject to salary tax.
- Payment to non-registered suppliers.

Malawi

PwC contact

Vyamala Moyo
PricewaterhouseCoopers
Top Floor, Hannover House
Corner Independence Drive and Hannover Street
Blantyre, Malawi
Tel: +265 1 82 0322
Email: vyamala.moyo@pwc.com

Significant developments

Effective 1 July 2017:

- Introduction of a 20% penalty on any overdue tax liability plus interest at the prevailing bank lending rate plus 5% *per annum* for each month or part of the month that the tax remains unpaid.
- Increasing penalties for offences to 200,000 Malawian kwachas (MWK) for the first month plus an additional MWK 50,000 for each month or part thereof where a person:
  - fails to comply with any notice served by the Commissioner General under the Taxation Act
  - gives incorrect information or omits any relevant information from any statement required to be made to the Commissioner General
  - fails to keep records, books, or accounts required to be kept
  - fails to comply with provisions requiring the appointment of a public officer of the company, or
  - fails to furnish any other person with a certificate of the extent of the examination of the records in preparing the schedules supporting any return.
- Increasing the penalties for failure to or defaulting to file prescribed returns. The penalties are now MWK 300,000 for the first month and MWK 50,000 for each month or part thereof that the failure continues.
- Increasing penalties for omissions, wrongful deductions, and claims, as well as failure to withhold and remit tax on income due to persons not resident in Malawi, to 20% in the first month or part thereof and interest at the prevailing bank lending rate plus 5% *per annum* for each month or part of the month that the tax remains unpaid.
- Any intent to defraud is now subject to a penalty of the greater of MWK 200,000 and twice the difference between the tax charged and what would have been charged.
- Assisting in making an incorrect return is subject to a penalty of MWK 200,000 in the first month or part thereof and an additional MWK 10,000 for each month or part thereof that the penalty remains unpaid.
- There are MWK 1 million penalties for obstructing officers, forceful rescue of seized property, physical assault of officers, and inciting a person to refuse to pay tax.
- The transfer pricing legislation has been refined, related parties have been defined, and documentation regulations, as well as general transfer pricing regulations, have been introduced. Maintenance of contemporaneous documentation is now a mandatory requirement.
- There are now penalties for failure to complete documentation in compliance with withholding tax (WHT) regulations.
- There are also penalties and interest for failure to remit the WHT and pay-as-you-earn (PAYE), as well as fringe benefits tax.

Taxes on corporate income

Malawi does not have separate legislation for the determination of taxable income of different types of legal persons. Taxation of all income is included in the Taxation Act.

Section 11 of the Taxation Act defines income as the total amount in cash or otherwise, including any capital gain, received by or accrued to a person in any year or period of assessment from a source within or deemed to be within Malawi. The taxpayer's assessable income excludes any amount exempt from tax under this Act.

Income deemed to arise in Malawi

The liability for Malawi tax is based on whether the income is sourced from Malawi, irrespective of the residence of the recipient of such income. Certain transactions may be deemed to be from a source within Malawi even if carried out outside Malawi. Section 27 of the Taxation Act limits the income that may be deemed to have arisen in Malawi to the following:

- Remuneration for services rendered or work performed in Malawi.
- Remuneration for services rendered or work performed in or out of Malawi where the amount may be claimed as a tax-deductible expense by a permanent establishment (PE) in Malawi.
- Amounts incurred, claimed, or claimable in connection with a PE in Malawi.
- Realised exchange gains and losses arising in connection with a PE in Malawi or foreign exchange assets and liabilities held in Malawi.
- Capital gains and losses realised with respect to tangible property located in Malawi and interests in companies incorporated in Malawi.
- Interest not charged on a loan by a lender to another person is deemed to be income accruing to the lender.

Summary of tax rates

Entity	Income tax rate (%)
Locally incorporated companies (1)	30
Branches of companies not incorporated in Malawi	35
Companies in Export Processing Zones	30
Companies in priority industries (2):	
For a period not exceeding ten years	0
In all other cases for companies incorporated in Malawi	15
In all other cases for Malawi branches of external companies	20

Notes

1. In the case of a mining company, there is a mineral royalty, as prescribed in the regulations, as a separate tax. The mineral royalty is a tax-deductible expense.
2. Agricultural produce processing and power generation are designated as priority industries.

Non-resident tax

Non-resident tax is payable on income sourced from Malawi at the rate of 15% of the gross income and 10% for income derived from a mining project by way of interest, royalty, payment for independent personal services, or dividend.

Any income payable to a person who is not resident in Malawi (i.e. who has not been in Malawi for an aggregate period of 183 days) arising from a source within Malawi is liable to a final WHT of 15% of the gross of such income. Non-resident tax is applicable where the recipient of the income does not have a PE in Malawi from which the income emanated.

Non-resident tax may not be withheld on income of residents of countries that have a standing double tax agreement (DTA) with Malawi, subject to the provisions of the specific DTAs. *For details of applicable WHT rates, see the Withholding taxes section*. Currently, the following countries have a DTA with Malawi: Denmark, France, Norway, South Africa, Sweden, Switzerland, and the United Kingdom.

Local income taxes

There are no district or local income taxes in Malawi.

Corporate residence

A corporate entity is considered a resident for tax purposes in Malawi if it has a PE in Malawi.

Permanent establishment (PE)

The Taxation Act defines a PE as 'an office or other fixed place of business through which business activity is carried on'. This short definition is wide in scope. Care must be exercised when considering this definition in situations that may be affected by a DTA. Each DTA contains a specific and far more detailed definition of what constitutes a PE.

Other taxes

Value-added tax (VAT)

VAT is applicable on taxable goods and services. There are three classes of supplies for VAT: taxable supplies (at the rate of 16.5%), zero-rated supplies, and exempt supplies.

A taxable person can claim input VAT on inputs used in making taxable supplies.

A taxable person should complete VAT returns and make VAT payment, where applicable, on a monthly basis within 25 days after the end of the month.

Zero-rated supplies include exercise books, fertilisers, motor vehicles for the transport of goods, and salt.

The following supplies are tax exempt: machinery and financial services.

Customs duties

Customs duty is applicable on goods imported into Malawi. The basis for calculating duty is cost, insurance, and freight (CIF). There are three types of import duties: customs duty, import excise, and import VAT. The rate of custom duty varies from product to product.

The following are the customs and excise measures that are effective in Malawi:

- Returning residents will have to clear, duty free, a motor vehicle owned for more than 12 months under CPC 430.

- Duty free on importation of diagnostic and laboratory reagent under CPC 405 by Health Institutions.
- Removal of VAT on imported goods on water supply.
- Removal of duty on imported electronic fiscal devices.
- Removal of taxes applicable on large buses with seating capacity of more than 45 passengers (including the driver).
- Reintroduction of the Industrial Rebate System. This is a major relief to the manufacturing sector; however, given the abuse of the scheme in the past and the Minister's intimation, it will be subject to serious monitoring by the Malawi Revenue Authority (MRA). Taxpayers will be required to register with the MRA.
- Other measures are in alignment with the Common Market for Eastern and South Africa (COMESA) and South African Development Community (SADC) tariff structures.

Excise duties

Domestic excise is chargeable on certain goods manufactured in Malawi and on certain services, such as alcoholic drinks, tobacco, and cell phone airtime. The rate of excise varies depending on the goods and services.

Tobacco levy

Buyers of tobacco must pay a levy of 0.2% for every kilogram of tobacco bought.

Property taxes

There are no property taxes in Malawi.

Transfer taxes

There are no transfer taxes in Malawi.

Stamp duties

Stamp duties apply on certain documentation.

Turnover tax

Turnover tax is applicable for businesses with a turnover between MWK 2 million and MWK 6 million. The turnover tax rate is 2% of turnover.

Resource rent tax (RRT) for miners

Miners pay RRT of 15% on after-tax profits, determined by using a prescribed formula. The prescribed formula is:

$$r = (40.5 - t) / (100 - t) \times 100$$

Where:

- r is the rate of RRT expressed as a percentage, and
- t is the rate applicable for income tax on companies.

Payroll taxes

Under pay-as-you-earn (PAYE) regulations, the employer is required to withhold tax from employees' salaries and remit to the tax authority on their behalf. There are penalties for non-compliance with the regulatory requirements.

Social security contributions

Under the National Pension Scheme (NPS), an employee contributes a minimum of 5% of the pensionable emoluments while the employer contributes at least 10% of the employee's pensionable emoluments. Contributions by the employer are tax deductible up to a maximum of 15% of the employee's pensionable emoluments while those made by the employee are not.

Fringe benefits tax (FBT)

A fringe benefit is defined as any asset, service, or other benefit in kind provided by or on behalf of an employer to an employee if such benefit includes an element of personal benefit to the employee. The employer providing such benefits is liable for payment of FBT. FBT is charged at the rate of 30% of the taxable figure.

Take note that a benefit need not be wholly for personal use in order to be considered for FBT.

Note as well that no benefit in cash, no matter what it is termed as, can be treated as a fringe benefit. All monies paid in cash (rather than in kind) should be considered for PAYE deduction.

However, subsistence allowances, given to employees working out of their duty station for instance, presumably to cater wholly, exclusively, and necessarily for their needs, such as accommodation, meals, transport, etc., ought not be taxed. This applies also for reimbursement of expenses incurred in business.

Every employer shall register for FBT within the month in which one begins to provide fringe benefits.

The sums due as FBT shall be remitted to the MRA in quarterly instalments not later than 14 days after the end of each quarter of a period of 12 months ending 30 June, and remittance should be accompanied with a duly completed FBT return in Form FBT 2.

Note that the value for FBT should not be included in the employee's certificate of gross emoluments.

Assessment of housing fringe benefits

The taxable value of a housing fringe benefit is the greatest of (i) 10% of salary where the house is unfurnished, (ii) 12% of salary if furnished, or (iii) the rental value.

Where the house occupied by the employee is owned by the employer, the taxable value is reduced by 50%.

Motor vehicles

FBT is applicable on motor vehicles allocated for use by members of staff and does not include pool cars or cars that are strictly commercial in nature.

The taxable value is 15% of the original cost of the vehicle.

School fees (for children/dependants)

50% of the cost to the employer for school fees is a taxable benefit, where payment is made directly to the educational institution. Education allowances payable to employees are not subject to FBT as the allowance is considered part of normal salary and taxable as such.

Utilities, household items, vacations, travel, and domestic services

The taxable value of utilities (e.g. electricity, water, and telephone expenses), household items, vacations, travel, and domestic services (e.g. gardener, cook, house boy, guard, nanny) is the entire cost to the employer. Except that for a house owned by the employer, the cost of a gardener, security guard, and watchman shall not constitute a taxable benefit.

Interest-free loans and loans given at interest lower than the commercial rate

Where an employer gives a loan to an employee that is interest-free or bears interest that is lower than the predetermined commercial rate, the difference between the interest offered and the commercial rate is a taxable benefit.

Branch income

There is a 35% tax on taxable income of a branch of a foreign company.

No dividend WHT is applicable on repatriation of profits.

Income determination

Inventory valuation

Inventory is stated at cost or net realisable value (i.e. market price) for tax purposes. There is no specific requirement for the valuation of cost. The only legal emphasis is consistency in the application of the selected method. This means that one cannot change from one valuation method to another over different tax periods.

Capital gains

The tax basis for capital gains is the cost of the asset adjusted by the applicable consumer price index (inflation index). Once determined, the taxable gain is subject to corporate tax at the rate applicable to the particular entity.

Capital gains arising from the disposal of personal and domestic assets not used in connection with trade are exempt from corporate tax.

Capital gains arising from the sale of shares held for more than one year traded on the Malawi Stock Exchange are not taxable.

Rollover relief

If a business asset is sold and the taxpayer acquires a qualifying replacement asset, the taxpayer may claim rollover relief. This means that the taxpayer does not immediately pay the tax on the gain. Instead, the cost of the replacement asset is reduced by the amount of the gain. The taxpayer must declare this in the tax return.

A qualifying replacement asset is an asset similar to, or related in service or use to, the asset disposed of. The replacement asset must be acquired within 18 months of the disposal giving rise to the gain.

Dividend income

Dividend income is exempt from corporate tax; however, dividends received from Malawi sources are subject to a 10% dividend WHT, which is a final tax. Note that although the word 'final' has not been defined, it is applied as meaning that dividend WHT suffered may not be offset against an income tax liability.

Interest income

Interest is added to the other income categories and taxed at a rate applicable to the person that earns the income. There is a mandatory WHT on interest earned from financial institutions unless the earner is exempted.

There is deemed interest on any interest-free loans and balances. The deemed interest is taxable income to the lender.

Royalty income

Except for mineral royalties, royalty income is added to other income and taxed at a rate applicable to the person that earns it. Royalties earned from a mining project are taxable at 10% where the recipient in a non-resident.

Foreign exchange gains and losses

Foreign exchange gains realised on foreign currency assets or liabilities are taxable.

Foreign exchange losses realised on foreign currency assets or liabilities are tax deductible to the extent of any unrealised foreign exchange gains; otherwise, they are carried forward until there is no limitation.

Unrealised gains and losses are carried forward until realised and then included in income or allowable expenditures. The maintenance of records that accurately track unrealised exchange rate adjustments from year to year is necessary to ensure correct tax computations.

Tax-exempt income

The following are common examples of other tax-exempt income:

- The income of agricultural, mining, and commercial institutions or societies not operating for private pecuniary profit or gain of the members.
- The income of clubs, societies, and associations formed, organised, and operated solely or principally for social welfare or civic improvement or other similar purpose, provided that the income of such bodies may not be divided among or used for the benefit of the members or shareholders.
- The income of ecclesiastical, charitable, and educational institutions of a public character.

Foreign income

Generally, income whose source is not Malawi is not taxable in Malawi.

Deductions

Taxable income is calculated by deducting allowable items from assessable income. Section 28 of the Taxation Act defines tax-allowable deductions as any expenditures and losses (not being of a capital nature) wholly, exclusively, and necessarily incurred by the taxpayer for the purpose of trade or in the production of income.

Capital allowances

Capital allowances (i.e. depreciation allowances) are applicable as stipulated in the Taxation Act at various rates.

Capital allowances, which are available to companies and individuals in business, are allowed as follows:

	Allowances (%)		
Asset	**Initial**	**Investment**	**Annual**
Industrial and farm buildings, hotels, and docks (1, 2, 3)	10	40/100	5
Staff housing (3)	10	-	5
Plant, machinery, and equipment (1, 2, 3, 4)	20	40/100	10/20
Furniture and fittings (3)	20	-	10
Motor vehicles (3, 4, 5, 6)	20	-	20
Commercial buildings (7)	-	-	2.5
Computers	20	-	40

Notes

1. The 100% investment allowance is available only on new and unused qualifying assets, *as indicated above*, belonging to and used by a manufacturer or farmer. The rate for used qualifying assets is 40%. The investment allowance is claimable only in the first year of use.
2. Where an investment allowance is claimed, the initial allowance is not allowed to be claimed on the same asset. The initial allowance is claimable only in the first year of use.
3. Annual allowances at the above rates are based on cost less investment and initial and annual allowances previously granted.
4. Investment allowance on plant and machinery excludes motor vehicles intended or adapted for use on roads.
5. A 20% annual allowance is standard, but the Commissioner General may vary the amount.
6. No initial allowance is granted on private motor vehicles. These include saloons, sedans, station wagons, and double cabin pickups. However, the restriction does not apply where the motor vehicle is used for hiring purposes.
7. The building must be newly constructed at a cost of no less than MWK 100 million.

On disposal, assets are subject to balancing charges (capital gains) or balancing allowances.

If an asset is subject to extensive use, such as machinery working double shifts, so that its expected economic life is reduced, the Commissioner General may agree to increase the rates of annual allowances.

Lease, patent, trademark, and copyright premium

The tax-deductible amount of a premium paid for the right of use or occupation of land or buildings, plant or machinery, patent design, trademark, copyright, or any other property of a similar nature is one of the following:

- The amount of premium or consideration divided by the number of years for which the right of occupation or use is granted.
- Where the period for which the right of occupation or use is granted exceeds 25 years, the deduction is one-twenty-fifth of the premium or consideration.

The premium is tax deductible only where the asset or right with respect to which the premium or consideration is paid is used for the generation of income. If a taxpayer acquires ownership of the asset or right, no further deduction of the premium or consideration is allowed from the date ownership is acquired.

Goodwill

The legislation does not prescribe treatment for goodwill. It has been the practice that goodwill is not deductible for tax purposes.

Pre-operating expenditures

A manufacturer may claim as a deduction any expenditure incurred in the course of establishing the business, provided that the following are true:

- The expenditure was incurred not more than 18 months before commencing business.
- The expenditure would have been allowed as a deduction if it had been incurred after commencing business.

Interest expenses

Interest that arises out of financing operations is allowable, while interest due to late payment of a debt is not allowable.

Bad debt

Specific bad debts are tax deductible and taxable in the following year. Bad debts written off are allowable and taxable upon eventual recovery.

Charitable contributions

Donations to approved charities and approved non-profit institutions formed for the purpose of social welfare, civic improvement, educational development, or other similar purposes are deductible. The minimum individual donation allowable is MWK 500. The minimum donation for other approved charities is MWK 250. In both cases, there is no maximum donation.

Social contributions

50% of social contributions towards construction of hospitals and schools, and sponsorship of school sports activities, are tax deductible.

Research and development (R&D) expenditures

Research expenditures are fully allowable as a deduction if they are for 'experiments and research relating to trade'.

Pension contributions

The tax-allowable amount of ordinary pension contributions made by an employer to an approved pension fund is subject to limitations. The limit with respect to each employee is the lowest of one of the following *per annum*:

- The actual contribution.
- Up to 15% of employee's annual salary.

Fines and penalties

Fines and penalties are not tax deductible in any way.

Taxes

Taxes are not allowed as deductible expenses, except where they are local taxes.

Net operating losses

Current taxable income may be offset against net operating losses brought forward, and current operating losses may be increased by net unexhausted trading losses brought forward. Losses may be carried forward for six years. Net operating losses may not be carried back.

Payments to foreign affiliates

A deduction is allowed for payments to foreign affiliates if such payments are expended wholly, exclusively, and necessarily for the production of income or for the purposes of trade, and it can be demonstrated that the transaction is at arm's length.

Group taxation

Group taxation is not permitted in Malawi.

Transfer pricing

There are transfer pricing regulations in Malawi. The legislation requires taxpayers to have mandatory contemporaneous transfer pricing documentation. Malawi transfer pricing regulations follow the Organisation for Economic Co-operation and Development (OECD) transfer pricing guidelines.

The transfer pricing legislation further provides for the definition of related parties, as well as general transfer pricing regulations.

There is also a tax anti-avoidance provision that is used to check transactions between related parties. If transactions between related parties result in profits that are lower than what would be expected if the company was trading with an independent party, then the tax authorities can challenge the transaction.

Thin capitalisation

Thin capitalisation has been introduced in Malawi. However, the rules and regulations governing thin capitalisation have not been enacted. The acceptable level of gearing is therefore not yet provided.

Consequently, there are no restrictions on the level of external borrowings. If a Malawi company wants to borrow money from a foreign entity (whether or not a bank), it will require exchange control approval. In such instances, the Reserve Bank does not consider the debt-to-equity ratio. It looks at the terms and conditions to see that they are what would be commonly available on the open market between unrelated parties. As you can see, this is an anti-transfer pricing measure.

If a new application is made for exchange control approval of foreign ownership (normally this is when there is a new business/investment into Malawi), the Reserve Bank will look at the external-debt-to-local-equity ratio. There are no fixed rules, but the Reserve Bank does not normally like external debt to be more than twice equity (i.e. 1:2 equity to external debt). It does give approval for external ownership where the proportion of external debt is higher than this as it looks at each proposal on its own merit. The applicant would have to justify the higher level of external debt in such a case.

Controlled foreign companies (CFCs)

There is no CFC regime in Malawi.

Tax credits and incentives

Foreign tax credit

Malawi does not have a provision for recognition of a foreign tax credit because the taxation regime is based on source.

Export allowances

Exporters, including those manufacturing in bond, are entitled to claim additional tax allowances for non-traditional exports:

- On the export of non-traditional products, there is a 25% tax allowance on taxable income derived from exports.
- There is a 25% transport tax allowance on international transport costs for non-traditional exports. Traditional exports are tea, coffee, cane sugar, and unmanufactured tobacco and tobacco refuse.

Export allowances may not be claimed in respect of exports from mining operations.

Investment allowance

There is a 100% investment allowance on new and unused industrial buildings, plant, and machinery for taxpayers in the manufacturing industry. A 40% investment allowance for used versions of the same items is also applicable.

Farming operations

Farming operations receive a 100% allowance with respect to expenditures incurred during any year of assessment on the following:

- Stumping, levelling, and clearing of land.
- Work in connection with the prevention of soil erosion.
- Boreholes.
- Wells.
- Aerial and geophysical surveys.
- Water control work, including any canal, channel, dyke, furrow, and any flood control structure, whether or not of a permanent nature.
- Water conservation work, meaning any reservoir, water dam, or embankment constructed for the impounding of water. In the case of water conservation work, the Taxation Act limits the amount deductible to amounts actually paid, where the farmer incurs a liability in terms of any law relating to natural resources.

Where a farmer derives taxable income from growing timber, the farmer may elect that the taxable income is determined in accordance with the following rules:

- Carryforward the cost of planting the timber until the timber reaches maturity.
- Add annually to the cost of planting the timber an amount calculated as 5% of the cost of planting the timber until the timber reaches maturity.

- When the timber is sold, a proportionate amount of the total of the carryforward cost and annual added cost is deducted from the proceeds.
- In each year of assessment, the annual added cost is treated as taxable income in the hands of the farmer.

A farmer may not deduct any expenditure that has been recovered through a subsidy or claim a capital allowance on any assets where the expenditure has been recovered through a subsidy.

Mining operations

Mining operations receive a 100% allowance with respect to mining expenditures incurred during any year of assessment. Mining expenditures are defined as capital expenditures incurred in Malawi by a person carrying on or about to carry on mining operations in Malawi:

- In searching for or in discovering and testing or in winning access to deposits of minerals.
- In the acquisition of or of rights in or over such deposits, other than the acquisition from a person who has carried on mining operations in relation to such deposits.
- In the provision of plant and machinery and industrial buildings that would have little or no value to such person if the mine ceased to work.
- On the construction of any buildings or works that would have little or no value if the mine ceased to be worked.
- On development, general administration, and management prior to the commencement of mining operations.

Persons engaged in mining operations are not entitled to claim the export tax allowance on non-traditional exports or the 15% transport tax allowance on international transport costs for non-traditional exports.

Withholding taxes

Dividend WHT

Dividend WHT is a final tax and is charged at 10%. The dividend is not included in the taxpayer's taxable income, and the WHT is not deducted from the taxpayer's tax liability.

Resident WHT rates

Nature of payment	WHT rate (%)
Royalties	20
Rents	15
Payment of more than MWK 60,000 *per annum* for any supplies to traders and institutions	3
Commission	20
Payment for carriage and haulage	10
Payment to contractors and subcontractors in the building and construction industries	4
Payment for public entertainment	20
Payment of more than MWK 15,000 for casual labour	20
Services	20
Bank interest	20

Nature of payment	WHT rate (%)
Fees	10

Non-resident tax (WHT on income due to non-residence)

Income sourced from Malawi but not attributable to a PE in Malawi is subject to a final WHT as follows:

- 10% on income derived from a mining project as interest, royalty, payment for independent personal services, or dividend.
- 15% on all other income.

Non-resident WHT treatment under tax treaties

	WHT (%)				
Recipient	Dividends	Interest	Royalties	Rent	Management fees
Non-resident (1)	15	15	15	15	15
Treaty:					
France	0	0	0	15	0
Norway	5	10	5	15	0
South Africa	10	15	0	0	15
Sweden	0	0	0	15	0
Switzerland	0	0	0	15	0
United Kingdom	0	0	0	15	15

Notes

1. *See Non-resident tax in the Taxes on corporate income section.*

WHT exemption

There is WHT exemption on local supplies for compliant resident taxpayers. A 'compliant taxpayer' is defined as one that has settled all their tax liabilities with the tax authorities, including customs and excise.

Tax administration

Taxable period

The taxable period for income tax is a 12-month period ending on 30 June of each year. For businesses whose year-end is 31 July and 31 August, the applicable tax year-end is the preceding 30 June, while all the years ending in the subsequent months have the following 30 June as a year-end.

Tax returns

Income tax returns are due within 180 days after the end of the financial year. There is now legislation that provides for electronic filing of tax returns.

Payment of tax

Tax is payable in quarterly instalments within 25 days of the month following the end of the quarter, with the balance of the tax being paid upon submission of the return.

Penalties and interest

- There is a 20% penalty on any overdue tax liability plus interest at the prevailing bank lending rate plus 5% *per annum* for each month or part of the month that the tax remains unpaid.
- Penalties for offences are MWK 200,000 for the first month plus an additional MWK 50,000 for each month or part thereof where a person:
  - fails to comply with any notice served by the Commissioner General under the Taxation Act
  - gives incorrect information or omits any relevant information from any statement required to be made to the Commissioner General
  - fails to keep records, books, or accounts required to be kept
  - fails to comply with provisions requiring the appointment of a public officer of the company, or
  - fails to furnish any other person with a certificate of the extent of the examination of the records in preparing the schedules supporting any return.
- Penalties for failure to or defaulting to file prescribed returns are MWK 300,000 for the first month and MWK 50,000 for each month or part thereof that the failure continues.
- Penalties for omissions, wrongful deductions, and claims, as well as failure to withhold and remit tax on income due to persons not resident in Malawi, to 20% in the first month or part thereof and interest at the prevailing bank lending rate plus 5% *per annum* for each month or part of the month that the tax remains unpaid.
- Any intent to defraud is subject to a penalty of the greater of MWK 200,000 and twice the difference between the tax charged and what would have been charged.
- Assisting in making an incorrect return is subject to a penalty of MWK 200,000 in the first month or part thereof and an additional MWK 10,000 for each month or part thereof that the penalty remains unpaid.
- There are MWK 1 million penalties for obstructing officers, forceful rescue of seized property, physical assault of officers, and inciting a person to refuse to pay tax.
- There are penalties for failure to complete documentation in compliance with WHT regulations.
- There are also penalties and interest for failure to remit the WHT and PAYE, as well as fringe benefits tax.

Interest on outstanding tax liability is charged at the commercial lending rate plus 5% *per annum*.

Tax audit process

The target for the tax authorities is to audit 30% of the taxpayers in any fiscal year. This translates to approximately three years per audit cycle.

Statute of limitations

There is no statute of limitations in Malawi, except for the mandatory seven-year period for keeping records.

Topics of focus for tax authorities

The tax authorities have recently focussed on transfer pricing and have consequently established a unit responsible for this. All multinationals are under scrutiny to check if they are dealing at arm's length with related entities.

Commissioner General's power to increase taxable income

The Commissioner General is empowered to increase the taxable income and liability of a taxpayer when of the opinion that the main purpose or one of the main purposes of a transaction was the avoidance or reduction of tax or where the main benefit that might have been expected to accrue from a transaction was the avoidance or reduction of tax.

Mauritius

PwC contact

Anthony Leung Shing
PricewaterhouseCoopers Ltd.
2rd floor
HSBC Centre
18 Cybercity, Réduit 72201
Republic of Mauritius
Tel: +230 404 5071
Email: anthony.leung.shing@pwc.com

Significant developments

In the Finance (Miscellaneous Provisions) Act 2017, several new income tax incentives were introduced.

An income tax exemption is available for companies set up on or after 1 July 2017 that are involved in innovation-driven activities for intellectual property (IP) assets developed in Mauritius. The exemption will apply for eight tax years, starting from the tax year in which the company starts its innovation-driven activities. Similar tax exemptions have been introduced for income derived from the manufacture of pharmaceutical products, medical devices, and high-tech products by companies incorporated after 8 June 2017; these will be available from eight years from the tax year in which the company starts operation.

Income derived from the exploitation and use of deep ocean water for air conditioning installations, facilities, and services will be exempted for eight tax years. Additionally, a company incurring expenditure on deep ocean water air conditioning may deduct from its gross income twice the amount of the expenditure incurred in that tax year. That deduction will be allowed for five consecutive tax years, starting from the year in which the expenditure is incurred.

During the period from 1 July 2017 to 30 June 2022, if a person has incurred any qualifying expenditure on research and development (R&D) as described below that is directly related to one's existing trade or business, one may, in the tax year in which the qualifying expenditure was incurred, deduct twice the amount of the expenditure, provided that the R&D is carried out in Mauritius and no annual allowances have been claimed on the same. The term 'qualifying expenditure' means any expenditure relating to R&D, including expenditure on innovation, improvement, or development of a process, product, or service as well as staff costs, consumable items, computer software directly used in R&D, and development and subcontracted R&D.

A company involved in the export of goods will be liable to income tax at the reduced rate of 3% on the chargeable income attributable to that export, as computed on the basis of the following formula:

Chargeable income attributable to that export = (A x C/B), in which:

- A is the gross income derived from the export of goods in that income year.
- B is the gross income derived from all the activities of the company for that income year.
- C is the chargeable income of the company for that income year.

Taxes on corporate income

A corporation resident in Mauritius is subject to tax on its worldwide income. A non-resident corporation is liable to tax on any Mauritius-source income, subject to any applicable tax treaty provisions.

Corporations are liable to income tax on their net income, currently at a flat rate of 15%. Companies engaged in the export of goods are liable to be taxed at the rate of 3% on the chargeable income attributable to that export based on a prescribed formula.

Mauritius has a credit system of taxation whereby foreign tax credit is given on any foreign-source income declared in Mauritius on which foreign tax of similar character to Mauritian tax has been imposed.

All corporate bodies incorporated in Mauritius (except companies holding a Category 2 Global Business Licence and certain approved funds and associations) are subject to income tax. This applies to all associations and other registered bodies. Income derived by local partnerships is shared and taxed in the hands of the partners. Foreign corporations carrying on business, or having a place of business, in Mauritius are also liable to income tax on income derived from Mauritius. Resident *sociétés* are not liable to corporate tax.

Société means a *société* formed under any enactment in Mauritius and includes:

- a *société de fait* or a *société en participation*
- a limited partnership
- a joint venture, and
- a *société* or partnership formed under the law of a foreign country.

Income tax is payable on total net income before distribution at the following rates:

Entity	Rate (%)
Global Business Category 1 (GBC1) companies and offshore trusts (*see below*)	15
Freeport operators or Private Freeport Developers carrying on Freeport activities other than providing goods and services on local markets	Exempt
Global Business Category 2 (GBC2) companies (*see below*)	Exempt
All other companies	15

Global Business Category 1 (GBC1) companies are liable to tax at the rate of 15%. However, they are entitled to a foreign tax credit equivalent to the higher of 80% of the Mauritius tax chargeable or the actual tax suffered abroad in respect of foreign-source income. The maximum effective tax rate is therefore 3%.

Global Business Category 2 (GBC2) companies incorporated under the laws of Mauritius are exempt from income tax and are not tax residents for treaty purposes. *For more information, see the Tax credits and incentives section.*

Special levies

Banks

All banks are required to pay a special levy calculated according to their book profit and their operating income derived during, or its chargeable income in respect of, the preceding year. 'Operating income' means the sum of net interest income and other income before deducting non-interest expense.

The rates of the special levy on banks are as follows:

Year of assessment commencing	Rates
1 July 2017	Global Business/Non-residents: 3.4% on book profit and 1% on operating income; Local transactions: 10% of chargeable income
1 July 2018 and in respect of every subsequent year of assessment	1.7% on book profit; 0.5% on operating income

Except where the levy is computed on chargeable income, no levy shall be paid in a year where in the preceding year:

- the bank incurred a loss, or
- the book profit of the bank did not exceed 5% of its operating income.

Corporate Social Responsibility (CSR) Fund

Every year, a company has to set up a CSR Fund equivalent to 2% of its chargeable income of the preceding year.

At least 50% of the CSR Fund set up on or after 1 January 2017 up to 31 December 2017 should be remitted to the Mauritius Revenue Authority (MRA), and at least 75% of the CSR Fund set up on or after 1 January 2018 should be remitted to the MRA.

In respect of the CSR Fund set up before 1 January 2019, the remaining amount of the CSR Fund shall be used to implement a CSR Programme in accordance with the company's own CSR Framework. For the CSR Fund set up on or after 1 January 2019, the remaining amount shall be used to implement a CSR Programme or finance a non-governmental organisation implementing a CSR Programme in the following priority areas of intervention:

- Dealing with health problems resulting from substance abuse and poor sanitation.
- Educational support targeting families in the Social Register of Mauritius.
- Family protection; protection to victims of domestic violence.
- Poverty alleviation targeting families listed in the Social Register of Mauritius.
- Social housing targeting families in the Social Register of Mauritius.
- Supporting persons with severe disabilities.

Any amount unspent (to a CSR Programme) shall be remitted to the MRA together with the company's annual return. The amount to be remitted to the MRA could be reduced upon prior written approval from the National CSR Foundation. This is where the company intends to spend the unremitted amount within the priority areas of intervention.

No CSR money shall be spent by a company on the following activities:

- Activities discriminating on the basis of race, place of origin, political opinion, colour, or creed.
- Activities targeting shareholders, senior staff, or their family members.

- Activities that are against public safety and national interest.
- Religious, political, trade union, self-financing, staff welfare, and marketing activities.

Where the amount paid out of the CSR Fund is in excess to the amount provided for under that CSR Fund, such excess may be carried forward and offset in equal instalments against any amount to be remitted to the MRA in respect of five succeeding years starting from year of assessment 2016/17.

Where a company is required to submit an Advance Payment System (APS) statement, it should remit 25% of the CSR amount to be remitted to the MRA together with the APS statements, and the final 25% is to be remitted on the submission of the final return.

Note that the following entities are not subject to the CSR regulations:

- A company holding a GBC1 Licence under the Financial Services Act.
- A bank holding a banking licence under the Banking Act, in respect of its income derived from its banking transactions with non-residents or with corporations holding a Global Business Licence under the Financial Services Act.
- An Integrated Resort Scheme (IRS) company referred to in the Investment Promotion (Real Estate Development Scheme) Regulations 2007.
- A non-resident *société*, a foundation, a trust, or a trustee of a unit trust scheme.

Also note the following:

- The CSR Fund shall apply in all respects to a resident *société*, other than a resident *société* holding a Global Business Licence under the Financial Services Act, its net income shall be deemed to be its chargeable income, and any distribution of its net income shall, for the purposes of the CSR Fund, be deemed to be dividends.

Local income taxes

Local income taxes levied by local administration, such as urban councils, do not exist in Mauritius.

Corporate residence

Under domestic law, a company is resident in Mauritius for tax purposes if it is incorporated in Mauritius or centrally managed or controlled in Mauritius.

A company not incorporated in Mauritius is resident in Mauritius only if it is centrally managed and controlled in Mauritius.

In the absence of a tax treaty, any income derived from the following is taxed in Mauritius:

- Any business carried on wholly or partly in Mauritius.
- Any contract wholly or partly performed in Mauritius.

A GBC2 company is not considered a resident in Mauritius for the purposes of double taxation treaties (DTTs).

Under a tax treaty, a company is considered a resident in Mauritius if it is incorporated in Mauritius or if its effective management is in Mauritius.

Permanent establishment (PE)

Generally, a PE is created under a tax treaty if one of the following criteria is met:

- Branch, office, factory, workshop, or installation used for extraction of natural resources.
- Building site, construction, installation, assembly, or supervisory services where the activity on the site lasts for a minimum of six months or 12 months, depending on the tax treaty.

Other taxes

Value-added tax (VAT)

VAT is charged by VAT-registered entities at the standard rate of 15% on all goods and services supplied by them in Mauritius (except those taxed at 0%), other than the following exempt supplies (not an exhaustive list):

- Bread, wheat, and cereal flours (excluding wheat flour).
- Medical, hospital, and dental services, including clinical laboratory services, services provided in a health institution, and veterinary services.
- Educational and training services provided by institutions approved by the Mauritius Qualification Authority.
- Construction of building for residential purpose, provided letter of intent relating to an IRS was issued prior to 1 October 2006.
- Sale or transfer of an immovable property, a building or part of a building, apartment, flat, or tenement.
- Banking services, except:
  - services provided to merchants accepting credit/debit card
  - services in respect of safe deposit locker, and issue and renewal of credit/debit cards
  - services for keeping and maintaining customer's accounts, and
  - services supplied by a bank holding a banking licence under Banking Act 2004 in respect of its banking transactions with non-residents and corporations holding a Global Business Licence.

An entity should register for VAT if turnover exceeds 6 million Mauritian rupees (MUR) a year. However, certain service providers (e.g. accountants and auditors, attorneys and solicitors, consultants, surveyors, valuers) should register for VAT irrespective of their turnover.

VAT-registered persons with annual taxable turnover exceeding MUR 10 million should submit their VAT return monthly and electronically by the end of the month following the end of the taxable month. Otherwise, VAT return filing is completed quarterly (i.e. within 20 days following the end of a taxable quarter). The taxable quarter is a period of three months ending at the end of March, June, September, or December. Also, where the VAT-registered persons are filing pay-as-you-earn (PAYE) returns electronically under the Income Tax Act (ITA), they are required to file the VAT returns electronically by the end of the month following the taxable period.

Mauritius

Customs duties

Customs duty is levied on commodities imported into Mauritius. The rate of duty applicable is the rate in force under the Customs Tariff Act at the time the bill of entry is validated at the Customs.

A number of exemptions and concessions are available to industries, organisations, and persons under the Customs Tariff Act.

Excise taxes

An excise duty is levied at the time of importation on selected commodities, which includes spirits, vehicles, and petroleum products at corresponding prescribed rates. A levy is also chargeable on some specified excisable goods, whether the goods are for home consumption or not, at corresponding prescribed rates.

Campement site tax

Per the Land (Duties and Taxes) Act, every owner of a campement site situated in a specified zone is subject to an annual tax known as the campement site tax, varying between MUR 2 to MUR 6 per square metre.

The tax shall be payable to the authorised officer on or before 31 July in every year.

Land transfer tax

Per the Land (Duties and Taxes) Act, land transfer tax is levied on the transfer of land and is payable by the transferor at the rate of 5%.

Land transfer tax is also payable at the above rates by the transferor upon transfer of the shares of a company owning immovable properties, based on the value of shares or property, whichever is the lower.

The following transactions are not subject to land transfer duty (non-exhaustive list):

- A transfer of immovable property from ascendant to descendant (or vice versa).
- A transfer of immovable property or shares between companies forming part of a group of companies, as defined in the Companies Act 2001.
- A transfer of immovable property where such transfer takes place between companies having the same shareholders for the sole purpose of merging.

Leasehold tax

Per the Land (Duties and Taxes) Act, leasehold tax is levied on the registration of a deed of transfer of leasehold rights in state land. The leasehold tax is levied on the open market value of the leasehold right at the time of transfer at the rate of 20% and is payable by the transferor and transferee in equal proportion (i.e. 10% each).

Registration duty

The Registration Duty Act provides, among others, for a duty at an effective rate of 5% of the sum of money paid as a condition of an exchange of immovable property, or a division in kind of immovable property, where such sum does not exceed MUR 100,000.

The transfer of shares of a company other than those listed on the Stock Exchange of Mauritius or traded on the secondary market is subject to registration duty if the company holds immovable property.

Stamp duty

Stamp duty is levied and paid to the Registrar General on every document at the time of registration, transcription, inscription, or erasure of inscription. Stamp duty varies from MUR 25 to MUR 1,000.

Payroll taxes

Every employer has to register with the MRA as an employer and has to withhold income tax from the emolument of the employee at the time the emolument is made available to the employee.

The employer has to remit the amount withheld within 20 days from the end of the month in which the tax was withheld. Where the employer has 25 or more employees, the PAYE return and tax withheld should be remitted electronically. In cases where the employer has less than 25 employees, the PAYE return and tax withheld may be remitted electronically.

Failure to comply with the above entails a penalty of 5% of the unpaid tax and an interest of 1% per month or part of the month during which the tax remained unpaid.

Social security contributions

National Pensions Fund (NPF)

Contributions to the NPF are payable by the employer at 6% of cash remuneration, up to a maximum remuneration of MUR 16,995 per month. Employees contribute to the NPF at 3%, subject to a maximum amount of MUR 510 per month.

National Savings Fund (NSF)

Employers are required to contribute 2.5% of remuneration to the NSF, subject to a maximum of MUR 425 per month per employee, and to pay a monthly levy of 1.5% of basic salaries and wages of every employee. Employees are required to pay a 1% levy, subject to a maximum amount of MUR 170 per month.

Branch income

Tax rates on branch income are the same as on corporate profits. No tax is withheld on the remittance of profits by way of dividend to a head office.

Income determination

Inventory valuation

Inventories should be valued at the lower of historical cost or net realisable value. The last in first out (LIFO) basis of valuation is not allowed for tax purposes.

Conformity is required between book and tax reporting. Where the MRA is not satisfied that the basis of valuation is acceptable (e.g. where the LIFO basis has been applied), it will make such adjustment as it believes is appropriate to determine the profits arising from the business carried on.

Capital gains

There is no tax on capital gains in Mauritius. However, certain transactions are taxed as ordinary business profit instead of capital gains. Where a transaction is in the nature of trade, the MRA may take the view that it is an ordinary trading transaction and assess the gains derived as income.

Any gains derived from the sale of shares held for less than six months are classified as trading income and are therefore taxed as ordinary income.

Gains realised from the sale of any property or interest in property acquired in the course of a business, as part of a profit-making undertaking or scheme, are taxable as ordinary income.

Dividend income

Companies, whether resident or not, are exempt from tax on dividends received from resident companies.

Dividend income received from abroad by a company resident in Mauritius (non-GBC1 company) is subject to tax at the rate of 15%. Credit for any foreign tax withheld is given, subject to documentary evidence provided to the MRA.

Dividend income received from abroad by a GBC1 company is subject to tax at an effective rate of 3%.

Stock dividends

A resident company can distribute stock dividends (bonus shares) proportionately to all of its shareholders. Stock dividends *per se* or convertible into cash are not taxable in the hands of the recipient. Dividends in kind (i.e. other than cash or shares) are treated as taxable benefits.

Interest income

Interest income received by resident companies (non-GBC1 companies) is liable to tax at the rate of 15%.

A GBC1 company receiving interest income from abroad is liable to tax at the effective rate of 3%.

Interest income paid by any person, other than by banks or non-bank deposit-taking institutions under the Banking Act, to individuals and non-residents is liable to withholding tax (WHT) at the rate of 15% (final tax).

Royalty income

Royalty income received locally is subject to tax at the rate of 15%.

Royalty income received from abroad is subject to tax at the rate of 15%. Any tax withheld from abroad will be allowed as a foreign tax credit. However, a company holding a GBC1 Licence receiving royalty income from abroad on which no foreign tax is suffered will be entitled to a deemed foreign tax credit of 80% of the Mauritian tax payable.

Foreign income

Resident corporations are taxed on their worldwide income, but tax credit and treaty relief is generally available in order to avoid double taxation (*see Foreign tax credits in the Tax credits and incentives section for more information*).

Undistributed income of foreign subsidiaries is not subject to any special taxation as long as the income of the foreign subsidiary before distribution is not included in the accounts of the local parent company. Dividends paid by the foreign subsidiary to the local parent company will, however, be taxable to the latter, whether or not such dividends are actually received in Mauritius.

Deductions

Depreciation

Annual allowance rates vary between 5% and 100% of base value (unless stated otherwise), as per the following table:

	Rate of annual allowance	
	Percentage of	
Capital expenditure incurred on	**Base value**	**Cost**
Industrial premises, excluding hotels		5
Industrial premises dedicated to manufacturing	30	
Commercial premises		5
Hotels	30	
Plant or machinery:		
Costing MUR 50,000 or less		100
Costing more than MUR 50,000:		
Ships or aircraft	20	
Aircraft and aircraft simulators leased by a company engaged in aircraft leasing		100
Motor vehicles	25	
Electronic and high precision machinery or equipment, computer hardware and peripherals, and computer software	50	
Plant and machinery (excluding passenger car) by a manufacturing company		50
Furniture and fittings	20	
Other	35	
Improvement on agricultural land for agricultural purposes	25	
Scientific research	25	
Golf courses	15	
Acquisition of patent	25	
Green technology equipment		50
Landscaping and other earth works for embellishment		50
Acquisition or improvement of any other item of a capital nature that is subject to depreciation under the normal accounting principles		5

Tax depreciation need not conform to book depreciation. Depreciation is generally recaptured on disposal or sale when balancing charges or allowances are computed.

Goodwill

Goodwill amortised under normal accounting principles is not allowed as an expense for tax purposes. However, the cost amount can be capitalised, and an annual allowance of 5% of cost can be claimed.

Leasing agreements

There has been a substantial increase in leasing activity over the last decade. Where an asset is transferred under a financial lease agreement, the lessee is entitled to capital allowances on the value of the asset, including finance charges, as if it was an outright sale by the lessor.

On the other hand, the lessor cannot capitalise the leased assets in its books, and no capital allowance is claimed on the assets leased. However, the lessor is taxable on the interest income derived from the assets leased.

There are no special rules for operating leases.

Set-up costs

Set-up costs are not deductible for tax purposes, as they are considered pre-operational expenses.

Interest expenses

Expenditure incurred on interest is deductible, provided it is incurred in respect of capital employed exclusively in the production of income.

A request can be made by the tax authorities to support any claim made in respect of interest expense by a certificate from a qualified auditor certifying that the amount of interest claimed has been incurred on capital employed exclusively in the production of gross income.

Interest paid by a GBC1 company to a non-resident is exempt from corporate tax.

The tax authorities may refuse to allow a deduction on expenditure incurred as interest where it is found that:

- the interest is payable to a non-resident who is not chargeable to tax on the amount of the interest, or
- the interest is not likely to be paid in cash within a reasonable time.

Bad debt

A provision for bad or doubtful debt is generally not deductible unless a court ruling has been obtained against the debtor.

Charitable contributions

Donations/gifts, whether to charitable institutions or not, are not deductible for tax purposes.

Fines and penalties

Fines and penalties are not deductible for tax purposes as they are expenses not exclusively incurred for the production of gross income.

Taxes

Income taxes and foreign taxes paid are not normally deductible; however, some taxes (e.g. municipal taxes relating to buildings, land transfer tax, irrecoverable input VAT) are deductible.

Other significant items

A bank or an approved financial institution may claim as deductions any irrecoverable loans due by a company in liquidation in respect of which winding-up procedures have started or by a company in receivership.

Net operating losses

Losses made in an accounting year are carried forward for a maximum of five years.

A company may claim to carry forward to an income year any loss it incurred in any former income year, provided the company can demonstrate a 50% continuity of shareholding at the end of those income years. Losses resulting from capital allowances can be carried forward indefinitely. Loss carrybacks are not permitted.

Where a company takes over another company engaged in manufacturing activities, or two or more companies engaged in manufacturing activities merge into one company, any unrelieved loss of the acquiree may be transferred to the acquirer in the income year in which the takeover takes place, on such conditions relating to safeguard of employment as may be approved by the Minister of Finance.

Payments to foreign affiliates

Royalties, interest, and service fees payable to foreign affiliates are allowed as expenses, provided they correspond to actual expenses incurred, are reasonable, and do not exceed what would be paid under an arm's-length agreement. There are certain limitations if the recipient of the interest is not liable to Mauritius tax. Royalties paid to non-residents by GBC1 companies, banks out of their foreign-source income as defined in the ITA, and trusts are tax-exempt.

Group taxation

There are no group taxation provisions in the Mauritius tax legislation other than the transfer of losses by tax incentive companies, sugar factory operators, subsidiaries located in the Island of Rodrigues, and manufacturing companies upon their take-over (*see Net operating losses in the Deductions section for more information*).

Transfer pricing

Mauritius does not have any specific transfer pricing legislation. However, it does contain an arm's-length provision requiring transactions between related parties to reflect a commercially objective value, which would be the amount charged for the services were the parties not connected.

Country-by-country (CbC) reporting

The government of Mauritius enacted the Income Tax (Country-by-Country Reporting) Regulations 2018 on 19 February 2018. These regulations will be effective for the reporting fiscal years of multinational enterprise (MNE) groups beginning on or after 1 July 2018.

The Director General shall use the CbC report for the purpose of:

- assessing high-level transfer pricing risks and other base erosion and profit shifting (BEPS) related risks in Mauritius and the risk of non-compliance by members of an MNE group with applicable transfer pricing rules, and
- economic and statistical analysis, where appropriate.

Any person who fails to comply with any provision of CbC reporting regulations shall commit an offence and shall, on conviction, be liable to a fine not exceeding MUR 5,000 and to imprisonment for a term not exceeding six months.

Thin capitalisation

Mauritius does not have specific thin capitalisation legislation; however, it does have other anti-avoidance provisions as described below:

If a company has issued debentures to each of its shareholders, subject to the number, the nominal value, or paid-up value of the shares in that company, any interest paid on debentures and claimed as a deductible expense may be disallowed and treated as a dividend.

Controlled foreign companies (CFCs)

There are no CFC rules under Mauritius tax legislation.

Tax credits and incentives

Global Business Category 1 and 2 companies

A GBC1 company can trade with a Mauritian resident as well as non-residents.

However, any trading with residents should be only incidental to the main operations with non-residents and should be subject to the Financial Services Commission's (FSC's) approval.

Transactions made with a Mauritian resident are taxed at the rate of 15%, whereas transactions with non-residents are taxed at an effective tax rate of 3%.

The registration and application of GBC1 companies should be submitted to the FSC through a duly licensed Management Company on a prescribed form accompanied by the following:

- The certified supporting documents.
- The applicable processing fees and relevant fees.

A GBC1 company is tax resident in Mauritius and may apply for a Tax Residence Certificate (TRC) from the Director General of the MRA should this be required by the tax authorities in the jurisdiction in which the company is conducting its business.

Investors may benefit from an extensive network of DTTs. Entities holding a GBC1 Licence wishing to avail to the benefits of a DTT must obtain a TRC issued by the MRA.

A GBC1 company is encouraged to have more substance in Mauritius by ascertaining the following:

- It has at least two directors, resident in Mauritius, of sufficient calibre to exercise independence of mind and judgment.
- It maintains, at all times, its principal bank account in Mauritius.
- It keeps and maintains, at all times, its accounting records at its registered office in Mauritius.
- It prepares, or proposes to prepare, its statutory financial statements and causes or proposes to have such financial statements to be audited in Mauritius.

In addition to the requirements mentioned above, when determining whether a corporation is managed and controlled from Mauritius, the Commission shall also consider whether a corporation meets at least one of the following criteria:

- The corporation has or shall have office premises in Mauritius.
- The corporation employs or shall employ on a full-time basis, at the administrative/technical level, at least one person who shall be resident in Mauritius.
- The corporation's constitution contains a clause whereby all disputes arising out of the constitution shall be resolved by way of arbitration in Mauritius.
- The corporation holds, or is expected to hold, within the next 12 months, assets (excluding cash held in a bank account or shares/interests in another corporation holding a Global Business Licence) that are worth at least 100,000 United States dollars (USD) in Mauritius.
- The corporation's shares are listed on a securities exchange licensed by the Commission.
- The corporation has, or is expected to have, a yearly expenditure in Mauritius that can be reasonably expected from any similar corporation that is controlled and managed from Mauritius.

A GBC1 company can apply for a TRC to show substance in Mauritius. The TRC is generally issued within a period of seven days from the date of application, provided that the person has submitted the return required under the ITA 1995.

A GBC2 company is required to have, at all times, a registered agent in Mauritius. Only a management company shall act as the registered agent of a company holding a GBC2 Licence. A GBC2 company is defined as a resident corporation conducting business outside Mauritius and can engage in activities other than the following:

- Banking.
- Financial services.
- Holding, managing, or otherwise dealing with a collective investment fund or scheme as a professional functionary.
- Providing registered office facilities, nominee services, directorship services, secretarial services, or other services for corporations.
- Providing trusteeship services by way of business.

An applicant for a GBC2 Licence must submit the following forms/documents to the FSC through a management company:

- The application form, duly filled in and signed.
- The certified supporting documents.
- The applicable processing fees and relevant fees.

The fees payable to the FSC for registering a GBC1 and a GBC2 company are as follows:

Fee	GBC1 (USD)	GBC2 (USD)
Processing	500	100
Annual Licensing	1,750	235*

* This amount excludes the annual registration fee of USD 65, or such other fee as the Registrar of Companies may determine, payable to the Registrar of Companies.

The TRC is renewable on an annual basis and issued in two formats, one specific to India and one general for any other country.

A GBC2 company is a limited liability company incorporated in Mauritius. However, GBC2 companies are exempt from Mauritius tax and are not required to file tax returns. GBC2 companies are therefore not able to access the tax treaty network of Mauritius.

Companies in the Freeport zone

The income of a Freeport operator derived from Freeport activities is exempt from income tax, except for income that is derived from goods or services provided on the local market.

Income tax exemption for vessel owners

Owners of foreign vessels registered in Mauritius are exempt from income tax on income derived from the operation of such vessels, including any income derived from the chartering of such vessels. Owners of local vessels registered in Mauritius are also exempt to the extent that the income is derived from deep-sea international trade only.

Innovation-driven activities

An income tax exemption is available for companies set up on or after 1 July 2017 that are involved in innovation-driven activities for IP assets developed in Mauritius. The exemption will apply for eight tax years, starting from the tax year in which the company starts its innovation-driven activities.

Manufacture of pharmaceutical products, medical devices

An income tax exemption is available for companies set up on or after 8 June 2017 for the manufacture of pharmaceutical products, medical devices, and high-tech products by companies incorporated after 8 June 2017. This exemption also applies for eight tax years, starting from the tax year in which the company starts its operations.

Green economy

Income derived from the exploitation and use of deep ocean water for air conditioning installations, facilities, and services will be exempted for eight tax years. Further, a company incurring expenditure on deep ocean water air conditioning may deduct from its gross income twice the amount of the expenditure incurred in that tax year. That deduction will be allowed for five consecutive tax years, starting from the year in which the expenditure is incurred.

Another tax exemption has been granted for interest derived by individuals and companies from debentures or bonds issued by a company to finance renewable energy projects (the issue must be approved by the Director General of the MRA).

If a company incurs expenditure in a tax year for the acquisition and setting up of a water desalination plant, it may deduct from its gross income twice the amount of the expenditure incurred in that tax year.

R&D expenditure

During a period from 1 July 2017 to 30 June 2022, if a person has incurred any qualifying expenditure on R&D as described below that is directly related to one's existing trade or business, one may, in the tax year in which the qualifying expenditure was incurred, deduct twice the amount of the expenditure, provided that the R&D is carried out in Mauritius and no annual allowances have been claimed on the same.

The term 'qualifying expenditure' means any expenditure relating to R&D, including expenditure on innovation, improvement, or development of a process, product, or service as well as staff costs, consumable items, computer software directly used in R&D, and development and subcontracted R&D.

Export of goods

A reduced corporate tax rate has been introduced for exports of goods so that if, in a tax year, a company is engaged in the export of goods, it will be liable to income tax at the reduced rate of 3% on the chargeable income attributable to that export, as computed on the basis of the following formula:

Chargeable income attributable to that export = (A x C/B), in which:

- A is the gross income derived from the export of goods in that income year.
- B is the gross income derived from all the activities of the company for that income year.
- C is the chargeable income of the company for that income year.

Foreign tax credits

Generally, double taxation is avoided by means of unilateral credit relief for foreign tax paid. The net amount of foreign income that has borne tax is grossed up at the foreign rate of tax, and the foreign tax paid is allowed as a credit against the Mauritius tax payable. However, the tax credit cannot exceed the Mauritius tax referable to the relevant foreign income. Unused credit is not refunded.

Regarding foreign income derived from countries with which Mauritius has DTTs, a tax credit is given for foreign tax in accordance with the treaties. There are clauses in the DTTs that provide that income arising from certain specified foreign sources is to be exempt from Mauritius tax.

Mauritius has signed DTTs with 43 countries (*see the Withholding taxes section for a listing*).

The following treaties await ratification: Cabo Verde, Gabon, Ghana, Jersey, Kenya, Morocco, Nigeria, and Russia.

The following treaties await signature: Cote d'Ivoire, Gibraltar, Malawi, and The Gambia.

The following treaties are being negotiated: Algeria, Burkina Faso, Canada, Czech Republic, Greece, Hong Kong, Lesotho, Mali, Montenegro, North Sudan, Portugal, Republic of Iran, Saudi Arabia, Spain, St. Kitts and Nevis, Tanzania, Vietnam, Yemen, and Zambia.

A GBC1 company may, in the absence of evidence of payment of foreign tax, claim as tax credit (presumed tax credit) an amount equal to 80% of the Mauritius tax chargeable on the foreign-source income. The presumed tax credit may also be claimed by a bank against the tax payable on income derived from banking transactions with non-residents and with GBC1 and GBC2 companies.

In the case of foreign dividends, the general tax credit includes foreign tax imposed on the profits out of which the dividends are paid (underlying tax), provided that the shareholding in the foreign company is at least 5%.

Mauritius also allows a tax-sparing credit under its local tax legislation.

Withholding taxes

There is no WHT in Mauritius for payments made by GBC companies to non-residents not carrying out any business in Mauritius. There is no WHT on dividends received from resident companies and on payments made by a company having an annual turnover of less than MUR 6 million. The table below shows the rates of WHT applicable for the following payments:

Payment	WHT (%)
Interest payable by any persons (other than banks or non-bank deposit-taking institutions operating under the Banking Act) to individuals and non-resident companies	15
Royalties payable to:	
Residents	10
Non-residents	15
Rent	5
Payments to contractors and sub-contractors	0.75
Payments to providers of services (accountant/accounting firm, architect, attorney/solicitor, barrister, dentist, doctor, engineer, land surveyor, legal consultant, project manager in the construction industry, quantity surveyor, property valuer, and tax adviser or representative)	3
Payments made by ministry, government department, local authority, statutory body, or the Rodrigues Regional Assembly on contracts, other than payments to contractors and sub-contractors and payments to providers of services as specified above:	
For the procurement of goods and services under a single contract, where the payment exceeds MUR 300,000	1
For the procurement of goods under a contract, where the payment exceeds MUR 100,000	1
For the procurement of services under a contract, where the payment exceeds MUR 30,000	3
Payments made to the owner of an immovable property or one's agent	5
Payments made to a non-resident for any services rendered in Mauritius	10
Payment of management fees to an individual by any person, other than an individual, to a:	
Resident	5
Non-resident	10
Payment made by a person in connection with activities performed in Mauritius by a non-resident entertainer or sportsperson	10

Reduced WHT rates with treaty countries are provided below.

	WHT (%)		
Recipient	**Dividends**	**Interest**	**Royalties**
Non-treaty	0	15	15
Treaty:	(1)		
Bangladesh, People's Republic of	10	(2)	(2)
Barbados	5	5	5
Belgium	5/10	10	0
Botswana	5/10	12	12.5
China	5	10	10
Congo, Republic of	0/5	5	0
Croatia	0	0	0
Cyprus	0	0	0
Egypt	5/10	10	12
France	5/15	(2)	15
Germany	5/15	0	10
Guernsey	0	0	0
India	5/15	7.5	15
Italy	5/15	(2)	15
Kuwait	0	0	10
Lesotho	10	10	10
Luxembourg	5/10	0	0
Madagascar	5/10	10	5
Malaysia	5/15	15	15
Malta	Exempt	Exempt	Exempt
Monaco	0	0	0
Mozambique	8/10/15	8	5
Namibia	5/10	10	5
Nepal	5/10/15	10/15 (3)	15
Oman	0	0	0
Pakistan	10	10	12.5
Qatar	0	0	5
Rwanda	10	10	10
Senegal	0	0	0
Seychelles	0	0	0
Singapore	0	0	0
South Africa	5/15	10	5
Sri Lanka	10/15	10	10
Swaziland	7.5	5	7.5
Sweden	0/15	0	0
Thailand	10	10/15 (4)	5/15 (5)
Tunisia	0	2.5	2.5
Uganda	10	10	10
United Arab Emirates	0	0	0
United Kingdom	10/15	(2)	15
Zambia	5/15	10	5
Zimbabwe	10/20	10	15

Notes

1. The domestic rate of WHT on dividends is 0%. For completeness, the treaty rates that would apply if the domestic rate was higher are provided.
2. Same rate as under domestic law.
3. 10% of the gross amount of the interest if the beneficial owner is a financial institution, an insurance company, or an investment company receiving income from financial investments; 15% in all other cases.
4. 10% of the gross amount of the interest if it is received by any financial institution (including an insurance company); 15% in all other cases.
5. 5% of the gross amount of the royalties received as consideration for the use of, or the right to use, any copyright of literary, artistic, or scientific work, excluding cinematograph films, tapes, or discs for radio or television broadcasting. 15% is applicable on the gross amount of the royalties in any other case.

Tax administration

Taxable period

Companies are assessed for a year beginning 1 July and ending 30 June on their income for the preceding year ending 30 June. Where a company closes its accounts at a date other than 30 June, it may elect to adopt as a basis year the accounting year ending in the 12-month period preceding the year of assessment.

Tax returns

Every company, both taxpayer and non-taxpayer, must file a return of its income on the basis of the income year preceding the year of assessment. The return must be filed within six months of the financial year-end.

Payment of tax

Any tax due should be paid when the return is filed and within the six months deadline.

Advance Payment System (APS)

Every company (except non-resident trusts and non-resident partnerships) having gross income exceeding MUR 10 million or that has taxable income is required to submit an APS statement and pay any tax for the quarter immediately following the end of the accounting year.

Tax under APS can be calculated based on the following:

- 25% of taxable income for the accounting year immediately preceding the commencement of that quarter or
- the actual taxable income of the current quarter.

The APS statement shall be filed and tax (if any) shall be payable within three months from the end of the quarter.

Companies that are required to contribute to the CSR Fund should, while submitting their APS statement, remit 25% of the CSR amount to be remitted to the MRA.

Penalties

If timely payment is not made, a penalty representing 5% of the amount of tax due is payable. In addition, interest at the rate of 0.5% of the tax unpaid for each month or part of a month is payable until the tax is paid. A penalty of MUR 2,000 for each month or part of a month is also prescribed for failure to file a return, subject to a maximum of MUR 20,000.

Tax audit process

Tax audits are carried out on a sample basis throughout the year. Generally, the audits are fairly detailed, but more protracted enquiries are carried out into cases where fraud is suspected.

Statute of limitations

While there is no statutory time limit for recovering tax already assessed, the Director General is barred from making an assessment for a period beyond three years preceding the current tax year.

Topics of focus for tax authorities

The MRA pays special attention to the arm's-length nature of any transactions between related parties and evidence of foreign tax suffered predominantly for GBC1 companies in respect of their claim for actual foreign tax credit.

Other issues

United States (US) Foreign Account Tax Compliance Act (FATCA)

On 27 December 2013, the government of the Republic of Mauritius and the government of the United States of America signed an Agreement for the Exchange of Information Relating to Taxes (the Agreement) to set the legal framework to enable exchange of tax information between the two countries. This was followed by the signing of another agreement known as the Inter-Governmental Agreement (Model 1 IGA) to improve international tax compliance and to implement FATCA. Both agreements have been published in the Government Gazette No. 61 of 5 July 2014 as GN 135 of 2014. Both the Agreement and the IGA entered into force on 29 August 2014.

The Agreement provides for exchange of tax information (upon request, spontaneous and automatic) between Mauritius and the United States. The IGA provides for the automatic reporting and exchange of information in relation to accounts held with Mauritius financial institutions by US persons and the reciprocal exchange of information regarding financial accounts held by Mauritius residents in the United States.

The MRA has issued guidance notes (available on MRA's website) to provide practical assistance to financial institutions, businesses, their advisers, and officials dealing with the application of FATCA.

Corporate Reporting Standards (CRS)

Mauritius signed the Organisation for Economic Co-operation and Development (OECD) Convention on Mutual Administrative Assistance in Tax Matters in June 2015 and, as a member of the Early Adopters Group, the country had initially planned to implement the CRS early. The effective date of 1 January 2016 was subsequently deferred to 1 January 2017, and the first reporting will now start from 31 July 2018.

The Mauritius ITA was amended to enact the CRS, and the MRA is the competent authority to administer the process. Under the CRS, financial institutions (FIs) will need to report accounts held by non-residents to the MRA, which will be used for eventual exchange with other jurisdictions. In line with the OECD commentaries and handbook on the CRS, the MRA published a set of guidance notes in April 2016 (MRA Guidance Notes) to help identify which FIs have reporting obligations as well as set out the type of financial information and accounts that will need to be reported.

Base Erosion and Profit Shifting (BEPS)

As a member of the all-inclusive framework, Mauritius has pledged commitments to implement the BEPS Actions. At an initial stage, all participating countries have to adopt the minimum standards, namely Action 5: Harmful tax practices, Action 6: Treaty abuse, Action 13: CbC reporting, and Action 15: Multilateral instrument (MLI) to implement the treaty measures in the BEPS framework.

Mauritius has already signed off to the MLI on 5 July 2017 by adopting the principal purpose test as a measure to address treaty abuse. As far as Action 5 is concerned, Mauritius has recently been reviewed by the OECD's Forum of Harmful Tax Practices (FHTP) and the European Union (EU) on its different regimes. Global Business regimes, Freeport, and captive insurance were regarded as being harmful by both the OECD and European Union. Mauritius has already given commitment to address the concerns by 2018.

Mauritius enacted the Income Tax (Country-by-Country Reporting) Regulations 2018 on 19 February 2018. These regulations will be effective for the reporting fiscal years of MNE groups beginning on or after 1 July 2018. *See Country-by-country (CbC) reporting in the Group taxation section*.

Morocco

PwC contact

Mahat Chraibi
PricewaterhouseCoopers Maroc
35, Rue Aziz Bellal
Maârif - Casablanca
Maroc
Tel: +212 5 22 99 98 00
Email: mahat.chraibi@pwc.com

Significant developments

Application of progressive corporate income tax (CIT) rates

Starting 1 January 2018, Moroccan CIT is levied at the following rates, using a progressive rate scale (instead of a proportional rate scale):

Taxable income (MAD*)		
From	To	CIT rate (%)
0	300,000	10
300,001	1,000,000	20
1,000,001	and above	31

* Moroccan dirham

Credit institutions and insurance companies remain subject to a flat CIT rate of 37%.

Modification of the tax regime applicable to capital gains on non-depreciable assets recorded following merger/demerger operations

Starting 1 January 2018, the capital gains on non-depreciable assets recorded following a merger/demerger operation cannot be offset against available losses.

Carryforward of losses by merging companies

Starting 1 January 2018, absorbing companies are allowed to carry forward the amortisation loss on following fiscal years.

Taxes on corporate income

In general, the Moroccan tax code considers that all revenues and capital gains generated in Morocco are subject to Moroccan taxation.

Companies are taxed on the difference between their trading income and expenditure. Business expenses incurred in the operation of the business are generally deductible unless specifically excluded.

The CIT rates are as follows (progressive scale):

Taxable income (MAD)		
From	To	CIT rate (%)
0	300,000	10

Taxable income (MAD)		
From	To	CIT rate (%)
300,001	1,000,000	20
1,000,001	and above	31

A higher CIT rate of 37% applies to credit institutions and insurance companies.

Non-resident companies can, under certain conditions, opt for an alternative tax at the rate of 8% of the amount of their contract, whatever the taxable income is.

Minimum contribution

CIT cannot be lower than a minimum contribution of 0.5% (or 0.25% for specific products) levied on the turnover and other specific revenues. The minimum contribution is not due during the first 36 months following the beginning of activities.

Local income taxes

There are no provincial or local taxes levied on income in Morocco.

Corporate residence

Companies, whether or not established in Morocco, are subject to CIT on all profits or income relating to property that they own, activities that they carry on, and profit-making transactions that they carry out in Morocco, even when these are of an occasional nature.

Permanent establishment (PE)

The notion of PE is not explicitly defined under Moroccan tax law.

However, the Moroccan tax authorities apply this concept for non-resident companies according to some determined criteria that are inspired from the various tax treaties that Morocco has signed with other countries.

Indeed, the question of whether an entity will be deemed to have a PE in Morocco is a question of fact, in particular, subject to having, in Morocco, any fixed place of business through which a foreign entity conducts industrial or commercial activity for an indefinite or substantial period of time.

The term fixed place of business includes, for instance, a place of management or operations, a branch, an agency, a premises used as a sales outlet, a construction of assembly project, or a purchasing office. Also, in some specific cases, a non-resident company may be deemed as having a PE if it operates in Morocco through a dependent agent.

Other taxes

Value-added tax (VAT)

VAT is levied under the Moroccan Tax Code and is due on all industrial, commercial, and handicraft transactions taking place in Morocco, as well as on importation operations.

The standard rate of VAT is 20%. Lower rates of 7%, 10%, and 14% apply to specifically designated operations.

The sale of goods is considered as taking place in Morocco, and thus subject to VAT, if the goods sold are delivered in Morocco.

The sale of services is considered as taking place in Morocco, and thus subject to VAT, if the services sold are consumed or used in Morocco.

Two types of exemptions from VAT are provided. The first is an exemption with credit, equivalent to the zero tax concept. The second is an exemption without credit.

The zero-rated supplies include (but are not limited to) supplies of the following goods or services:

- Exported goods and services.
- Certain agricultural equipment supplied under prescribed circumstances.
- Investment goods recorded as fixed assets in the company accounting and acquired during the first 24 months following the beginning of activity.
- Offshore banks for certain specific operations, such as interest and commissions.
- Goods and services rendered to companies established in free trade zones (FTZs).
- Activities related to hydrocarbon exploration, etc.

Exempt supplies without deduction right include (but are not limited to) supplies of the following goods or services:

- Milk, sugar, bread, cereals.
- Fiscal stamps.
- Newspapers, books, documentaries.
- Interest on government loans.

Customs duties

Importation of goods in Morocco gives rise to payment of importation duties, the VAT on importation, and the special tax on importation called *Taxe Parafiscale à l'Importation* (TPI).

Customs duties are computed on the basis of the *ad valorem* value of the goods at the time of their entrance into Morocco.

Customs duties can be reduced if the imported products are covered by free trade agreements signed by Morocco or other specific regulatory dispositions.

Under Moroccan tax law, the importation operations are subject to VAT at the rate of 20%. Lower rates of 7%, 10%, and 14% apply to specifically designated importations.

The Moroccan tax law also offers some economical customs regimes that provide VAT exemptions with credit (equivalent to zero rate).

The TPI rate is 0.25% levied on the value of the imported goods.

Excise taxes

Excise taxes apply to specific products imported or produced in Morocco, such as tobacco, alcohol, and lubricants.

Professional tax

A professional tax is levied on individuals and enterprises that carry out a professional activity in Morocco.

The tax consists of a tax on the rental value of business premises (rented or owned) and fixed assets. The tax rates range from 10% to 30%, with exemption for the first five years of activity.

The rental value is exempted for the portion of cost exceeding MAD 50 million.

Registration duties

Registration duties are due on all written or verbal conventions, such as property transfer of real estate, shares, or rights; company set up; equity increase; and goodwill transfer.

The rates of registration duties range from 1% to 6%. A flat rate of MAD 200 is also applicable to specific operations and conventions.

The applicable rate for the transfer of goodwill is 6%.

Payroll taxes

Individual income tax on salaries is paid by way of withholdings made by resident employers.

Social security contributions

The only mandatory social security regime in Morocco is the one managed by the CNSS fund (*Caisse Nationale de Sécurité Sociale*).

The CNSS rates are as follows and apply to the gross salary, excluding exempted allowances and indemnities:

Contribution	Employee portion (%)	Employer portion (%)	Computation basis ceiling (MAD)
Family allocation	-	6.40	-
Social allocation	4.29	8.60	6,000
Professional tax	-	1.60	-
Mandatory medical care	2.26	4.11	-

Branch income

Non-resident entities are subject to income tax at normal CIT rates derived from all profits or income relating to property that they own, activities that they carry on, and profit-making transactions that they carry out in Morocco.

The taxation is levied to the portion of income allocable to the branch located in Morocco.

In addition, a 15% 'branch tax' applies to a non-resident's after-tax profits. Some treaties may provide protection against the application of the branch tax.

For resident entities having branches in Morocco, the income is taxable in the hands of the head office at normal CIT rates.

Income determination

Inventory valuation

Cost of inventory must be determined in accordance with the first in first out (FIFO) or the average cost method. The last in first out (LIFO) method is prohibited.

Capital gains

Capital gains are taxable as a part of ordinary business income.

Dividend income

Dividends received by corporate shareholders from Moroccan-resident entities subject to CIT must be included in business profits of the recipient company, but the dividends are 100% deductible in the computation of taxable income.

The participation exemption in Morocco is also applicable to dividends derived from foreign subsidiaries.

Interest income

Interest income received from tax resident entities (other than financial institutions) is subject to a withholding tax (WHT) at the rate of 20%. The WHT is deductible from CIT.

Rents/royalties income

Rents and royalties income are taxable as a part of ordinary business income.

Foreign income

The income derived from activities carried out in a foreign country is not subject to taxation in Morocco unless the taxation is granted by treaty dispositions.

Note that the participation exemption in Morocco is also applicable to dividends derived from foreign subsidiaries.

Deductions

Depreciation

Fixed assets are normally depreciated according to their economic life duration according to the provision of the accounting regulation.

Depreciation is computed according to two methods: the straight-line method and the declining-balance method.

The tax regulation (through administrative guidelines) has provided indicative depreciation rates applicable when the company activity or the asset to be depreciated is specific or particular.

Indicative depreciation rates are as follows:

Asset	Depreciation rate (%)
Business premises and buildings	4 to 5
Light construction (metal frame construction)	10

Asset	Depreciation rate (%)
Production equipment, tools, and construction fittings	10 to 15
Huge computer facilities	10 to 20
Computers and related items (printers) and programs, as well as vehicles (cars, trucks, vans, lifters)	20 to 25
Office furniture and software	20
Non-significant tools	30

Goodwill

Under Moroccan tax law, goodwill cannot be subject to amortisation. However, a decrease of the value of goodwill is allowed to be recorded through provisions.

Start-up expenses

The development as well as incorporation expenses shall be capitalised and depreciated for tax purposes over a period of five years.

The carryforward of any loss due to the above expenses is limited to a period of four years.

Interest expenses

Interest on loans granted by direct shareholders is deductible if the capital is fully paid in. Also, the deductible interest is limited to (i) the portion of the loan that does not exceed the share capital equity and (ii) the interest rate provided, annually, by the Ministry of Finance (2.22% in 2018).

Bad debt

Bad debts that are definitively non-recoverable (after all recovery procedures have been undertaken) are treated, from a tax point of view, as deductible losses.

Charitable contributions

Charitable contributions made by companies are deductible only if they are granted to foundations and societies explicitly provided by law.

The contributions made to the community enterprise are deductible at up to 0.2% of the company turnover.

Fines and penalties

Fines and penalties are not tax deductible expenses if they relate to infringements to legal and regulatory dispositions.

However, expenses relating to late payment penalties (calculated in accordance with the provisions of the law) should be tax deductible.

Taxes

Taxes constitute deductible expenses, except CIT itself and recoverable taxes.

Net operating losses

Tax losses may be carried forward for a period of four years from the end of the loss-making accounting period. However, the portion of a loss that relates to depreciation may be carried forward indefinitely.

A carryback mechanism is not allowed under Moroccan law.

Payments to foreign affiliates

Payments to foreign affiliates are allowed under Moroccan law. However, such payments should respect the arm's-length principle and foreign exchange regulations.

Group taxation

Under Moroccan law, consolidation or group taxation is not allowed.

Transfer pricing

Morocco has a general provision within its tax legislation requiring transactions between related parties to be at arm's length.

Where a Moroccan company is directly or indirectly connected with enterprises situated inside or outside Morocco, profits transferred indirectly to such enterprises, by means of increases or decreases in buying or selling prices or by any other means, must be included among taxable profits on the tax return.

In order to determine the amount to be included among taxable profits, Moroccan tax authorities will make comparisons with other similar companies carrying on normal business activities or by means of direct assessment based on information available to the tax authorities.

Thin capitalisation

No specific thin capitalisation rules exist in Morocco.

However, the tax law restricts the interest rate on debts issued by shareholders and the basis of calculating deductible interests.

Interest incurred is tax deductible if the shareholder's capital is fully paid. Additionally, the sum of the shareholder loans generating deductible interests should not exceed the equity capital subscribed, and the applicable interest rate should not exceed the official rate calculated annually on the basis of six months treasury bills.

Controlled foreign companies (CFCs)

There are no provisions for CFCs in Morocco.

Tax credits and incentives

The Moroccan tax law provides several tax incentives for specific sectors of activities.

Export companies

Export companies are exempt from CIT on their profits related to their export turnover during the first five years following their first export transaction. These companies benefit from a reduced CIT rate of 17.5% in subsequent years.

Hotel companies

Hotel companies are fully exempt from CIT on their profits relating to foreign currency turnover for the first five years following their first accommodation operation in foreign currency. They also benefit from a reduced CIT rate of 17.5% on such profits for subsequent years.

Mining companies

Exporting mining companies, including those that sell products to export companies, benefit from a reduced CIT rate of 17.5%.

Agricultural companies

Small-scale companies

Agricultural companies with a turnover of less than MAD 5 million qualify for a total exemption of CIT. If such companies realise a turnover that exceeds MAD 5 million in year (n), they become liable to CIT in year (n), year (n+1), year (n+2), and year (n+3).

Moreover, such companies qualify for a reduced rate of 17.5% during the first five fiscal years following the first year during which they become liable to CIT.

Medium and large-scale companies

Finance Law 2014 provides for a progressive approach to tax medium and large-scale agricultural companies that realise a turnover exceeding MAD 5 million. As such, companies with a turnover exceeding MAD 35 million, MAD 20 million, or MAD 10 million should become liable to CIT, respectively, in 2016, 2018, and 2020.

Moreover, such companies qualify for a reduced rate of 17.5% during the first five fiscal years following the first year during which they become liable to CIT.

Capital risk companies

Capital risk companies are exempt from CIT on profits derived within the scope of their activities (these are profits related to purchases of companies' shares that support such companies' development and the sales of such shares thereafter).

Hydrocarbon companies

Companies holding hydrocarbon exploration and exploitation permits are exempt from CIT for ten years from the beginning of hydrocarbon regular production.

Banks and holding companies located in offshore zones

Banks and holding companies located in offshore zones benefit from a reduction in CIT for the first 15 years of operation.

Banks may opt for a minimum CIT of 25,000 United States dollars (USD) or pay the tax at a reduced rate of 10%.

Holding companies pay a flat tax of USD 500 during the first 15 years.

Casablanca Finance City

A law was enacted in 2010 for the setting up of a finance area in Casablanca, called, Casablanca Finance City.

The Casablanca Finance City statute may be granted to specific financial institutions as well as non-financial institutions that offer such services as auditing, fiscal, legal, financial, actuarial, and human resources management advisory.

The above statute may also be granted to regional and international headquarters.

Entities established in Casablanca Finance City are exempt, for their export turnover, from CIT during the first five years following the date they obtain the Casablanca Finance City statute. These companies benefit, for the export turnover, from a reduced rate of 8.75% in subsequent years.

Free trade zones (FTZs)

The activities that must be necessarily performed by the companies established in the FTZs are mainly the following (the activities may vary for each FTZ):

- Food processing industries.
- Textile and leather industries.
- Metallurgic, mechanic, electric, and electronic industries.
- Chemical and special chemical industries.
- Services connected with the aforementioned activities.

Entities established in FTZs are exempt, for their export turnover, from CIT during the first five years. These companies benefit, for the export turnover, from a reduced CIT rate of 8.75% for the following 20 years.

Moreover, for entities established in FTZs, the dividends paid to non-residents relating to activities performed in the FTZ are totally exempted from the WHT on dividends.

Listed shares

Non-resident entities are exempt from capital gains derived from the sale of stocks listed on the Casablanca stock exchange, excluding the shares of real estate entities.

Foreign tax credit

Income tax paid on income earned from outside Morocco may be credited against CIT payable in Morocco if provided by treaty.

Withholding taxes

WHT on dividends

The standard WHT rate on dividends is set at 15% according to the Moroccan law (unless reduced by treaty).

WHT does not apply to dividends paid to Moroccan companies subject to Moroccan CIT, subject to the delivery of a property attestation.

A branch tax of 15% applies to the net income transferred by the Moroccan branch to foreign entities (may be reduced by the tax treaty).

WHT on interests

The standard WHT on interest paid to non-resident entities is set at 10% as provided by the Moroccan law (unless reduced by treaty). However, the Moroccan law provides that interest on loans granted in foreign currency with a maturity exceeding ten years is exempt from WHT.

WHT on services paid to non-resident entities

According to the Moroccan tax code, all payments of all kinds of services rendered by non-resident entities are subject to WHT at the rate of 10%.

However, it shall be noted that treaty dispositions limit the scope of application of WHT only to remunerations that constitute royalties. Such dispositions overrule the domestic tax law provided by the Moroccan law.

Treaty WHT rates

Payments to non-resident corporations and individuals are subject to WHT, as shown below.

	WHT (%)			
	Dividends			
Recipient	Individuals and non-qualified companies	Qualifying companies	Interest (1)	Royalties
Non-treaty	15	15	10	10
Treaty:				
Arab Maghreb Union (2)	(3)	(3)	(3)	(3)
Austria	10	5	10	10
Bahrain	10	5	10	10
Belgium	15	6.5	10	10
Bulgaria	10	7	10	10
Canada	15	10	10	5/10 (4)
China (People's Republic)	10	10	0/10	5/10
Czech Republic	10	10	10	10
Denmark	15	10	10	10
Egypt	12.5	10	10	10
Finland	15	10	10	10
France	15	10	10	5/10 (4)
Germany	15	5	10	10
Guinea Conakry	10	5	10	10
Hungary	12	10	10	10
India	10	10	10	10
Ireland	10	6	10	10
Italy	15	10	10	5/10 (4)
Ivory Coast	10	10	10	10
Jordan	10	10	10	10
Korea (Republic of)	10	5	10	10
Latvia	10	6	10	10
Lebanon	10	5	10	5/10 (4)
Luxembourg	15	10	10	10
Malaysia	10	5	0/10	10
Mali	10	5	10	10
Malta	10	6.5	0/10	10
Netherlands	15	10	10	10
Norway	15	10	10	10
Oman	10	5	0/10	10
Pakistan	10	10	10	10
Poland	15	7	10	10
Portugal	15	10	10	10

Recipient	WHT (%) Dividends: Individuals and non-qualified companies	Dividends: Qualifying companies	Interest (1)	Royalties
Qatar	10	5	0/10	10
Romania	10	10	10	10
Russia	10	5	10	10
Singapore	10	8	10	10
Spain	15	10	10	5/10 (4)
Switzerland	15	7	10	10
Syria	10	7	10	10
Turkey	10	7	10	10
Ukraine	10	10	10	10
United Arab Emirates	10	5	10	10
United Kingdom	15	10	10	10
United States	15	10	10	10

Notes

1. Some treaties provide for an exemption for certain types of interest (e.g. interest paid to public bodies and institutions). Such exemptions are not dealt with in this treaty chart.
2. The member states of the Arab Maghreb Union are Algeria, Libya, Mauritania, Morocco, and Tunisia.
3. There is no limitation on WHT under the treaty.
4. The lower rate (i.e. 5%) usually applies to copyright royalties and other similar payments in respect of the production or reproduction of any literary, artistic, or dramatic work (excluding cinematographic and television films), while the 10% rate applies to other types of royalties.

Tax administration

Taxable period

The taxable period corresponds to 12 months. The first taxable period can be less than one year but should never exceed it.

Tax returns

CIT returns must be filed within three months following the closing of the fiscal year.

Payment of tax

Payment of tax is made during the fiscal year by way of four instalments of 25% each based on the CIT of the previous year.

In case the CIT of the year exceeds the sum of the four instalments, the company should proceed to tax regularisation along with the submitting of the taxable income return after three months following the closing of the fiscal year (i.e. 31 March for fiscal year corresponding to the calendar year). Otherwise, the exceeding tax amount should be offset against the following instalments without limitations.

Penalties

Finance Law 2016 provides for the application of the following rates for penalties and late payment interest:

In case of late tax return:

- 5% penalty in case the tax return is submitted within 30 days following the legal deadline, or in case of corrective return.
- 15% penalty in case the tax return is submitted after the above mentioned 30 days.
- 20% penalty in case of automatic taxation due to non-submission of tax return.

In case of late tax payment:

- 5% penalty in case the tax payment is made within 30 days following the legal deadline.
- 10% penalty in case the tax is paid after the above mentioned 30 days.
- 20% penalty in case of non-payment or late payment of VAT and other WHTs.
- 5% interest related to the first month late tax payment and 0.5% interest for the following months.

Statute of limitations

The statute of limitations runs until the end of the following fourth year. This period may be extended in case of deficits or credits.

Topics of focus of tax authorities

The topics of focus of tax authorities depend on each specific situation (sector of activity, company size, etc.). However, it is very common to find the following points:

- Transfer pricing.
- Tax treatment of provisions.
- Taxation of indemnities and benefits granted to employees.

Other issues

Exchange controls

Foreign investors are allowed, following the accomplishment of some formalities, to freely transfer abroad the whole proceeds of their investments in Morocco (i.e. dividends, shares sale price, and liquidation income under the condition that the initial investment is realised in one of the foreign currencies listed by the Moroccan Central Bank).

However, some specific transfers of funds into and out of Morocco are subject to prior authorisations from the exchange control office.

Choice of business entity

The legal vehicles used by foreign companies for the purpose of setting up a business in Morocco are the branch and the subsidiary.

Under subsidiary form, the foreign entities generally opt for the corporation (SA) or the limited liability company (SARL).

The SARL is most adequate for companies with low investment capital while the SA is most appropriate for companies that are investing an important amount of capital. In general, the rules relating to the organisation and functioning of an SARL are more flexible than those required for an SA.

Mozambique

PwC contact

Ahmad Essak
PwC
Martins & Associados, Advogados, Sociedade Unipessoal, Lda
Avenida Vladimir Lenine, 174, 4º andar,
Edifício Millennium Park, Maputo
Mozambique
Tel: +258 21 350 400
Email: ahmad.essak@pwc.com

Significant developments

On 12 September 2017, the Mozambican Council of Ministers approved the Decree no. 70/2017 of 6 December that regulates the transfer pricing regime.

This regime contain rules with huge impact in the transactions between related entities, introduces some concepts, and lists the obligations related with information to be provided for transfer pricing purposes. Main topics include the following:

- The concept of 'related parties' is introduced for the purpose of transfer pricing.
- A number of methods are listed to determine the terms and conditions that would be established in compliance with the 'arm's-length principle'.
- Specific rules are established to be observed in the agreements to be entered between related parties.
- The list of information and documentation is established that the taxpayer should obtain, prepare, and maintain to justify the adopted transfer pricing method.

Taxes on corporate income

Corporate entities and other entities with headquarters or effective management in Mozambique (i.e. resident entities) are subject to corporate income tax (CIT) based on their worldwide income. On the other hand, corporate entities and other entities without headquarters or with a permanent establishment (PE) in Mozambique (i.e. non-resident entities) are only subject to CIT on the income earned in Mozambique.

CIT is levied on taxable profits, defined as accounting profits adjusted to comply with tax law rules, at a tax rate of 32%. Non-resident entities without a PE in Mozambique are only subject to withholding tax (WHT) in Mozambique in respect to income earned in Mozambique.

Specific tax regime and tax benefits for mining activity

Under the specific tax regime for mining activity, namely the tax on mining production (TMP), the value of mining products is determined by the price of the last sale by the taxable person, which must match with the price of reference in the international market, or, if there was no sale, is determined by the price of reference in the international market.

The rates for mining products are as follows:

- 8% for diamonds.
- 6% for precious metals, precious stone and semi-precious stone, and heavy sand.
- 3% for base metals, coal, and others.
- 1.5% for sand and stone.

Such rates can be reduced to 50% when the products are used in Mozambique for the development of local industry.

The settlement of the TMP is performed on the tenth day of the month that follows the production.

Surface tax (ST) is a tax due for entities undertaking a mining activity in the country. ST is based on the type of mining title and year of activities, with exception of the mining concession for mineral water that has an amount of 85,000 Mozambican metical (MZN) per mining title.

The additional settlement for the TMP and ST must be made within 30 days from the tax settlement.

At the end of each year, the taxpayer must report the yearly profit for each mining title separately.

The holder of the mining title also pays the tax on mining resource rent (TMRR), and, for its deduction, the concessionaire must provide information to the tax authorities on the accumulated net cash flows, corresponding to the taxable income.

The applicable rate for TMRR is 20%.

At the beginning of the fiscal year, each taxpayer must prepare a forecast to TMRR that must be regularly updated and presented by 31 May of the fiscal year. The TMRR is paid in two instalments (50% in August and 50% in November) based on the forecast.

The specific tax regime for mining activities was recently amended by Law no. 15/2017 of 28 December, which introduced the following changes:

Capital gains

- Capital gains arising from the onerous or gratuitous alienation, whether direct or indirect, of mining rights situated in Mozambique are considered as capital gains.
- Capital gains are taxed in full (32% rate), the liability for payment is jointly and severally liable between seller, purchaser, and holder of the mining right, and the respective tax must be paid within 30 days from date of alienation.

Stability clause

- Possibility to negotiate a tax stability for a period of ten years, effective upon a proven investment of 5 million United States dollars (USD).

US dollar accounts

- Possibility to adopt US dollars as the currency to present the company's accounts, subject to prior authorisation from the Minister of Finance, not subject to alteration during the life of the project.
- Companies are eligible if an investment equal to or greater than the equivalent of USD 500 million is made and more than 90% of its transactions are in US dollars.

Audited accounts

- Companies are required to have the accounts certified by an independent auditor.

Specific tax regime and tax benefits for oil and gas operations

In accordance with the specific tax regime and tax benefits for oil and gas operations, the obligation to pay the tax on oil production (TOP) is deemed to be at the time that the oil produced comes to the station defined in the concession agreement.

The settlement of the TOP is made by the taxpayer, which must submit the official form to the tax administration by the tenth day of the following month of the production, and, if the taxpayer fails to do so, the tax administration will make the necessary assessments based on the elements it has and the application of penalties established in article 22 of the mentioned regulation.

The TOP rates are the following: 10% for crude oil and condensate and 6% for natural gas and liquefied natural gas (LNG), which can be reduced by 50% in cases where the production is to be used for the development of local industry. It is considered local industry if the sale is for the national hydrocarbon company (ENH, E.P).

After the settlement made by the taxpayer, the tax administration shall evaluate the official model and can make corrections to it. If a correction is to be made, the tax administration has the prerogative to conduct an additional settlement, in which it must charge or cancel the calculated difference, and this amount must be corrected in 30 days from the tax assessment.

It is important to mention that the government has a period of time to notify the taxpayer to pay in kind, which is within 12 months in advance, starting from the first day of the month to which the tax relates, indicating the quantity of oil and delivery point.

In order to have benefits established in Law no. 27/2014 of 23 September, the taxpayer must apply to the Customs Services for the exemption. In this request, the applicant must attach the global list of the goods to import for the determination of eligible goods for the exemption.

The violation of this regulation is subject to impeditive sanctions, suspensive sanctions, and extinctive sanctions.

The specific tax regime for oil and gas was recently amended by Law no. 14/2017 of 28 December, which introduced the following changes:

Capital gains

- Capital gains arising from the onerous or gratuitous alienation, whether direct or indirect, of petroleum rights situated in Mozambique are considered as capital gains.
- Capital gains are taxed in full (32% rate), the liability for payment is jointly and severally liable between seller, purchaser, and holder of the petroleum right, and the respective tax must be paid within 30 days from date of alienation.

Stability clause

- Possibility to negotiate a tax stability for a period of ten years, effective upon a proven investment of USD 100 million.

US dollar accounts

- Possibility to adopt US dollars as the currency to present the company's accounts, subject to prior authorisation from the Minister of Finance, not subject to alteration during the life of the project.
- Companies are eligible if an investment equal to or greater than the equivalent of USD 500 million is made and more than 90% of its transactions are in US dollars.

Audited accounts

- Companies are required to have the accounts certified by an independent auditor.

Local income taxes

See Municipality taxes in the Other taxes section.

Corporate residence

Corporate residence is determined on the basis of a company's place of incorporation or effective management. Thus, all companies with headquarters or effective management in Mozambique are considered tax residents and are liable for CIT on their worldwide income.

Permanent establishment (PE)

Under the relevant internal legislation, a non-resident entity is deemed to have a PE in Mozambique whenever any of the following circumstances exists:

- It has premises or other fixed places of business through which industrial, trading, agricultural, rendering of services, or similar activities are totally or partially carried out.
- It has an office, branch, plant, workshop, mines, quarries, oil or natural gas wells, or other places of extraction of natural resources.
- It has a construction, installation, or assembly site when the duration of works exceed six months, including the activities of coordination, inspection, and supervision connected to these sites.
- It has persons or hired personnel, acting and dealing in Mozambique, who are not independent agents in the terms of the law but rather acting on behalf of the company with legal capacity to conclude contracts on its behalf and its name within the scope of the company's activities.

Other taxes

Value-added tax (VAT)

VAT is chargeable on the sale of most goods and services as well as on imports. The standard rate is 17%. Usually, VAT is recoverable by corporate entities, except for those engaged in special business activities (e.g. financial and insurance operations, leasing [exemption with restrictions], sale of immovable property, some exempt activities).

Customs duties

Customs duties are charged on importation of goods into Mozambique, and the applicable rates vary from 0% to 20%. Mozambique is part of the Southern African Development Community (SADC) protocol on commercial trade that exempts from customs duties some goods produced within the SADC region. However, in order to benefit from the exemption, the importer should provide proof of the origin of the said goods through the presentation of the certificate of origin of goods.

Mozambique also has signed agreements with the European Union (EU) based on which preferential rates are applicable on certain goods imported from such region.

Excise taxes

Excise duties are levied on certain goods manufactured locally or imported, which are identified in a specific table that is an integrant part of the Excise Duty Act and indicates the applicable rates. Amongst others, the said table includes goods such as tobacco, beer and other alcoholic beverages, vehicles, cosmetics, cloths, airplanes, boats, etc.

Examples of excise duty rates include the following:

- Alcoholic beverages: 40% (55% for wine of fresh grape).
- Tobacco: 75%.
- Air vehicles without engines: 35%.
- Boats and other recreational or sportive crafts: 35%.
- Cloths and respective accessories: 30%.

Property transfer taxes (SISA)

In Mozambique, a property transfer tax is charged on transfers of real estate, excluding the land, which is owned by the state. The rate of tax is 2% of the selling price of the building. When the beneficiaries live in a country with a privileged tax regime, the applicable rate is 10%.

Stamp duties and service charges

Various documents require the payment of stamp duties. Service charges are payable for the performance of certain services for official purposes, such as those rendered by public notaries. These duties vary generally from 0.03% to 50% on the amount of the transaction supported by the document to be stamped. In some other cases, the stamp duty comprises fixed amounts, ranging from MZN 0.50 to MZN 5,000.

Payroll taxes

All remunerations paid to employees are subject to monthly withholding as per the tax rates that are established in a specific schedule approved by law, depending on the gross monthly amounts received and number of dependents of the taxpayer. The employer is obligated to withhold at source the tax due by the employees.

The monthly withholding rates vary from 0% to 32%, being withheld definitively at source if the individual has only received employment income throughout the year and has already been subject to taxation at source by a Mozambican company. In all the other situations, and/or if the individual opts to file one's annual tax return, monthly income tax withholdings are deemed as payment on account for the final annual tax.

The amounts withheld by the company shall be delivered to the tax authorities up to the 20th day of the following month.

In case any tax is paid by the company on behalf of employees, such cost will not be accepted as a deductible cost unless this is treated as part of the remuneration cost and taxed at the hands of the employee as employment income.

Social security contributions

Social security contributions are payable by employers and employees on monthly remuneration. The aggregate rate of contribution is 7%, with 4% paid by the employer and the remaining 3% by the employee. No ceiling is applicable.

Municipality taxes

Municipality taxes that should be considered for corporate purposes include the following:

Municipality tax on real estate

The municipality tax on real estate is levied annually on the value of immovable assets situated within the municipality and owned or possessed by corporate entities. Effective tax rates range from 0.4% (for housing purposes) to 0.7% (for office purposes or mixed activities) of the building value, depending on the municipality.

Municipality tax on economic activities

The municipality tax on economic activities is levied on commercial or industrial activities carried out within a municipal territory. The tax depends on the activity being carried out, adjusted by coefficients, which are based on the zone and total area of the premises in square metres. In Maputo, this tax is calculated based on the following formula:

Maputo tax on economic activities = Basis rate x Index of category x Index of location x Index of area occupied

Where the basis rate is the applicable maximum amount of the national minimum salary of the specific activity sector (for the year 2018, the highest minimum wage varies from MZN 4,150 to MZN 11,897.60).

Where the index of category varies from 1.3 to 3.0, depending on the activity sector (e.g. commercial sector, industrial, rendering of services).

Where the index of the location varies from 1.3 to 1.5, depending on the location of the premises within the municipality.

Where the index of the area occupied varies from 1.2 to 1.5, depending on the nature of the activities and the space occupied by the premises.

Municipal vehicles tax

The municipal vehicles tax is levied on the use of specific vehicles (e.g. light and heavy vehicles less than 25 years old, motorcycles less than 15 years old, aeroplanes, and boats for private use). This tax is due by the owners who are residents of a municipality, regardless of the place of registration of the vehicle owned.

The rate varies, depending on specific criteria, such as type of fuel, engine capacity, period of registration, and weight.

This tax must be paid between January and March or within 30 days after the acquisition of the vehicle.

Branch income

From a tax perspective, branches are liable for Mozambican CIT as a PE; consequently, branches are subject to CIT on the income earned in Mozambique, being subject to tax at a rate of 32%. However, on the grounds that branches do not distribute dividends, the 20% WHT does not apply to the after-tax profits arising in Mozambique.

Income determination

Inventory valuation

All inventory valuation methods generally accepted according to international accounting principles are permitted for tax purposes, provided that the method is:

- used by the taxpayer consistently and
- based on arm's-length prices duly documented and effectively exercised.

Based on the above assumptions, last in first out (LIFO) and first in first out (FIFO) methods are allowed. Write-downs and depreciation of inventories are not allowed. Conformity between book and tax reporting is required.

Large companies began adopting International Financial Reporting Standards (IFRS) in 2010.

Capital gains

Capital gains less any capital losses derived from the sale or disposal of tangible fixed assets, including insurance indemnities received in case of accident, are taxed as part of normal income. If a taxpayer reinvests the sale proceeds within three tax years following the year of sale, the gain may be deferred until the end of the third year. A three-year reinvestment period may be accepted, provided a prior application is submitted to the Minister of Finance. However, if the taxpayer does not realise the reinvestment, the CIT that was not assessed during the three-year period will be assessed, along with compensatory interest.

Capital gains arising from indirect transfers of participating interests of assets located in the country are subject to taxation. Capital gains resulting from the disposal of shares, participating interests, or rights in general, between non-residents, whether direct or indirect, free or for consideration, are taxable in Mozambique, provided the transaction involves assets located in the country.

Dividend income

In the case of resident companies, income arising from dividends is excluded from taxable income, provided that the shares that a resident company holds in another resident company represents at least 20% of the total capital and are held for at least two consecutive years (or with an undertaking to hold the shares for this period). The same applies to income arising from risk capital companies and holding companies (*Sociedade Gestora de Participações Sociais* or SGPSs) or from subsidiaries as a result of the application of technical reserves in insurance companies. However, in the case of holdings, the percentage of share capital decreases to 10% and shares should be held for at least one year.

If the shareholding falls outside the parameters indicated above, the tax withheld (20%) constitutes a payment on account. A tax credit corresponding to 62.5% of the CIT is attributable to the gross-up dividend.

Interest income

Interest is subject to 20% WHT. In the case of foreign entities, the WHT is considered as a definitive tax. In the case of resident entities, it is considered as an advance of the final tax.

Interests on treasury bonds and public debt bonds listed on the stock exchange are subject to definitive WHT at 20%.

Royalty income

Royalty income is subject to 20% WHT. In the case of resident entities, royalty income is considered as an advance of the final tax. In the case of foreign entities, the WHT is considered as a definitive tax.

In case royalty income is earned by a foreign entity with tax residency in a country with which Mozambique signed a double taxation treaty (DTT), the tax rate can vary from 5% to 10%, depending on the DTT.

Foreign income

Mozambican resident companies are taxed on the total income earned on a worldwide basis. Please note that there is no provision on tax deferral in Mozambique in relation to income earned abroad. DTTs allow tax paid abroad to offset Mozambican CIT. Mozambique has signed DTTs with Botswana, India, Italy, Macau, Mauritius, Portugal, South Africa, the United Arab Emirates, and Vietnam.

Deductions

Depreciation

Depreciation is a deductible cost for CIT purposes according to the regulations of the CIT Code, subject to restrictive and specific rules.

The main legal principles regarding depreciation are as follows:

- The establishment of the applicable rates falls under the competence of the Ministry of Finance.
- The calculation is carried out on a straight-line basis in accordance with the rates applicable.

The main depreciation rates are:

Assets	Rate (%)
Tangible assets:	
Industrial buildings	2.00
Residential buildings	10.00
Office and administrative buildings	2.00

Assets	Rate (%)
Machinery and installations, air conditioning, and telephone equipment	12.50
Lifts	8.33
Tools	25.00
Laboratory equipment	12.50
Telex and interior equipment	10.00
Furniture and filing systems	10.00
Typewriters and accounting machines	16.66
Computers and printers	25.00
Computer servers	20.00
Warehouse and filing installations:	
Of concrete	5.00
Of wood	6.66
Of steel	8.33
Trucks	20.00
Automobiles	25.00
Intangible assets:	
Pre-operating expenses incurred prior to the commencement of business	33.33
Deferred expenses arising in connection with increases in share capital, changes in form of business enterprises, issuance of debentures, marketing and other studies, and financial expenses incurred for the acquisition or own production of fixed assets prior to completion	33.33
Patents	10.00
Manufacturing licences, concessionaire agreements, and similar rights	5.00 (1)
Trademark or premium of taking over leases of real estate	(2)

Notes

1. Subject to certain conditions set forth by the tax authorities.
2. Depreciation is only allowed in cases of effective reduction of value within the limits regarded as reasonable by the tax authorities.

Accelerated depreciation

New immovable assets, used for the furtherance of the business, may be depreciated by increasing to 50% the normal depreciation rates approved by law. This benefit is also granted to rehabilitated immovable assets, machinery, and equipment used in agro-industrial activities, provided there is an investment project duly approved by the government.

Goodwill

Although goodwill is considered for accounting purposes in Mozambique, there is no provision for goodwill in the tax legislation. Consequently, goodwill should be regarded as an intangible asset for tax amortisation purposes.

Interest expenses

A basic principle regarding acceptance of costs and expenditures requires that these are necessary for the company's/branch's activity (i.e. indispensable to generate the profits and gains obtained by the company). This concept includes, among others, interest and other financial costs that are, in principle, also deductible for tax purposes unless the tax authorities assume that the interest rate applicable in one transaction is higher than the applicable rate applicable in the market, with the exceeding amount being subject to taxation.

Interest and other types of remuneration above the Maputo Interbank Offered Rate (MAIBOR) plus two percentage points at time of payment on the shareholders' loans are not tax-deductible costs.

Provisions and impairment losses

In Mozambique, companies are able to create all the provisions necessary and relevant for the normal course of business. However, for tax purposes, only the provisions and impairment losses listed below can be deducted as a cost:

- Bad debts.
- Depreciation of stock.
- Ongoing judicial procedures.
- Credit institutions/Insurance companies.
- Reconstruction of mines.
- Rehabilitation of land.

Any other provisions reflected in the company's accounts will not be accepted as tax-deductible costs.

Bad debt

With regards to provisions for bad debts, companies are only allowed to deduct 1.5% per year (and 6% accumulated) of the provisions created for bad debts.

Charitable contributions

Donations can be deducted as costs for tax purposes, provided specific requirements are met and the beneficiaries thereof are:

- Social and cultural organisations that, acting without lucrative intent, carry out actions in art, education, science, health, preservation and restoration of cultural patrimony, or social activities: Donations can be deducted up to the limit of 5% of the previous year's taxable income.
- The Mozambican state: Donations can be fully deducted.

It is important to note that this deduction is not applicable automatically, as it is necessary to present proof that the donation was previously communicated to and approved by the Ministry of Finance.

Fines and penalties

Fines and other penalties paid due to any infringement, which do not have a contractual basis, including interest, are not accepted as tax-deductible costs.

Taxes

Taxes paid in relation to the activities of a company are tax deductible, excluding CIT itself.

Net operating losses

Carryback of losses is not allowed in Mozambique. On the other hand, losses may be carried forward for a period of five consecutive years.

Payments to foreign affiliates

Any payments to non-residents are allowed as deductible expenses, provided that the amount does not exceed normal rates and that the taxpayer is able to prove that a business transaction was carried out with the non-resident company. The tax authorities may redetermine taxable income if, due to a special relationship between the Mozambican and non-resident companies, certain conditions existed that allowed a calculation of profit that differed from the profit that would have been calculated without the existence of such relationship (i.e. the arm's-length principle).

Group taxation

There are no group taxation provisions available in Mozambique. Each member of a group of companies preparing consolidated accounts for accounting purposes must file separate tax returns in order to be taxed on its profits on a stand-alone basis.

Transfer pricing

The tax authorities may proceed with the necessary corrections for assessing the profits for tax purposes whenever:

- by virtue of special relations between the taxpayer and other entities, different conditions from those that should be normally agreed upon between independent entities have been established, and
- in consequence of those conditions, the profits for accounts purposes are different from those that would have resulted had such special relations not existed.

The corrections above shall be equally applicable whenever the profits for accounts purposes regarding non-resident entities are different from those that should have resulted if the non-resident entity were a separate entity carrying out similar activities in similar conditions and with total independence.

The corrections referred to above will also be applicable to entities that carry out activities simultaneously subject and not subject to the CIT Code, provided that similar evasion regarding such activities is verified.

Whenever these corrections are applicable to one taxpayer of CIT (Taxpayer 1) by virtue of special relations with another taxpayer of CIT or of individual income tax (Taxpayer 2), the adjustments reflecting the corrections made in the calculation of the profits for tax purposes of Taxpayer 1 shall be applicable in the assessment of the profits for tax purposes of Taxpayer 2.

Although the definition of 'special relation' had been previously introduced into the transfer pricing regime foreseen in the CIT Code, the specific transfer pricing regulations were only recently approved and entered into force on 1 January 2018.

This regime contain rules with huge impact in the transactions between related entities, introduces some concepts, and lists the obligations related with information to be provided for transfer pricing purposes. Main topics include the following:

- The concept of 'related parties' for the purpose of transfer pricing is defined in more detail.

- A number of methods are listed to determine the terms and conditions that would be established in compliance with the 'arm's-length principle'.
- Specific rules are established to be observed in the agreements to be entered between related parties.
- The list of information and documentation is established that the taxpayer should obtain, prepare, and maintain to justify the adopted transfer pricing method.

Thin capitalisation

Where loans from related foreign corporations exceed twice the corresponding equity in the borrowing Mozambican corporation, the interest on the excess borrowing is not tax deductible. Thin capitalisation rules are in force.

According to the Mozambican thin capitalisation rules, subsidiaries are considered and treated as thinly capitalised companies if and to the extent that, as at any date of the tax period, any of their relevant debt-to-equity ratios exceed a factor of two.

'Relevant debt-to-equity ratio', within the context of the law, means the ratio between, on one hand, the amount of direct and indirect indebtedness of a Mozambican company towards a specially related non-resident, and on the other, the amount of equity that this non-resident holds in the Mozambican company.

A 'specially related non-resident', for these purposes, is an entity with special links with another, which includes any entity that:

- holds, either directly or indirectly, at least 25% of the share capital of the Mozambican company
- though holding less than 25%, has a significant influence on its management, or
- both taxpayer and non-resident entity are under control of the same entity, which has participation in their share capital, either directly or indirectly.

Under any of these circumstances, interest paid to such specially related non-residents is not allowed as a tax-deductible cost for the Mozambican company in the part that corresponds to the excessive indebtedness, unless the company can prove that it could have obtained the same level of indebtedness at comparable conditions from unrelated parties, taking into account the nature of its business, its sector of activity, dimension, and other relevant criteria.

Controlled foreign companies (CFCs)

Profits obtained by companies residing outside Mozambique and subject therein to a regime that is clearly more favourable shall be allocated to shareholders residing in Mozambique in proportion to their respective shareholding and irrespective of whether or not they are distributed, provided that the shareholder holds a direct or indirect shareholding of at least 25% or at least 10% if more than 50% of a non-resident company's capital is held directly or indirectly by resident shareholders.

A company is considered subject to a clearly more favourable tax regime if residing in a free-tax territory, where income grows free of tax or the effective tax rate is equal to or less than 60% of the Mozambican annual CIT rate, which is 32%.

Tax credits and incentives

Foreign tax credit

Resident companies are allowed to deduct a credit correspondent to a tax paid abroad. The tax credit to be deducted should be equal to the lower of the amount of Mozambican corporate tax imputed to income obtained abroad or the amount of foreign tax effectively paid.

Inbound investment incentives

In addition to the guarantees of ownership and remittance of funds abroad, the Mozambican government also guarantees the concession of tax and customs incentives. The incentives vary depending on whether a company is starting a new venture or rehabilitating one and also on the nature of the project to be developed. The incentives discussed in this section are the generic benefits applicable to standard projects. Certain specific benefits also may be applicable depending on the activities of the industry for the investment project (e.g. agriculture, tourism, science and technology).

Exemption from import duties

An exemption from customs duties and VAT applies upon the importation of capital equipment listed in Section K of the Customs Tariff Schedule.

Tax credit for investment

Investments in new fixed tangible assets used in the operations of an enterprise within the Mozambican territory may benefit from an investment tax credit equal to 5% to 10% of the total investment realised, for a period of five years. This investment tax credit is offset against CIT, up to the total amount of the tax assessment. This incentive does not apply when the investment in tangible fixed assets is with respect to the construction, acquisition, restoration, or extension of buildings, passenger vehicles, furnishings, and articles of comfort and decoration, leisure equipment, advanced technology, or other assets not directly associated with the production activity carried out by the enterprise. When the project is located outside Maputo City, this tax credit is increased to up to 10%.

Advanced technology incentive

The amount invested in specialised equipment classified as advanced technology during the first five years from the date of commencement of activity may be deducted from taxable income for purposes of calculating CIT, up to a maximum of 10% of taxable income.

Professional training incentive

Investment expenditures for professional training of Mozambican workers shall, up to a maximum amount of 5% of the taxable income (10% in case of professional training related to new/high technology equipment), be deductible from taxable income for the purposes of calculating CIT during the first five years from the date of the commencement of such activities.

Exploration incentives

During a period of five years counting from the date of exploration (i.e. the date the implementing company starts the activities approved under the investment project terms of authorisation), the following expenditures may be treated as deductible expenditures for purposes of calculating CIT:

- In the case of undertakings carried out in the City of Maputo, 110% of the value of expenditures for the construction and rehabilitation of roads, railways, airports, telecommunications, water supply, electric energy, and other works of public utility is deductible for tax purposes.
- In the case of undertakings carried out in the rest of the provinces, an amount equal to 120% of the expenditures referred to in the paragraph above is deductible for tax purposes.
- In the case of expenditures for the acquisition for personal ownership of works of art and other objects that are representative of Mozambican culture, as well as activities that contribute to the development of such works, 50% of the expenditures are deductible for tax purposes.

Withholding taxes

Any non-resident entity carrying out economic activities in Mozambique, without being registered as a taxpayer, is liable to a final and definitive 20% WHT that is applied on all income earned. An exception exists for (i) telecommunications and international transport, as well as the respective installation and assembly of equipment made by those same entities, (ii) construction and rehabilitation of production, transport, and distribution of electricity infrastructures in the rural zones under the public projects of rural electrification; and (iii) maritime vessels freight for fishing and coasting activities, all of which are subject to a 10% WHT rate.

Both Mozambican resident and non-resident recipients are liable to tax on dividends at a tax rate of 20%.

Tax treaties

In accordance with Mozambique's DTTs, the following tax rates are applicable to dividends, interest, and royalties:

	WHT (%)			
Recipient	**Dividends**	**Interest**	**Royalties**	**Capital gains on shares**
Non-treaty	20	20	20	20
Treaty:				
Botswana	0/12 (4, 5)	10	10	0
India	7.5	10	10	0
Italy	15	10	10	0
Macau	10	10	10	0
Mauritius	8/10/15 (1, 2, 3)	8	5	0
Portugal	10	10	10	(6)
South Africa	8/15 (1, 3)	8	5	0
United Arab Emirates	0	0	5	0
Vietnam	10	10	10	0

Notes

1. The 8% rate applies if the recipient of the dividends is a company that has more than 25% of the share capital in the company that distributes the dividends.
2. The 10% rate applies if the recipient of the dividends is a company that has less than 25% of the share capital in the company that distributes the dividends.
3. The 15% rate applies in all other cases.

4. The 0% rate applies if the recipient of the dividends is a company that has more than 25% of the share capital in the company that distributes the dividends.
5. The 12% rate applies in all other cases.
6. Gains are only taxed in the other state if assets of the entity sold are composed of more than 50% immovable assets.

Tax administration

Taxable period

The tax year is, as a general rule, the calendar year. A different tax year may be applied (if previously authorised by the Ministry of Finance) for companies that carry out activities that justify a different year (e.g. held at more than 50% by a company with a different year) or non-resident companies with a PE in Mozambique.

Tax returns

CIT assessment must be prepared by the companies on annual returns, based on the accounting records and on adjustments prescribed by the tax regulations.

The submission of the annual tax return is due by the last working day of May for companies using the calendar year as their tax year. For companies with a tax year that is not coincident with the calendar year, the presentation of the tax return is due by the last day of the fifth month subsequent to the respective year-end.

Payment of tax

Mozambican companies and non-resident companies with a PE in Mozambique must pay CIT as follows:

- In three advance payments (based on 80% of the preceding tax year's CIT), due in May, July, and September of the respective tax year; or, if the tax year chosen is not coincident with the calendar year, in the fifth, seventh, and ninth months of the respective tax year.
- In three special advance payments (based on 0.5% of the preceding year's turnover less the advance payments made in previous years, which cannot be less than MZN 30,000 or more than MZN 100,000) due in June, August, and October of the respective tax year; or, if the tax year chosen is not coincident with the calendar year, in the sixth, eighth, and tenth months of the respective year.

Final tax should be paid by the last working day of May or the fifth month after the tax year-end in cases where a different tax year is adopted.

Tax audit process

The tax authorities may carry out an inspection whenever necessary. Normally, the inspection occurs after the taxpayer files a refund application or on a random basis.

Statute of limitations

The statute of limitations period is five years, but the company documents must be kept for ten years.

Topics of focus for tax authorities

Based on our experience and through assistance provided to several clients during audit reviews, we noted that the Inspectors are focusing their attention on the following aspects:

- Confirmation of the amounts reported on the monthly VAT forms and the annual tax return to determinate if the figures are the same or not or if there are non-declared sales.
- Confirmation of whether the non-deductible costs were added back to the tax computation for CIT purposes.
- Deductibility of VAT.
- Analysis of supplier invoices to confirm the right of deduction of VAT.
- Analysis of the company's sales for verification of whether there are undisclosed sales.
- Authorisation for electronic invoicing.
- VAT on self-assessment.
- Mandatory books, namely, ledger (*diário*), day book (*razão*), and inventory and balance (*inventário e balanço*).
- WHT on payments to non-resident entities.
- Thin capitalisation.

Namibia, Republic of

PwC contact

Johan Nel
PricewaterhouseCoopers
344 Independence Avenue
Windhoek, Namibia
Tel: +264 61 284 1122
Email: johan.nel@pwc.com

Significant developments

There have been no significant corporate tax developments in Namibia during the past year.

Taxes on corporate income

Namibia has a source-based tax system, which means that income from a source within Namibia or deemed to be within Namibia will be subject to tax in Namibia, unless a specific exemption is available.

Income earned by foreign companies from a source within or deemed to be within Namibia will be subject to tax in Namibia. In such cases, the foreign entity must determine whether it is obligated to register a local entity or branch. A foreign company is required to register a local company (local subsidiary) or an external company (branch) if it has established a place of business in Namibia.

In the event that Namibia has entered into a double tax agreement (DTA) with the country where the foreign company resides, such entity will only be taxable in Namibia if it has established a permanent establishment (PE) in Namibia. If a PE exists, only the portion of income attributable to the PE will be subject to tax in Namibia.

Non-residents who do not have a place of business in Namibia may, however, be subject to withholding taxes (WHTs). *See the Withholding taxes section for more information.*

Calculation of taxable income

Gross income	The total amount, in cash or otherwise, received by or accrued to any person from a source within, or deemed to be within, Namibia, excluding receipts of a capital nature (provisions for specific inclusions in gross income and amounts deemed to be from a Namibian source exist).
Less: Exemptions	The Income Tax Act provides for certain amounts to be specifically exempt from tax.
Equals: Income	
Less: Deductions	Expenditures and losses actually incurred to generate income may be deducted, provided that these expenses are not of a capital nature.
	The Income Tax Act specifically provides for certain expenditures to be deductible and allows a deduction for capital allowances.
	Only expenses incurred to generate 'income' may be deducted. Expenses incurred to generate income exempt from tax are not deductible. Apportionment should be considered when expenses are incurred to generate both income and exempt income.
Equals: Taxable income	Taxable income is taxed at the corporate tax rate *as set out under the Tax rates section below.*

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Tax rates

The corporate tax rates are summarised below:

Entity	2017/18 tax rate (%)
Domestic companies and close corporations (excluding entities mentioned below)	32
Branches of foreign companies	32
Registered manufacturers (only applicable for the first ten years of registration)	18
Diamond mining companies and companies that render services to such companies in connection with diamond mining	55
Mining companies (other than diamond mining companies) and companies that render services to such companies in connection with mining	37.5
Long-term insurers (the rate is applied to gross investment income)	12.8
Petroleum income tax rate	35

Local income taxes

Namibia does not levy income taxes at the local, state, or provincial levels.

Corporate residence

The Namibian tax system is based on source and not on residency. Income derived or deemed to be derived from sources within Namibia are subject to tax.

The source is determined as the place where income originates or is earned, not the place of payment. If goods are sold pursuant to a contract entered into within Namibia, the source of income is deemed to arise in Namibia, regardless of the place of delivery or transfer of title.

Certain types of income arising outside Namibia may, in the hands of a domestic company, be deemed to arise in Namibia and be taxed as such. Examples are interest and certain copyright royalties arising outside Namibia.

Permanent establishment (PE)

The term 'permanent establishment' is not defined or recognised in the Income Tax Act, but it is included in all DTAs concluded with Namibia.

A PE includes a fixed place of business. The establishment of a local entity or branch will usually create a PE, although the provisions of the related tax treaty should be considered.

Except for the PE concept embodied in the tax treaties and WHT on service provisions, corporate residence is of little tax significance since transactions are taxed on a source basis.

For the list of DTAs, please see the Withholding taxes section.

Other taxes

Value-added tax (VAT)

VAT is a transaction tax, and the implications will vary for different transactions. Some transactions are taxed at a rate of 15% or 0% while other transactions are exempt from VAT. Input tax deductions may be claimed, subject to certain provisions.

VAT is levied on every taxable supply by a registered person. A taxable supply means any supply of goods or services in the course or furtherance of a taxable activity. A taxable activity means any activity that is carried on continuously or regularly in Namibia that involves the supply of goods or services for consideration.

VAT is payable on all imports for home consumption in Namibia, subject to certain exemptions (e.g. in terms of a technical assistance agreement, donations to the state, goods of which the local supply is zero-rated).

Import VAT is payable on the greater of the free on board (FOB) value plus 10% or the market value. The payment may be deferred in terms of an import VAT account registered with the Directorate of Inland Revenue to the 20th day of the month following the month of importation. Penalties of 10% per month or part of a month and 20% interest on outstanding import VAT, according to the Customs Asycuda reports on import VAT account numbers, are levied by the Directorate of Inland Revenue.

A company/branch is required to register for VAT if it supplies goods or services on a regular basis for consideration and if its taxable supplies (standard rated and zero-rated supplies) exceed 500,000 Namibian dollars (NAD) in any 12-month period.

The Value-added Tax Act, 2000 (as amended) also makes provision for voluntary VAT registration, provided that taxable supplies exceeded or will exceed NAD 200,000 in any 12-month period and the applicant is in good tax standing, has a fixed place of business, and will keep acceptable accounting records.

A registered VAT vendor is entitled to deduct input tax credits paid in the course of taxable supplies made to such person, provided that a tax invoice is available to support the input tax deduction. It is also important to take note of deemed input tax deductions and prohibited input deductions. Import VAT paid may be deducted only as input tax if the import was in furtherance of a taxable activity and the required documentation (e.g. stamped customs entries) is held by the importer.

VAT returns are due within 25 days following the month to which the VAT relates.

The Inland Revenue system automatically selects VAT periods for audits. An audit will focus on deposits made into bank statements and whether VAT was charged as required. It will also focus on whether tax invoices meet the criteria as set out in the VAT Act.

Shareholders of companies and members of close corporations may be held liable jointly or severally for VAT debts of the company or close corporation.

Customs and excise duties

Namibia is a member of the Southern African Customs Union (SACU), and customs duties are not levied on intra-SACU trade (i.e. between Botswana, Lesotho, Namibia, South Africa, and Swaziland).

Customs duties are payable according to the Common Customs Tariff of SACU on imports from outside SACU. Preferential duty rates apply on imports from Southern African Development Community (SADC) countries, while goods may be imported free of customs duties from Zimbabwe in terms of the Namibia-Zimbabwe Free Trade Agreement.

Excise duties are levied on local production of excisable products (e.g. cigarettes, liquor, fuel) and are included on most excisable products imported from another SACU country in terms of the duty at source procedures. Identical excise duty rates are applied throughout the SACU. Importation of excisable products from outside the SACU is subject to customs duties and specific customs duties.

Current specific excise/customs duty rates for the above-mentioned products are as follows:

- Cigarettes: NAD 7.76/10 cigarettes.
- Beer: NAD 95.03/litre absolute alcohol (AA).
- Spirits (whisky, rum, brandy, gin, vodka, etc.): NAD 190.08/litre AA.
- Petrol: 3.909 cents/litre.
- Diesel and biodiesel: 3.817 cents/litre.
- Illuminating kerosene (paraffin): 3.817 cents/litre.

Namibia intends to introduce additional duties on certain excisable products at a rate of 5%. Enabling legislation has not been drafted yet.

Ad valorem excise/customs duties are levied on certain products (e.g. motor vehicles, perfumes) in addition to the normal customs duties.

Ad valorem excise/customs duty rates are as follows for the above-mentioned goods:

- Motor vehicles: ([0.00003 x A] - 0.75)%, with a maximum of 25%, where 'A' is the recommended retail price, exclusive of VAT.
- Perfumes: 7%.

Customs fuel levies are payable on petrol, diesel, and illuminating kerosene. The current customs fuel levies are as follows:

- Petrol: NAD 0.25/litre.
- Diesel: NAD 0.25/litre.
- Illuminating kerosene (paraffin): NAD 0.25/litre.

An increase in fuel levies of another NAD 0.25/litre was announced by the Minister of Finance during March 2018, but legislation has not been promulgated yet in this regard.

Fuel levies payable to the Namibian Road Fund Administration (RFA) may be claimed back for certain non-road operations (e.g. mining, farming, construction) under certain conditions (e.g. NAD 0.9 of the current RFA fuel levy of NAD 1.14 used in mining operations may be claimed back from the RFA).

Surety in the form of a provisional payment, bank, or insurance guarantee is required by Customs on most temporary imports to cover import VAT and customs duties (if applicable).

It is possible to import goods that are subject to customs duties into registered Customs' bonded warehouses, where goods are kept for later use. In this case, the payment of duties may be deferred until the goods are taken out of the bonded warehouse for home consumption or acquitted if the goods are subsequently exported.

Namibia has introduced the AsycudaWorld customs clearing system, which is a web-based, Java-enabled system utilised at points of entry. All land border posts, airports, and harbours are linked to the AsycudaWorld system.

Property taxes

Property taxes are levied by municipalities based on municipal valuations of properties.

Transfer duty

Transfer duty is payable at 12% of the acquisition value where property is acquired by non-natural persons (a sliding scale applies to property purchases by natural persons). While it is normally payable by the buyer, the agreement for the sale of the property may determine the person liable to pay these costs.

Amendments to the Transfer Duty Act were proposed to include transfer duty on the sales of shares/members interest in property/mining right-owning entities. These amendments have not been enacted or promulgated per the Government Gazette.

Stamp duty

Certain transactions may attract stamp duty. The amount of stamp duty payable differs and is based on the nature of every individual transaction.

The basic transactions can be summarised as follows:

Transaction	Stamp duty
Agreements or contracts (other than those where duty is specifically provided for in the Act)	NAD 5
Lease agreement or lease	The stamp duty will be based on lease payments, together with additional considerations specified in the lease agreement
Transfer or issue of marketable securities and other share transactions	NAD 2 for every NAD 1,000 or part thereof of the value/ consideration, depending on the specific transaction
Transfer deed relating to immovable property purchased	NAD 12 for every NAD 1,000 or part thereof of the value/ consideration, depending on the specific transaction

Additional stamp duty of NAD 5 for every NAD 1,000 of debt secured is payable on the registration of a bond over immovable property.

Annual duty

Annual duty is levied in terms of the Companies Act at an amount of NAD 4 for every NAD 10,000 (or part thereof) of the issued share capital of a company, with a minimum duty of NAD 80 *per annum*. Issued share capital includes ordinary shares, share premium, and preference shares.

Since a branch does not issue share capital, the issued share capital of the head office will be used to calculate the annual duty payable in Namibia.

Payroll taxes

Any remuneration paid by an employer to an employee will place an obligation on the employer to withhold employee taxes. The employee taxes are due on the 20th day of the month following the month during which the payment was made. *The tax tables applicable to individuals are provided in the Taxes on personal income section of Namibia's Individual tax summary at www.pwc.com/taxsummaries.*

Late payment of employee taxes will result in penalties of 10% per month and interest of 20% *per annum*. Both penalties and interest are limited to the amount of tax outstanding.

Social security contributions

Social security contributions are payable by the employer for employees working in Namibia. Social security is based on a principle of 50/50 contributions from employers and employees. It is calculated at 0.9% of earnings, with a minimum monthly contribution of NAD 2.70 and a maximum monthly contribution of NAD 81 each (i.e. the total maximum monthly contribution of both the employer and the employee will amount to NAD 162).

Workmen's compensation

Under the Employees Compensation Act, employers are required to contribute to a fund that provides cash benefits for industrial injury, disability, and death. Contribution rates vary according to inherent occupational risk, from less than 1% in most low-risk commercial/administrative occupations to 8% for high-risk sectors (drilling, tunnelling, and rock-blasting). Employees whose annual remuneration exceeds NAD 81,300 are normally excluded from coverage.

Branch income

Branch income that is received or accrued from a source within, or deemed to be within, Namibia is taxable in Namibia based on the normal corporate tax rules.

A branch is regarded as an extension of its foreign head office. A branch may, therefore, not deduct fees paid to its foreign head office (unless a tax treaty provides for such a deduction), as it is argued that a branch cannot transact with itself. Reimbursement of actual expenses may, however, be deducted, subject to the normal deduction rules.

Transfer pricing rules apply to transactions between a branch and cross-border related parties.

Income determination

Inventory valuation

Inventory is valued at cost for tax purposes in Namibia.

The last in first out (LIFO) basis of valuation is only accepted if:

- written consent was obtained from the Minister of Finance before such taxpayer renders one's income tax return for the first year of assessment for which the LIFO basis was adopted by the taxpayer, and
- various conditions are met by the taxpayer as determined by the Minister of Finance.

Capital gains

Other than profits on the sale of mining and petroleum licences/rights, and the transfer of any share/interest (whether directly or indirectly) in a company owning a mineral/ petroleum licence or right, capital gains are not taxed in Namibia.

Mining and Petroleum licences/rights

The sale, donation, expropriation, cession, grant, or any other alienation or transfer of ownership of any share or member's interest in a company that holds a mineral or petroleum licence/right, whether directly or indirectly, is included in the definition of gross income. The definition also specifically includes a sale of shares in a company for a licence or right to mine minerals or oil and gas in Namibia.

Dividend income

Dividends received are exempt from tax. Non-resident shareholders tax (NRST) should be withheld on dividends declared to non-resident shareholders. *For more information on NRST, see the Withholding taxes section.*

Interest income

Namibian companies are taxed on interest received from a Namibian source. Persons other than Namibian companies are subject to a final WHT on interest from banks and unit trusts. Interest paid to non-residents is subject to WHT on interest. *For more information, see the Withholding taxes section.*

Partnership income

The relevant partners of a partnership are regarded as the responsible taxpayers and not the partnership itself.

In practice, the assessment of a partnership is treated like that of a private business. The partnership is first treated as a business entity on its own in terms of income and expenditure. The profit or loss at the end of the year is then allocated to the individual partners. If they derived a profit from the partnership, it is added to their other non-partnership income; or if the partnership made a loss, the partners have the right to deduct it from their non-partnership income.

Rental income

Companies are taxed on rental income received from a Namibian source.

Royalty income

Companies are taxed on royalty income received from a Namibian source.

Foreign income

Corporate tax in Namibia is determined on the source basis; consequently, only income from a Namibian source or deemed Namibian source is subject to corporate tax.

Deductions

Capital allowances

The cost (including finance charges) of vehicles, machinery, equipment, and other articles used by the taxpayer to generate income is deductible in three equal annual allowances claimable from the date the costs were incurred and not only when the asset was taken into use. No apportionment is allowed where an asset is held for less than 12 months.

Buildings used by the taxpayer to generate income qualify for an initial allowance of 20% of erection costs in the year they are first brought into use. Thereafter, an annual allowance of 4% is deductible for the 20 following years. Additions to existing buildings (not alterations, improvements, or repairs) qualify for the same 20% and 4% deductions. Note that the allowance is calculated on the cost of erection and not the cost of acquisition. The allowance is also only calculated for a period of 21 years from the date of erection.

Registered manufacturers can claim 20% of the erection costs of the building in the year it is first brought into use, and 8% for ten years thereafter (*see Manufacturing in the Tax credits and incentives section*).

Mining exploration and initial development expenditure incurred before commencement of mining production are deductible in full in the first year that income is generated from the mine. Subsequent developmental expenditures are written off in three equal annual allowances.

Capital allowances may also be deducted with respect to patents, trademarks, leasehold improvements, etc.

A recovery or recapture of allowances previously claimed should be included in the gross income of a taxpayer in the event that the allowance is recovered or recaptured by way of disposal, withdrawal from trade for non-trade purposes, or removal from Namibia. The recapture is calculated at the market value of the asset.

Goodwill

The amortisation of goodwill is not deductible for tax purposes and should be excluded from calculating taxable income.

Start-up expenses

Mining

The Income Tax Act allows exploration and initial development expenditure to be deducted in full during the year in which the mine commences with production. All exploration expenses incurred before the commencement of mining is therefore deferred until such time that the mine commences production.

All other industries

The general deduction formula determines that only expenses incurred in the production of income that are not of a capital nature may be claimed for tax purposes. The Income Tax Act defines income as ‘income in any year or period of assessment’.

Interest expenses

A deduction is allowed in respect of financing expenditure incurred in respect of any financing agreement for the acquisition of fixed assets utilised in ordinary trade activities.

The general deduction formula determines that only expenses incurred in the production of taxable income that are not of a capital nature may be claimed for tax purposes. Therefore, where the interest can be argued to be incurred in the production of income, the interest expense will be deductible.

Thin capitalisation legislation may be applied to interest paid on cross-border, related-party loans (*see Thin capitalisation in the Group taxation section*).

Bad debt

The Income Tax Act allows a specific deduction for bad debts, provided that the amount written off was previously included in the taxpayer's income.

Furthermore, the Income Tax Act prohibits the following deduction from taxable income:

"any loss or expense, the deduction of which would otherwise be allowable, to the extent to which it is recoverable under any contract of insurance, guarantee, security, or indemnity".

Accordingly, where the bad debts are recoverable under insurance, the amounts are not deductible for tax purposes.

Charitable contributions/donations

A specific deduction for donations is allowed, provided that it is made to a registered welfare organisation or an approved educational institution. It is a further requirement that a certificate should be issued by the welfare organisation/educational institution in respect of the donation and submitted with the entity's tax return in order for it to qualify as a deduction. However, this deduction may not create or increase a tax loss.

Fines and penalties

In terms of practise applied by Inland Revenue, tax penalties and fines are not deductible for tax purposes.

Taxes

Taxes levied on income are not allowed as a deduction.

Net operating losses

Assessed tax losses may be carried forward indefinitely if the company continues the same trade. Tax laws do not allow losses to be transferred to other members of a group, and anti-avoidance provisions may be triggered by transactions designed to transfer or exploit assessed losses.

If a company ceases to trade for a full fiscal year, its assessed losses are forfeited, regardless of subsequent activities. Assessed losses are also reduced in the event of a compromise agreement with creditors.

Namibian tax legislation does not provide for the carrying back of tax losses.

Payments to foreign affiliates

For information on payments to foreign affiliates, please refer to the Branch income section, Group taxation section, and Withholding taxes section.

Group taxation

No taxation of combined operations is allowed in Namibia where operations are conducted in a group.

Transfer pricing

The Minister of Finance confirmed that enforcing transfer pricing laws are high on their agenda and that they are working with, amongst others, the Finish Revenue Authority and the African Tax Administration Forum.

Namibian transfer pricing legislation is aimed at enforcing the arm's-length principle in cross-border transactions carried out between connected persons. It is based on guidance set out by the Organisation for Economic Co-operation and Development (OECD) Transfer Pricing Guidelines for multinational enterprises and tax administrations.

The objective of the transfer pricing legislation is to provide taxpayers with guidelines regarding the procedures to be followed in the determination of arm's-length prices, taking into account the Namibian business environment. It also sets out the Minister of Finance's views on documentation and other practical issues that are relevant in setting and reviewing transfer pricing in international agreements.

The transfer pricing legislation is essentially aimed at ensuring that cross-border transactions between companies operating in a multinational group are fairly priced and that profits are not stripped out of Namibia and taxed in lower tax jurisdictions. The legislation achieves this by giving the Minister of Finance (who essentially delegates to the Directorate of Inland Revenue) the power to adjust any non-market related prices charged or paid by Namibian entities in cross-border transactions with related parties to arm's-length prices and to tax the Namibian entity as if the transactions had been carried out at market-related prices.

In terms of the normal penalty provisions of the Income Tax Act, the Directorate of Inland Revenue may levy penalties of up to 200% on any amount of underpaid tax. Consequently, the Inland Revenue may invoke such provisions in the event that a taxpayer's taxable income is understated as a result of prices that were charged in affected transactions, which were not carried out at arm's length. Further, interest will be charged on the unpaid amounts at 20% *per annum*.

Thin capitalisation

The Minister of Finance may, if any amount of financial assistance provided by a foreign connected person is excessive in relation to a company's fixed capital (being share capital, share premium, accumulated profits, whether capital or not), disallow, for income tax purposes, the deduction of any interest or other charges payable by the Namibian person on the 'excessive portion' of the financial assistance provided by the foreigner.

There is no guidance that provides a definition for 'excessive'. Therefore, each case should be considered on the basis of the facts provided. The 3:1 ratio is applied by the Bank of Namibia for exchange control purposes, and this guideline is therefore deemed suitable until otherwise determined by Inland Revenue.

Controlled foreign companies (CFCs)

CFC rules are not applicable in Namibia.

Tax credits and incentives

Foreign tax credit

A tax credit may be claimed in Namibia for foreign taxes paid on dividends, royalties, and similar income, limited to the amount of tax payable in Namibia. Proof of the taxes paid in the foreign jurisdiction should be provided to Inland Revenue in order to claim the tax credit.

Manufacturing

The following is a high-level comparison of the different tax treatments for normal companies and registered manufacturing companies. This description does not consider the specific conditions that should be met in order for these incentives to be utilised.

Note that only the building allowance and preferential tax rate (*as set out below*) may create or increase a tax loss.

Building allowance

A building allowance is deductible with respect to buildings used for purposes of trade.

For normal companies, the allowance is calculated as 20% of the cost of erection in the year in which the building enters service and 4% during the 20 years that follow.

For registered manufacturing companies, the allowance is calculated as 20% of the cost of erection in the year in which the building enters service and 8% during the ten years that follow.

Employee cost allowances

For normal companies, expenditures for remuneration and training of employees are deductible for tax purposes.

For registered manufacturing companies, an additional allowance of 25% of remuneration and training of employees that are directly engaged in the manufacturing process are deductible. However, this allowance may not create or increase a tax loss. Deductions sought for training should be approved by the government.

Export expenditure allowance

For normal companies, export expenditures incurred are deductible for tax purposes.

For registered manufacturing companies, an additional allowance of 25% of costs incurred in an export country, in order to export Namibian manufactured goods to such country, may be deducted. However, this allowance may not create or increase a tax loss.

Export allowance

Any taxpayer (not required to be a registered manufacturer) that derives income from the export of goods manufactured in Namibia, excluding meat or fish, may deduct an export allowance equal to 80% of the taxable income derived from the export of manufactured goods.

Gross profit derived from the export of manufactured goods as a percentage of total gross profit should be used to determine the percentage of taxable income that is used to calculate the export allowance. However, this allowance may not create or increase a tax loss.

Transport allowance

For normal companies, land-based transport costs (i.e. transport by road or rail) are deductible for tax purposes.

For registered manufacturing companies, an additional allowance of 25% of land-based transport cost in respect of material and components used in the manufacturing process or equipment imported for direct use in the manufacturing process may be deducted. However, this allowance may not create or increase a tax loss.

Preferential tax rate

The normal tax rate for companies other than mining companies or registered manufacturers is 32%.

The tax rate for a registered manufacturer for taxable income with respect to the manufacturing activity for which they are registered is 18%. This preferential rate is applicable for a period of ten years from registration as a manufacturer.

Export Processing Zones (EPZs)

In order to become an EPZ company, a particular entity must register with the EPZ governing body and obtain approval from Inland Revenue.

An EPZ company qualifies for the following benefits:

- The company is exempt from corporate tax.
- No VAT is payable on the sale of goods or services rendered in the zone.
- No VAT is payable on goods imported or manufactured in the zone.
- No customs or excise duty is payable on goods imported into the zone.
- No stamp duty or transfer duty is payable in relation to the transfer of movable or immovable property in the zone.
- A 75% refund of expenditures incurred in training Namibian citizens.
- Some of the provisions in the Labour Relations Act do not apply in the zone.

Enterprises must comply with the following requirements in order to qualify for EPZ status:

- Goods must be exported to countries other than countries in the SACU.
- Industrial employment must be created or increased.
- Namibia's export earnings must be increased as a result of manufactured goods exported.

EPZ companies may not be involved in retail business operations.

Withholding taxes

WHTs are applicable where certain payments are made to non-Namibian residents.

Dividends

Dividends declared by a Namibian company to a non-resident holding company are subject to NRST, a WHT. NRST is payable at the standard rate of 10% if at least 25% of shares are held in the Namibian company and the shareholder is a company. In all other cases, the NRST payable is 20%. DTA relief may be available.

NRST is payable within 20 days after declaration of a dividend.

Interest

A WHT of 10%, calculated on the gross amount of interest, is payable on interest accruing to any person, other than a Namibian company, from a registered Namibian banking institution or unit trust scheme. The tax withheld is a final tax, and the financial institution is responsible to withhold the tax.

Namibian companies, however, are taxed on interest at the corporate tax rate.

It is the obligation of the financial institution to withhold the tax and pay such tax to the revenue authorities.

WHT of 10% is payable on the interest accruing or paid to a non-resident. The WHT is payable within 20 days after the interest payment was made. Interest is deemed to be paid on the earlier of the date on which the interest is paid or becomes due and payable.

Treaty relief may be available.

Royalties or similar payments

WHT on royalties are payable when a Namibian company pays a royalty to a non-resident. WHT is levied at a fixed rate of 10% and is payable within 20 days after the end of the month during which the liability for payment is incurred.

A royalty includes payment for the use or right to use any patent or design, trademark, copyright, model, pattern, plan, formula, or process, or any other property or right of a similar nature. A royalty also includes the imparting of any scientific, technical, industrial, or commercial knowledge or information for use in Namibia. The nature of fees payable should therefore be carefully considered in order to determine whether the relevant amount represents a royalty. It also include payments made for the use or right to use industrial, commercial, or scientific equipment (i.e. rentals).

Treaty relief may be available.

Services

Any Namibian resident paying a management or consultancy fee to a non-resident must withhold tax at 10%.

Management and consulting fees are specifically defined as: “any amount payable for administrative, managerial, technical, or consultative services or any similar services, whether such services are of a professional nature or not”.

A branch is specifically included in the definition of a resident.

The rate is subject to DTA relief, where applicable.

Fees paid to non-resident directors and foreign entertainers are subject to WHT of 25%. No treaty relief is available.

Summary of WHT payable

The WHT rates and treaty relief for Namibian DTAs can be summarised as follows. Note that the tax treaties contain certain requirements that should be met before the reduced tax rate may be applied.

The definitions of dividends, interest, and royalties in the various treaties should also be considered.

	WHT (%)				
Recipient	**Dividends**	**Interest**	**Royalties**	**Management, administrative, technical, and consulting fees**	**Directors fees**
Non-treaty	10/20 (1)	10 (2)	10	10	25
Treaty:					
Botswana	10	10	10	10 (7)	25
France	5/15 (3)	10	10	0	25
Germany	10/15 (3)	0	10	0	25
India	10	10	10	10	25
Malaysia	5/10 (1)	10	5	5	25
Mauritius	5/10 (1)	10	5	0	25
Romania	10 to 15 (4)	10	5	0	25
Russian Federation	5/10 (5)	10	5	0	25
South Africa	5/15 (1)	10	10	0	25
Sweden	5/15 (3)	10	5	10 (7)	25
United Kingdom	5/10/15 (6)	N/A	5	0	25

Notes

1. Lower rate applies where at least 25% of shares are held in the Namibian company. Higher rate applies otherwise.
2. Namibian companies are taxed at the corporate tax rate on interest received.
3. Lower rate applies where at least 10% of shares are held in the Namibian company. Higher rate applies otherwise.
4. Rate depends on shareholding.
5. Lower rate applies where at least 25% of shares are held in the Namibian company and recipient directly invested at least 100,000 United States dollars (USD) in the equity capital of the company paying the dividend. Higher rate applies otherwise.
6. 5% where at least 50% of shares are held in the Namibian company. 10% where at least 25% of shares are held in the Namibian company. 15% otherwise.
7. Local rates are lower than the 15% rate per the treaty.

Mining royalties

The Minerals (Prospecting and Mining) Act levies a royalty on minerals won or mined by a licence holder in Namibia, based on the table below:

Group of minerals	Market value of minerals levied as a royalty (%)
Rough diamonds	10
Rough emeralds, rubies, and sapphires	10
Unprocessed dimension stone	5
Gold, copper, zinc, and other base metals	3
Semi-precious stones	2
Nuclear fuel minerals	3
Industrial minerals	2
Non-nuclear fuel minerals	2
Oil and gas	5

Source: *www.chamberofmines.org.na/index.php/mining-tax-regime*

Tax administration

Taxable period

The tax year for companies and close corporations is aligned with the financial year.

Tax returns

The income tax return is due within seven months after the financial year-end of the company and can be extended to five months after the seventh month due date, provided that no other prior year income tax returns are outstanding.

Payment of tax

The first provisional payment for income tax is due within six months from the commencement of the company's financial year (at least 40% of tax payable at year-end is paid on first submission). The second provisional payment is due on/before the last day of the respective tax year (at least 80% of tax payable at year-end is paid on second submission). The final provisional payment is due within seven months after the financial year-end of the company.

WHT on dividends are due within 20 days after declaration of the dividend.

WHT on royalties or similar payments are due within 20 days after the end of the month during which the liability for payment of the royalty was incurred.

WHT on services is payable to Inland Revenue within 20 days after the end of the month during which the amount was deducted or withheld.

WHT on interest is due within 20 days after the end of the month during which the interest was paid. Interest is deemed to be paid on the earlier of actual payment or when the interest becomes due and payable.

It is advised that if relief is available under the DTA, a nil form should still be submitted when payment is made to non-residents. The amount of DTA relief claimed should be disclosed on the form submitted.

No cheques are accepted as a means of payment at Inland Revenue.

Penalties and interest

The penalties and interest due for late submissions and payments can be summarised as follows:

Tax area	Reason	Penalty	Interest (per annum)
1st provisional tax	Late submission	NAD 100 per day penalty for outstanding provisional tax returns	None
	Late payment	10% per month *	20%*
	Under-estimation	Up to 100% of underpaid amount	None
2nd provisional tax	Late submission	NAD 100 per day penalty for outstanding provisional tax returns	None
	Late payment	10% per month *	20%
	Under-estimation	Up to 100% of underpaid amount	None
Income tax return	Late submission	10% one-off penalty if taxes were paid late	None
	Late payment	Where tax return is submitted late, then 10% once-off penalty	20%
	Omission/incorrect statement	Up to 200%	20%
WHT	Late payment	10% per month *	20%
	Late submission	None	None

* Both penalties and interest are limited to the amount of taxes outstanding.

Anti-avoidance

Note that the Income Tax Act, Act 24 of 1981, contains an anti-avoidance section, Section 95, which enables the Receiver of Revenue to disregard the implications of a transaction or scheme if it can be proven that:

- such transaction or scheme had been entered into to avoid or postpone the payment of any duty or levy imposed by the Act
- such transaction or scheme was entered into or carried out by means or in a manner that would not normally be employed in the entering into or carrying out of a transaction, operation, or scheme of the nature of the transaction, operation, or scheme in question, or has created rights or obligations that would not normally be created between persons dealing at arm's length under a transaction, operation, or scheme of the nature of the transaction, operation, or scheme in question, and
- such transaction or scheme was entered into or carried out solely or mainly for the purposes of the avoidance or the postponement of liability for the payment of any tax duty or levy.

The Receiver of Revenue can, at its sole discretion, impose Section 95 on any transaction or scheme, which will place the onus on the taxpayer to prove that any/all of the requirements noted above will not be applicable to the transaction or scheme.

Tax audit process

The tax audit process is a discretionary process instituted by Inland Revenue. Inland Revenue will inspect the validity of invoices and whether such expenses are deductible for tax purposes.

Generally, income tax audits are initiated on amounts being refunded to taxpayers, with the focus being on high-value refunds.

Subsequent to an audit, a letter will be sent to the taxpayer indicating changes made to the return of income.

In the event that the taxpayer agrees with the outcome, an assessment is issued. Where the taxpayer is not satisfied with the outcome, an objection may be lodged within 90 days.

Statute of limitations

There is no statute of limitation in respect of claiming a refund for excess income tax paid. Debts to the state prescribe after 30 years.

Topics of focus for tax authority

Topics of focus for the tax authority include import VAT, general compliance, transfer pricing, payment of subsistence and travel allowances to employees, and employee taxes.

Nigeria

PwC contact

Taiwo Oyedele
PricewaterhouseCoopers
Landmark Towers
5B, Water Corporation Road
Victoria Island
Lagos
Nigeria
Tel: +234 1 271 1700 ext. 50002
Email: taiwo.oyedele@pwc.com

Significant developments

Federal government increases excise duties on tobacco and alcoholic products

The President of Nigeria, on the recommendation of the Tariff Technical Committee of the Ministry of Finance, approved an increase to the excise duties on tobacco and alcoholic beverages effective from 4 June 2018.

The increase will be introduced in phases over a three-year period from 2018 to 2020 to moderate the impact of the increase on the price of the products.

The Voluntary Assets and Income Declaration Scheme (VAIDS)

On 29 June 2017, the Acting President of Nigeria formally launched the VAIDS. The Scheme commenced on 1 July 2017 and lasted for a period of nine months. The VAIDS is an initiative designed to encourage voluntary disclosure of previously undisclosed assets and income for the purpose of payment of all outstanding tax liabilities.

The legal basis for the Scheme is an Executive Order signed into law by the Acting President and a Memorandum of Understanding signed between the Federal Inland Revenue Service (FIRS) and the State Internal Revenue Services. Taxpayers who made full and honest declarations will enjoy waiver of interest and penalty, immunity from prosecution, confidentiality, exemption from tax audits for the periods covered, and flexible payment of tax due for up to three years.

The Scheme was applicable to all persons (individuals, companies, executors, trustees, partnerships, etc.) liable to tax in Nigeria. Taxes covered include corporate income tax (CIT), personal income tax (PIT), petroleum profit tax (PPT), capital gains tax (CGT), value-added tax (VAT), stamp duties, tertiary education tax, and information technology levy. Taxpayers who failed to participate in the Scheme will be investigated and if found culpable will be subject to criminal prosecution and subsequent inclusion in a 'name and shame' list.

The Scheme has been implemented by the FIRS in collaboration with all 36 State Internal Revenue Services and the Federal Capital Territory (FCT) IRS. The government will gather intelligence locally and through various international conventions and multilateral agreements to obtain information required for prosecution of defaulting taxpayers or those who make false declarations. An international forensic and asset tracing company has also been engaged to support this process.

Nigeria signs double taxation treaty (DTT) with Singapore

Nigeria and Singapore have signed a treaty for the avoidance of double taxation on income and capital gains tax between the two countries.

When ratified by the National Assembly, the treaty will provide enhanced reliefs to investors and businesses between both countries to eliminate or reduce the incidence of double taxation in addition to exchange of information and mutual assistance on tax matters.

Nigeria ratifies DTT with Spain

On 26 January 2018, the Nigerian government announced the ratification of the Nigeria-Spain DTT.

The DTT was initially negotiated in June 2009 and presented to the National Assembly for ratification in 2016, alongside DTTs with Sweden and South Korea.

Nigeria signs Organisation for Economic Co-operation and Development (OECD) Multilateral Instruments to Curb Tax Avoidance and Evasion

On 17 August 2017, Nigeria became a signatory to two major international multilateral instruments to address tax avoidance and evasion. These are the OECD's Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (BEPS) ('Multilateral Instrument' or 'MLI') and the Multilateral Competent Authority Agreement for the Common Reporting Standard (CRS MCAA).

The MLI will cause amendments to be made to Nigeria's existing tax treaties. The aim of these amendments is to limit treaty abuse and other forms of tax avoidance. The CRS MCAA will potentially allow the Nigerian tax authorities to automatically receive financial information on Nigerian nationals who hold bank accounts in any of the nearly 100 foreign jurisdictions that have signed the CRS MCAA.

The list of pioneer industries has been amended and suspension on grant of the incentive lifted

The federal government of Nigeria has lifted the suspension of the pioneer status incentive after embarking on a review of the incentive to address identified lapses, abuses, and loopholes. On 2 August 2017, the Federal Executive Council approved a new Pioneer Status Incentive Policy based on the comprehensive review of the scheme. As part of the new regime, 27 new industries have been added to the list of eligible industries, while new Application Guidelines have been issued.

Revised Guidelines on Export Expansion Grant (EEG) Scheme

The EEG Scheme was introduced in 1986 through the Export (Incentives and Miscellaneous Provisions) Act (amended in 1992) to stimulate non-oil exports. The scheme is administered by the Nigerian Export Promotion Council (NEPC). The scheme was suspended in 2014 to ensure a review and redesign in order to prevent abuse and ensure that the scheme is fit for purpose.

Before the suspension of the scheme, the incentive was granted in the form of a negotiable duty credit certificate (NDCC) utilisable by exporters for payment of import and excise duties. The NDCC has now been replaced with the Export Credit Certificate (ECC), which can be used to settle all federal government taxes, such as

VAT, withholding tax (WHT), CIT, etc. It can also be used to purchase government bonds and repay government credit facilities and debts due to the Assets Management Company of Nigeria (AMCON).

To encourage export of value added and processed/manufactured products, exporters are divided into four categories with maximum applicable EEG rates as indicated below:

- Fully manufactured products: 15%.
- Semi-manufactured products: 10%.
- Processed/intermediate products: 7.5%.
- Merchants/primary agricultural commodities: 5%.

The revised guidelines were released and effective from 1 January 2017.

Taxes on corporate income

Resident companies are liable to CIT on their worldwide income while non-residents are subject to CIT on their Nigeria-source income.

The CIT rate is 30%, assessed on a preceding year basis (i.e. tax is charged on profits for the accounting year ending in the year preceding assessment).

Investment income paid by a Nigerian resident to a non-resident is sourced in Nigeria and subject to WHT at source, which serves as the final tax.

In respect of business profits, a non-resident company that has a fixed base or a permanent establishment (PE) in Nigeria is taxable on the profits attributable to that fixed base. As such, it is required to register for CIT and file its tax returns. Any WHT deducted at source from its Nigeria-source income is available as offset against the CIT liability.

Small company rates

For small companies in the manufacturing industry and wholly export-oriented companies with turnover not exceeding 1 million Nigerian naira (NGN), the CIT rate is reduced to 20% in the first five calendar years of operation.

Petroleum profit tax (PPT)

PPT is a tax on the income of companies engaged in upstream petroleum operations *in lieu* of CIT.

The PPT rates vary as follows:

- 50% for petroleum operations under production sharing contracts (PSC) with the Nigerian National Petroleum Corporation (NNPC).
- 65.75% for non-PSC operations, including joint ventures (JVs), in the first five years during which the company has not fully amortised all pre-production capitalised expenditure.
- 85% for non-PSC operations after the first five years.

Tertiary education tax

Tertiary education tax is imposed on every Nigerian resident company at the rate of 2% of the assessable profit for each year of assessment. The tax is payable within two months of an assessment notice from the FIRS. In practice, many companies pay the tax on a self-assessment basis along with their CIT.

For companies subject to PPT, tertiary education tax is to be treated as an allowable deduction. For other companies, income/profit taxes are not deductible in arriving at taxable income. Non-resident companies and unincorporated entities are exempt from tertiary education tax.

Minimum tax

Minimum tax is payable by companies having no taxable profits for the year or where the tax on profits is below the minimum tax. However, companies in the first four calendar years of business, companies engaged in the agriculture business, or companies that have foreign equity capital of at least 25% are exempt from minimum tax.

Minimum tax payable is calculated as follows:

- Where the turnover of the company is NGN 500,000 or below, minimum tax is the highest of:
  - 0.5% of gross profits
  - 0.5% of net assets
  - 0.25% of paid-up capital, or
  - 0.25% of turnover of the company for the year.
- Where the turnover is higher than NGN 500,000, minimum tax is the highest of the calculations listed above plus 0.125% of turnover in excess of NGN 500,000.

Alternative tax on distribution

There is a tax on distribution where a company pays a dividend in excess of its taxable profit. Such a company will be charged tax on the dividend paid as if the dividend is the taxable profit of the company for that year of assessment.

Enforcement of advance CIT on interim dividends

The leadership at the FIRS has commenced the strict enforcement of advance CIT on interim dividends. Companies that declare interim dividends are required by the law to be subject to advance CIT at 30% of the interim dividend paid. The advance CIT is creditable against the final CIT computed at the end of the year.

Alternative tax on deemed profit

The law allows the FIRS to assess and charge companies to tax on a fair and reasonable percentage of turnover under the following circumstances:

- When the trade or business produces no assessable profits.
- When the trade or business produces assessable profits that, in the opinion of the Board of the FIRS, are less than might be expected to arise from that trade or business.
- When the true amount of the assessable profits of the company cannot be ascertained.

Local income taxes

CIT is payable only to the federal government. State governments collect income taxes of individuals and unincorporated entities, while local governments are only allowed to collect levies and rates but not income tax.

Corporate residence

A company is considered resident in Nigeria if such a company is registered or incorporated under the Companies and Allied Matters Act. This means that a company formed outside Nigeria under the laws in force in the foreign territory will be considered as a non-resident company for CIT purposes.

Permanent establishment (PE)

Fixed base is not defined but is generally considered to be a location with a degree of permanence. The following would generally not be considered to be a fixed base:

- The use of facilities solely for the purpose of storage or display of goods or merchandise.
- The use of facilities solely for the collection of information.

Other activities that could trigger a tax presence in Nigeria include a dependent agency arrangement, execution of a turnkey project, or artificial arrangements between related parties.

Other taxes

Value-added tax (VAT)

The standard VAT rate is 5%. Based on the 2018 Budget Speech delivered by the President, there was no specific proposal to change the VAT rate in 2018.

Zero-rated items include non-oil exports, goods and services purchased by diplomats, and goods and services purchased for use in humanitarian donor-funded projects. Exempt items include plants and machinery for use in export processing zones (EPZs) or free trade zones (FTZs), basic food items, medical products and services, pharmaceutical products, books and educational materials, and exported services. Commissions on stock market transactions are also exempted from VAT.

Government agencies and oil and gas companies are required to deduct at source VAT charged by their suppliers and remit it to the tax authority. All other organisations are required to collect VAT charged on their invoices from their customers for filing and payment to the tax authority.

The FIRS has implemented a platform for auto tracking and remittance of VAT known as FIRS VAT-Collect. Some of the users of the system are domestic airlines (for instant remittance of VAT on their ticket sales) and other retailers.

Customs duties

Customs duties in Nigeria are levied only on imports. Rates vary for different items, typically from 5% to 35%, and are assessed with reference to the prevailing Harmonized Commodity and Coding System (HS code).

Nigeria

Excise duties

Excise duty is applicable on beer and stout, wines, spirits, cigarettes, and homogenised tobacco manufactured in or imported into Nigeria at 20%.

Excise duties on tobacco and alcoholic beverages has increased effective 4 June 2018. The new regime applies only to tobacco and its products (such as cigarettes) and alcoholic beverages (beers and stouts, spirits, and wines) as follows:

Tobacco

For 2018, in addition to the 20% ad valorem rate, a specific rate of NGN 1 will be paid on each cigarette stick (NGN 20 per pack of 20 sticks).

In 2019, the specific rate will increase to NGN 2 per stick (NGN 40 per pack of 20 sticks). In 2020, the specific rate will increase to NGN 2.90k per stick (NGN 58 per pack of 20 sticks).

Beer and stout

With respect to alcoholic beverages, no ad valorem rate is applicable.

In 2018, NGN 0.30k per centilitre (cl) is payable on beer and stout. In 2019 and 2020, NGN 0.35k per cl will be payable.

Wines

In 2018, NGN 1.25k per cl is payable on wines. In 2019 and 2020, NGN 1.50k per cl will be payable.

Spirits

In 2018, NGN 1.50k per cl is payable on spirits. In 2019, NGN 1.75k per cl will be payable. In 2020, NGN 2.00k per cl will be payable.

Property taxes

Property taxes in Nigeria are usually levied annually by the state government with varying rates depending on the state and the location of the property within the state. The two major property taxes are governor's consent fee and land registration fee. In Lagos (which is the economic hub of Nigeria), governor's consent fee, land registration fees, and other levies payable to the state give rise to a total levy of 3% of the fair value of the land.

Also, Right of Occupancy fee and tenement rates are chargeable by state and local government authorities.

Stamp duties

Under the Stamp Duty Act, stamp duty is payable on any agreement executed in Nigeria or relating, whatsoever, to any property situated in or to any matter or thing done in Nigeria. Instruments that are required to be stamped under the Stamp Duties Act must be stamped within 40 days of first execution.

Stamp duty is chargeable either at fixed rates or *ad valorem* (i.e. in proportion to the value of the consideration), depending on the class of instrument. Stamp duty is imposed at the rate of 0.75% on the authorised share capital at incorporation of a company or on registration of new shares.

All deposit banks and financial institutions are required to charge stamp duties of NGN 50 on every eligible transaction above NGN 1,000. There are exemptions for transactions between accounts held by the same bank customer and for salary accounts.

Capital gains tax (CGT)

Gains accruing to a chargeable person (individual or company) on the disposal of chargeable assets shall be subject to tax under the CGT Act at the rate of 10%. There is no distinction between long-term and short-term gains and no inflation adjustment to cost for CGT purposes.

All forms of assets, including options, debts, goodwill, and foreign currency, other than those specifically exempt, are liable for CGT. The gains on the disposal of shares are exempt from CGT.

CGT is applicable on the chargeable gains received or brought into Nigeria in respect of assets situated outside Nigeria.

Capital losses are not allowed as an offset against chargeable gains accruing to a person from the disposal of any assets.

Payroll contribution

Under the Employee Compensation Act, all employers were required to contribute 1% of their payroll cost in the first two years of commencement of the Act (2010 to 2012). Subsequently, assessments were expected to be issued by the Nigeria Social Insurance Trust Fund, the body empowered to administer and implement the Act. In practice, a contribution of 1% of payroll continues to apply.

Pension contributions

Employers with at least 15 employees are required to participate in a contributory pension scheme for their employees. The minimum contribution is 18% of monthly emolument (with a minimum contribution of 10% by the employer and 8% by the employee). If the employer decides to bear all the contribution, the minimum contribution is 20% of monthly emolument. Mandatory and/or voluntary contributions by the employers are deductible for CIT purposes.

National Housing Fund (NHF) contributions

NHF contributions are applicable to Nigerian employees earning a minimum of NGN 3,000 *per annum*. The employer is required to deduct 2.5% of basic salary from employees earning more than NGN 3,000 *per annum* and remit it to the Federal Mortgage Bank of Nigeria within one month of deduction.

Information technology levy

A company with an annual turnover of NGN 100 million or more is required to pay 1% of its profit before CIT as information technology tax. This levy is deductible for CIT purposes when paid (typically in the year of assessment following that in which the payment was made).

This tax is applicable to:

- Banking and other financial activities, including capital and money market operators, mortgage institutions, and micro-finance banks.

- Insurance activities, including brokerage.
- Pension fund administration, pension management, and related services.
- GSM service providers and telecommunication companies.
- Cyber and internet services providers.

Levy on contracts awarded in the upstream oil and gas sector

The Nigerian Content Development Act was introduced to increase the level of Nigerian participation in the oil and gas industry. The Act imposes a levy of 1% on every contract awarded in the upstream oil and gas sector of the economy. Any violation of the Act is liable for a fine of 5% of the contract value and may result in outright cancellation of the contract.

Branch income

Except in rare circumstances, it is illegal for a non-resident company to operate through a branch in Nigeria. The Nigeria-source income of a non-resident company is taxable at the CIT rate of 30% (*see the Taxes on corporate income section for more information*).

Income determination

The following income is subject to CIT in Nigeria:

- Profits accruing in, derived from, brought into, or received in Nigeria in respect of any trade or business.
- Dividends, interest, royalties, discounts, charges, or annuities.
- Rent or any premium arising from the right granted to any person for the use or occupation of any property, where applicable.
- Any source of annual profits or gain not falling within the preceding categories.
- Fees, dues, and allowances (wherever paid) for services rendered.
- Any amount of profits or gains arising from the acquisition or disposal of short-term money instruments like federal government securities, treasury bills, treasury or savings certificates, debenture certificates, and treasury bonds.

Inventory valuation

The first in first out (FIFO) valuation method is commonly used. Average and standard cost methods are also allowed, but last in first out (LIFO) is not permitted. Other than the accounting requirement in the local generally accepted accounting principles (GAAP), there are no special statutory provisions for inventory valuation.

Capital gains

Capital gains are not subject to CIT, but may be subject to CGT. *See Capital gains tax in the Other taxes section for more information*.

Dividend income

Dividends received by a Nigerian resident company from another Nigerian resident company are taxable at source (*see the Withholding taxes section for more information*) and not subject to further tax.

Dividends received from non-resident companies are taxable except if repatriated into Nigeria through government-approved channels (i.e. any financial institution authorised by the Central Bank of Nigeria to deal in foreign currency transactions).

Dividends received from small manufacturing companies are exempt for CIT purposes during the first five years of operation. Dividends from investments in wholly export-oriented businesses are also exempt.

Stock dividends

Stock dividends (bonus shares) are not taxable at source or included in the taxable income of the recipient company.

Interest income

Interest received by a Nigerian company is liable to tax at the CIT rate of 30% with tax withheld at 10% available as an offset against the final tax liability.

Interest on government bonds is tax exempt. Interest on foreign currency domiciliary accounts is also exempt.

Interest payable to a non-resident investor is liable to WHT at 10%, which is the final tax. Recipients who are resident in a country with a DTT with Nigeria enjoy a reduced rate of 7.5%.

Royalty income

Royalties received by a Nigerian company are liable to tax at the CIT rate of 30%. WHT at 10% is available as an offset against the final CIT liability.

Royalties received by a Nigerian company from non-resident payers are taxable except if repatriated into Nigeria through government-approved channels.

Non-resident companies who receive Nigerian royalties are subject only to WHT at 10%, which is reduced to 7.5% if a treaty is in place with Nigeria.

Other significant items

The following entities' income or profit is exempt for CIT purposes:

- Statutory or registered friendly societies.
- Co-operative societies registered under any ecclesiastical, charitable, or education establishments of a public character.
- Profit of a company established within an EPZ or FTZ (*see the Tax credits and incentives section*).
- Profit of a registered trade union.
- Export profits, as long as proceeds are brought into Nigeria through government-approved channels and invested in raw materials, spare parts, and plant and machinery (*see Export incentives in the Tax credits and incentives section*).

Foreign income

A Nigerian resident company is taxable on its worldwide income. On the other hand, a non-resident company is subject to tax only on income derived from Nigeria.

Dividends, interest, rents, and royalties earned abroad and brought into Nigeria through government-approved channels are exempt from Nigerian tax; otherwise, the income is taxable at the CIT rate of 30% and tertiary education tax at 2%. Government-approved channels mean the Central Bank of Nigeria and any bank or financial institution authorised to carry out foreign exchange transactions.

Taxable foreign income earned by a Nigerian tax resident entity cannot be legally deferred.

Deductions

Expenses are deductible for CIT purposes if they are wholly, reasonably, exclusively, and necessarily incurred for the business or trade.

Depreciation

Capital allowances are calculated on a straight-line basis. Capital allowances claimable in any year are restricted to two-thirds of assessable profits for all companies, except companies in the manufacturing and agricultural sectors, which are excluded from this restriction.

The following are the capital allowance rates on fixed assets (qualifying expenditures):

Qualifying expenditure	Initial allowance (%)	Annual allowance (%)
Building (industrial and non-industrial)	15	10
Furniture and fittings	25	20
Plant expenditure (1)	50/95	0/25
Mining expenditure	95	0
Plantation equipment	95	0
Motor vehicle (2)	50/95	0/25
Ranching and plantation expenditure	30	50
Housing estate expenditure	50	25
Research and development (R&D)	95	0

Notes

1. 95% initial allowance for plant used in agricultural production; others 50%.
2. 95% initial allowance is granted for motor vehicles used for public transportation if the company has a fleet of at least three buses; all other motor vehicles 50%.

The initial allowance is first deducted, and the balance is written off on a straight-line basis over a fixed period, depending on the rates of annual allowance. There is a requirement that assets not yet disposed of cannot be fully written off in the books. A nominal amount of NGN 10 per asset must be retained in the books till the assets are disposed of. However, where 95% has been claimed as an initial allowance, the 5% balance is the value that must be maintained in the books until the final disposal of the asset.

When assets are sold, the proceeds over the tax written-down value are taxed at 30% to the extent of the allowances already claimed.

Goodwill

There is no tax deduction for goodwill.

Start-up expenses

Start-up expenses are not specifically stated as non-deductible in the tax law, but, in practice, they are usually not allowed by the tax authority. This is based on the assumption that start-up expenses are not directly attributable to any taxable income of the company, which is a fundamental condition for tax deductibility of expenses.

Interest expense

Interest on money borrowed and employed in producing taxable income is a deductible expense. There is currently no thin capitalisation regulation in Nigeria, but general anti-avoidance rules are usually applied to limit deductible interest on related-party loans.

Bad debt

Bad debt incurred in the course of trade is deductible.

Charitable contributions

Donations are deductible, subject to the provisions of the law.

Fines and penalties

Any punitive payments for default or violation of law are expressly not deductible for CIT purposes. In practice, this is usually extended to include default surcharges and other avoidable fines.

Taxes

Any tax on income or profit is not deductible except where such tax was paid on profit earned outside Nigeria. In this case, if the source country has no DTT with Nigeria, the foreign tax paid is allowed as a deduction for CIT purposes. State and local taxes (business rates) and levies may be deducted from taxable income.

Other significant items

Other deductible expenses include the following:

- Sum payable by way of interest on capital borrowed.
- Rent for the period.
- Expenses incurred in respect of salary and wages.
- Expenses incurred for repair of assets.
- Liability incurred for purpose of trade.
- R&D costs.

Net operating losses

Losses can be carried forward indefinitely, except for insurance companies, where losses can only be carried forward for four years. Losses made from one line of business cannot be relieved against another line of business. Losses cannot be carried back.

Payments to foreign affiliates

Payments considered to be artificial are not deductible for CIT purposes. Royalties, management fees, and technical fees require the approval of the National Office for Technology Acquisition and Promotion (NOTAP) for exchange control purposes and for tax deduction. NOTAP-approved royalties and technical fees are limited to a range of 1% to 5% of net sales, while management fees are limited to a range of 2% to 5% of profit before tax, and consultancy fees are limited to 5% of total project cost. Technical fees are limited to approved man-hour rates.

Trademark fees are disallowed where the trademark owner has more than 75% equity participation in the local company.

Group taxation

There are currently no provisions for group taxation, group relief, or group filing of tax returns in Nigeria. Each legal entity within a group is treated as distinct and separate for CIT purposes.

Transfer pricing

The transfer pricing regulations are applied in a manner consistent with the arm's-length principle in Article 9 of the United Nations (UN) and OECD Model Tax Conventions on Income and Capital and the OECD Transfer Pricing Guidelines for Multi-national Enterprises and Tax Administrations. However, where there are inconsistencies between the model conventions and the local legislation, the provisions of the relevant local tax laws shall prevail.

The rules cover all transactions between 'connected taxable persons', which is broadly defined to include individuals, PEs created by head offices, subsidiaries, associates, partnerships, joint ventures, and trusts to the extent that they participate directly or indirectly in the management, control, or capital of another, or both of which have common control, management, or shareholders. Specifically, the rules apply to sale and purchase of goods; lease or sale of tangible assets; licensing, transfer, or use of intangible assets; provision of services; lending or borrowing of money; manufacturing arrangements; and any transaction that may affect profit and loss or any other incidental matter.

The rules are applicable to both domestic and cross-border related-party transactions.

Thin capitalisation

Nigeria has no thin capitalisation rules. However, interest charged between related parties is expected to reflect arm's-length transactions. The tax authority may disallow any related-party interest considered to be excessive.

Note that the tax authorities are currently considering introducing a formal thin capitalisation rule with a likely 3:1 debt-to-equity ratio.

Controlled foreign companies (CFCs)

There are no specific CFC rules in Nigeria.

Tax credits and incentives

Nigeria has various tax incentives intended to encourage investment in key sectors of the economy, as follows.

Tax holidays

Pioneer companies investing in specified industrial activities may, on application, be granted a tax holiday for three years initially, which may be extended for up to two years upon satisfaction of specified conditions. Examples of economic activities that may be granted a tax holiday include glass and glassware manufacturing, manufacturing of fertilisers, and steel manufacturing.

A new company that engages in the mining of solid minerals is exempt from tax for the first three years of its operation.

Rural location incentives

Certain incentives are available to companies located in rural areas. The incentives take the form of tax reductions at graduated rates for enterprises located at least 20 kilometres from available electricity, water, and tarred roads.

Export incentives

Export processing zones (EPZs) and free trade zones (FTZs) are locations within Nigeria designated by the government as free areas where export trade activities can be carried on free of tax and foreign exchange restrictions.

A company that is engaged in an approved manufacturing activity in an EPZ and incurs expenditures in its qualifying building and plant equipment is entitled to 100% capital allowance in that year of assessment.

In addition, a company that is 100% export oriented but located outside an EPZ will enjoy a three year tax holiday, provided the company is not formed by splitting up or reconstruction of an already existing business and the export proceeds form at least 75% of its turnover.

Profits of companies whose supplies are exclusively inputs to the manufacture of products for export are exempt from tax. Such companies are expected to obtain a certificate of purchase of the input from the exporter in order to claim tax exemption.

Where plant and machinery are transferred to a new company, the tax written down value of the asset transferred must not exceed 25% of the total value of plant and machinery in the new company. The company should also repatriate at least 75% of the export earnings to Nigeria and place it in a Nigerian domiciliary account in order to qualify for a tax holiday.

Profits of any Nigerian company in respect of goods exported from Nigeria are exempt from tax, provided that the proceeds from such exports are repatriated to Nigeria and are used exclusively for the purchase of raw materials, plant, equipment, and spare parts.

In order to streamline the administration of permissible taxes within the tax free zones, the Oil and Gas Free Zone Authority (OGFZA) has established the Free Zones Tax Administration (FZTA) Unit with effect from January 2015. Going forward, all tax matters relating to the free zones will be coordinated by the FZTA.

Export Expansion Grant (EEG) Scheme

The EEG Scheme grants the Export Credit Certificate (ECC) as an incentive that can be used to settle all federal government taxes, such as VAT, WHT, CIT, etc. It can also be used to purchase government bonds and repay government credit facilities and debts due to the Assets Management Company of Nigeria (AMCON).

To encourage export of value added and processed/manufactured products, exporters are divided into four categories with maximum applicable EEG rates as indicated below:

- Fully manufactured products: 15%.
- Semi-manufactured products: 10%.
- Processed/intermediate products: 7.5%.
- Merchants/primary agricultural commodities: 5%.

Gas utilisation incentives

Companies engaged in gas utilisation are entitled to:

- A tax-free period for up to five years.
- Accelerated capital allowance after the tax-free period.
- Tax-free dividends during the tax-free period.

Tourism incentives

25% of the income derived from tourism by hotels in convertible currencies is exempt from tax if such income is put in a reserve fund to be utilised within five years for expansion or construction of new hotels and other facilities for tourism development.

Interest incentives

Interest accruing on deposit accounts of a non-resident company is tax-exempt, provided the deposits are made by transfer of funds to Nigeria on or after 1 January 1990 and the depositor does not become non-resident after making the deposit while in Nigeria.

Interest on foreign-currency domiciliary accounts is also tax-exempt.

Interest on any foreign loans, and interest on any loan granted by a bank for the purpose of manufacturing goods for export, is exempt from tax as follows:

Repayment period	Moratorium	Exemption (%)
Over 7 years	Not less than 2 years	100
5 to 7 years	Not less than 1.5 years	70
2 to 4 years	Not less than 1 year	40

Interest on any loan granted by a bank to a company engaged in agricultural trade, fabrication of local plant and machinery, or as working capital to any cottage industry is 100% tax free if the loan has a moratorium of not less than 18 months and the rate of interest is not more than the base lending rate.

Investment allowances

An investment allowance of 10% on the cost of qualifying expenditures in respect of plant and machinery is available as a deduction from assessable profits in the year of purchase. There is no restriction to the full claim of capital allowance in any year of assessment for companies in the mining, manufacturing, and agricultural sectors.

Foreign tax credit

Nigeria does not grant automatic tax credits to Nigerian companies for foreign tax on income derived from other countries. The Nigerian tax laws already provide for tax exemption for dividends, interest, and royalties.

Foreign tax credits are only granted based on the provisions of existing DTTs and partial credits as applicable to Commonwealth countries. In this regard, full tax credits are usually provided for in the DTTs. Tax credits for members of Commonwealth countries are granted at up to half the Nigerian CIT rate.

Withholding taxes

WHT is applicable on specified transactions as indicated below. There is no distinction between the WHT rates for resident companies or individuals and non-resident companies or individuals.

Types of payment	WHT for companies (%)	WHT for individuals (%)
Dividends, interest, and rents	10	10
Directors fees	N/A	10
Hire of equipment	10	10
Royalties	10	5
Commission, consultancy, technical, service fees	10	5
Management fees	10	5
Construction/building (excluding survey, design, and deliveries)	5	5
Contracts other than sales in the ordinary course of business	5	5

The period for filing WHT is 21 days after the duty to deduct arose for deductions from companies.

The penalty for failure to deduct or remit tax is 10% of the amount not deducted/ remitted.

Note that companies are required to submit, in electronic form, a schedule of all their suppliers for the month showing the tax identification number (TIN), address of the suppliers, the nature of the transaction, WHT deducted, and invoice number.

Double tax treaties (DTTs)

Nigeria has DTTs with the countries listed in the table below. Nigeria also has tax treaties with Kenya, Mauritius, and Poland; however, these treaties have not been ratified by the Nigerian National Assembly. The tax treaties with South Korea, Spain, and Sweden are still in the process of being ratified.

	WHT (%)			
Recipient	Dividend	Interest	Royalties	Management/ Technical fees
Non-treaty	10	10	10	10
Treaty:				
Belgium	7.5	7.5	7.5	10

	WHT (%)			
Recipient	Dividend	Interest	Royalties	Management/ Technical fees
Canada	7.5	7.5	7.5	10
China	7.5	7.5	7.5	10
Czech Republic	7.5	7.5	7.5	10
France	7.5	7.5	7.5	10
Netherlands	7.5	7.5	7.5	10
Pakistan	7.5	7.5	7.5	10
Philippines	7.5	7.5	7.5	10
Romania	7.5	7.5	7.5	10
Slovakia	7.5	7.5	7.5	10
South Africa	7.5	7.5	7.5	10
South Korea *	7.5	7.5	7.5	10
Spain	7.5	7.5	7.5	10
Sweden *	7.5	7.5	7.5	10
United Kingdom	7.5	7.5	7.5	10

* The tax treaties with South Korea and Sweden are still being ratified.

Tax administration

Taxable period

The taxable period is the fiscal year, which runs from 1 January to 31 December.

Tax returns

Companies are required to register for tax and file their audited accounts and tax computations with the FIRS within six months of their financial year-end on a self-assessment basis or 18 months after incorporation (whichever comes first). A company may file an application for extension of filing tax returns for up to two months at the discretion of the FIRS.

Upon registration, a company is issued a TIN, which serves as the company's file number for all federal taxes and future correspondence with the FIRS.

The company must file the following documents with the tax authority on an annual basis:

- Tax computation for the relevant year of assessment.
- The audited financial statements for the respective period; this should be in conformity with the International Financial Reporting Standards (IFRS).
- A duly completed and signed self-assessment form for CIT.
- Evidence of remittance of the income tax liability (partly or in full).

PPT is payable on an actual year basis. Estimated tax returns must be filed within two months of the fiscal year. Actual tax returns should be filed within five months after the end of the accounting period, that is, not later than 31 May.

Assessment

Nigerian companies file their tax returns based on a self-assessment system where the taxpayer prepares its annual returns and determines its tax liability. However, the

FIRS may apply a best of judgment (BOJ) assessment where it is of the opinion that the tax returns filed are deliberately misstated or where no returns are filed within the stipulated period.

Payment of tax

CIT

A company that files its self-assessment within six months after the accounting year-end can apply to the FIRS in writing to pay its income tax in instalments. The maximum number of instalments the FIRS may approve is three. Evidence of the first instalment has to accompany the tax returns filed in order to qualify for the instalment payment. However, all payments have to be made not later than eight months after the financial year-end.

Assessments are made on a preceding year basis. This means that the financial statements for a period ended in 2017 will form the basis for the 2018 year of assessment.

PPT

Payments with respect to PPT in any accounting period of 12 months are made in 12 instalments, with a final 13th instalment (if there is an underpayment). The first instalment for the year is due by the end of March.

Penalty for non-compliance

Failure to file CIT returns attracts a penalty of NGN 25,000 for the first month and NGN 5,000 for each subsequent month of default. Late payment of CIT attracts a 10% penalty and interest at the commercial rate.

Late submission of PPT returns attracts an initial penalty of NGN 10,000 and NGN 2,000 for each day such failure continues, while late payment of tax attracts a penalty of 5% of the tax not paid.

Tax audit process

Generally, the tax authority will commence a desk examination of a taxpayer's returns immediately after filing. This may be followed by a tax monitoring exercise whereby tax officers visit taxpayers to conduct an interview and on-site high level review of their tax affairs.

Random or specific tax audit may be carried out usually within six years of filing tax returns. In unusual cases, a back-duty tax investigation may be conducted for more than six years, especially where a tax fraud or wilful default is suspected.

In the past, tax audits took a long time to conclude, usually between three to five years. However, the tax authorities are seeking ways to improve the average turnaround time.

New methodology for tax audit

FIRS has now implemented an audit methodology that contains a dashboard for monitoring the progress of tax audits. Altogether there is a timescale of three months from commencement of audit to completion broken into one or two weeks for different activities (field work, initial report, reconciliation meetings, assessment). Colour green, amber, or red are used to indicate if everything is 'on time', 'becoming due', or 'overdue', respectively.

Statute of limitations

The tax authority may carry out a tax audit and issue an additional assessment within six years from the relevant tax year. However, the limitation does not apply in the event of a fraud, wilful default, or neglect by the company.

Topics of focus for tax authorities

The tax authorities are currently exploring ways to generate more tax revenue. As a result, certain areas of taxation, such as transfer pricing, filing of tax returns by PEs, and review of tax incentives and waivers have become a central focus for tax authorities.

There has been increased scrutiny by the FIRS on related-party transactions as a way of preventing taxpayers from shifting profits away from Nigeria. It is expected that transfer pricing audits are expected to be an area of focus in the next one to two years.

Further, for non-resident entities that create a PE in Nigeria, the tax authorities are focused on ensuring that they file full tax returns, including audited accounts, as opposed to filing on a deemed-profit basis. It is expected that the expenses of these PEs will be scrutinised for tax deductibility.

The tax authorities at the federal and state levels are sealing up companies, putting up non-compliance stickers, and holding principal officers of organisations to public scrutiny and prosecution under the tax law for non-compliance in terms of tax default or failure to make timely payments or to file tax returns. On a related note, the Lagos state government has set-up a rapid tax prosecution unit to prosecute tax evaders with considerations to a jail term.

Other issues

The OECD Multilateral Instruments

On 17 August 2017, Nigeria became a signatory to the OECD's Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (BEPS) ('Multilateral Instrument' or 'MLI') and the Multilateral Competent Authority Agreement for the Common Reporting Standard (CRS MCAA).

The MLI

Nigeria signed the MLI and also submitted its MLI position listing DTTs with 19 treaty partners for amendment. These include the agreements that are already in force and those that are not yet in force (e.g. DTTs with Korea, Mauritius, United Arab Emirates). Also, of the 19 agreements, 13 treaty partners (including Belgium, Canada, China, Netherlands, and the United Kingdom) have all listed their DTTs with Nigeria for amendment under the MLI. Nigeria and its treaty partners will need to subsequently agree on any parts of their proposals that do not match. Subsequent to this, each partner will then need to undertake the local domestication process to ensure that the changes become law.

The CRS MCAA

The CRS MCAA allows signatory countries to obtain financial information from financial institutions and automatically exchange the information with other jurisdictions that have signed up to the convention. Notably, the CRS MCAA will allow jurisdictions to exchange the following information:

- Name, address, and tax identification number of taxpayers.
- Taxpayer's account number.
- Name of the reporting financial institution.
- The taxpayer's account balance at the end of the reporting period.

Nigeria became the 94th jurisdiction to join the CRS MCAA. Some of the other signatories to the CRS MCAA include Bermuda, Cayman Islands, China, France, Germany, Mauritius, the Netherlands, Spain, Switzerland, and the United Kingdom.

Rwanda

PwC contact

Moses Nyabanda
PricewaterhouseCoopers Rwanda Limited
5th Floor, Blue Star House, Kacyiru
P. O. Box 1495
Kigali
Rwanda
Tel: +250 252 5882 03/04/05/06
Email: moses.o.nyabanda@pwc.com

Significant developments

A new income tax law, Law no. 16/2018, was gazetted on 16 April 2018, repealing Law no. 16/2005 of 18/08/2005 on direct income tax and all prior legal provisions, including the Commissioner General's rules and Ministerial orders contrary to this law. In the new law, a number of amendments were made. The more significant updates to the law relate to taxation of capital gains derived from sale or transfer of shares, the base and tax point for withholding taxes (WHTs), transfer pricing requirements, and inclusion of more anti-avoidance provisions.

Taxes on corporate income

Rwanda operates both a source and residence-based taxation system. This means that any income that is deemed to be from sources within Rwanda will be liable to tax in Rwanda. In addition, resident entities are taxed on their worldwide income. However, where such income is taxed in another country, a tax credit is allowed, which does not exceed the tax that would have been payable on the same income in Rwanda.

Non-resident entities are taxed on income sourced in Rwanda through a permanent establishment (PE).

The standard corporate income tax (CIT) rate is 30%. However, micro-enterprise companies (with turnover of less than 12 million Rwanda francs [RWF] in a tax period) pay flat tax amounts, and small businesses (whose turnover is between RWF 12 million and RWF 20 million in a tax period) pay a lump sum tax at the rate of 3% of turnover.

Special CIT regimes

There are special CIT rates for certain industries or sectors of the economy.

Newly listed companies on capital markets are taxed as follows for a period of five years:

- If a company sells at least 20% of their shares to the public, the CIT rate is 28%.
- If a company sells at least 30% of their shares to the public, the CIT rate is 25%.
- If a company sells at least 40% of their shares to the public, the CIT rate is 20%.

Companies and cooperatives that carry out micro-finance activities, approved by competent authorities, pay CIT at the rate of 0% for a period of five years from the time of their approval.

Registered investors in priority sectors can enjoy reduced CIT rates and tax holidays where certain conditions and thresholds are fulfilled. *See the Tax credits and incentives section for more information*.

Local income taxes

Rwandan legislation does not provide for any provincial or local taxes on income.

Corporate residence

Rwanda incorporated companies or associations are treated as Rwanda resident entities. In addition, companies incorporated overseas are also treated as Rwandan resident companies if they have a place of effective management in Rwanda at any time during the tax period. The term 'effective management' is not defined in the tax law.

Rwandan government companies are also considered to be residents in Rwanda.

Permanent establishment (PE)

The definition of a PE for Rwanda is largely based on the Organisation for Economic Co-operation and Development (OECD) Model Tax Convention definition. According to Rwandan tax law, a PE means a fixed place of business through which the business of a person is wholly or partially carried on.

For non-resident companies, CIT liability will arise if they have a PE in Rwanda through which a trade is carried on. The profits attributable to the PE will be taxed in Rwanda. However, there are no rules or guidance on how the PE's profit should be evaluated for Rwanda tax purposes. The general understanding is that entities are required to use transfer pricing methods to determine the level of profits that should be attributable to the PE based on the functions it performs.

In particular, the existence of the following triggers a PE:

- A place of management.
- A branch.
- A factory or workshop.
- A mine, quarry, or any other place for the exploitation of natural resources.
- A site set for construction, construction site, or a place where supervision or assembly works are carried out.
- A place of provision of services, including consulting services, carried on by a person, with the support of employees or other personnel, for more than 90 days in a 12-month period, either continuously or intermittently.

There are a number of specific exceptions from the definition of a PE. A person is deemed not to have a PE if that person:

a. uses facilities solely for the purpose of storage of goods or merchandise belonging to that person
b. maintains a stock of goods or merchandise belonging to that person solely for the purpose of storage
c. maintains a stock of goods or merchandise belonging to that person solely for the purpose of processing by another person
d. has a place of operation aimed purposely at purchasing goods or merchandise or at collecting information related to one's business, or

e. has a place of operation solely for the purpose of performing, within the context of one's activities, any other activities of a preparatory nature or intended to make them more effective.

Where a person, except an independent person (i.e. agent) concerned with (e) above, acts on behalf of another person (i.e. principal), and the agent has capacity to make contracts in the name of the principal, the principal is considered as owning a PE in respect of activities one's agent undertakes except if such activities of the agent are limited to those mentioned in (a) to (e) above.

However, a person is not considered as having a PE if one carries out activities through a broker, general commission agent, or any other private agent in accordance with procedures of the ordinary course of the activities of such an agent.

A company that controls or is controlled by another company does not, of itself, constitute either company to be a PE of the other.

Other taxes

Value-added tax (VAT)

VAT is levied on the supply of taxable goods and services in Rwanda as well as on the importation of taxable goods and services into Rwanda.

The threshold for VAT registration is taxable turnover of RWF 20 million in any relevant year or RWF 5 million in a calendar quarter.

The standard VAT rate is 18% and applies to goods and services that are neither exempt from VAT nor zero-rated.

Exports of goods and services are subject to VAT at 0%. Supplies to privileged persons, such as goods imported for official purposes of diplomatic missions, supplies made under special arrangements between the government of Rwanda and donors, and supplies or importation made under special technical aid agreements, are subject to VAT at 0%. Persons entitled to zero rating of goods or supplies received by them are required to pay VAT at the time of receiving the supply and then apply for a refund of the VAT paid.

Some supplies are exempt from VAT, the main categories being supply of water service, goods and services for health purposes, educational materials and services, transport services, books and newspapers, financial and insurance services, lending or leasing interests in land or building for residential purposes, funeral services, energy supplies, all unprocessed agricultural and livestock products, mobile handsets, and equipment for information, communication, and technology.

Suppliers who provide zero-rated services or goods are entitled to recover input VAT incurred in making the supply. This is unlike exempt supplies, where input VAT recovery is not allowed. Therefore, zero rating is preferable to exemption.

The VAT returns and relevant payment are due to the Rwanda Revenue Authority (RRA) on a monthly basis by the 15th day of the following month. However, taxpayers with annual turnover of RWF 200 million or below may elect to file VAT returns or make payments on a quarterly or monthly basis.

Rwanda

Customs duties

Rwanda is a member of the East African Community, which uses the East African Community Customs Act (EACMA) for levying import duty. The EACMA prescribes Common External Tariffs (CET) for goods originating outside the Customs Union. Goods are generally subject to import duty of 0% for raw materials and capital goods, 10% for intermediate goods, and 25% for finished goods.

Goods will only enjoy the preferential community tariffs if they meet the East African Community (EAC) Customs Union Rules of Origin.

Certain industries and items are also entitled to exemptions under the customs law (e.g. assemblers of bicycles and motor cycle kits, importers of gas cylinders, certain hotel equipment, solar equipment, and energy saving bulbs).

Enterprises established in Free Trade Zones are exempt from customs duty on machinery and inputs for exported products. There also exists an import duty remission scheme, where import duty may be remitted for raw materials used to manufacture goods for export. This is subject to a requirement for proof of export and execution of the bond.

All imported goods, except those listed as exempt, are also subject to the 1.5% Industrial Development Levy (IDL) and the 0.2% African Union Levy. Additionally, imported goods, regardless of whether they are exempted, are subject to a 0.2% Quality Inspection Fee (QIF). The levies are computed on the customs value of imported goods.

Excise taxes

Excise tax is imposed on the manufacturer or importation of certain commodities, mainly soft drinks, bottled water, cigarettes, alcohol, fuels, and lubricants.

The following rates apply in respect of products and services for which excise duty is applied:

- Juice from fruits: 5%.
- Soda and lemonade: 39%.
- Mineral water: 10%.
- Beer: 60%.
- Wine, brandies, liquors, and whisky: 70%.
- Cigarettes: 36% of retail price of a pack (of 20 rods) and RWF 30 per pack.
- Telephone communication: 10%.
- Premium (excluding benzene) fuel and gas oil: RWF 183/litre on premium fuel and RWF 150/litre on gas oil.
- Lubricants: 37%.
- Powdered milk: 10%.
- Vehicles with an engine capacity of above 2500cc: 15%.
- Vehicles with an engine capacity of between 1500cc and 2500cc: 10%.
- Vehicles with an engine capacity of less than 1500cc: 5%.

Property taxes/fixed asset tax

Local government levies fixed asset tax on:

- the market value of parcels of land

- the market value of buildings and all improvements thereto registered with the land registration centre and for which the owner has obtained a title deed from the time the building is inhabited or used for other activities
- the value of land exploited for quarry purposes, and
- the market value of usufruct with a title deed.

The tax rate is fixed at a thousandth (1/1000) of the taxable value per year. The tax payment must be paid not later than 31 March of the year.

Transfer taxes

There is a fixed fee of RWF 20,000 on transfer of property. However, no transfer of ownership of a fixed asset can be effected without a tax clearance certificate issued by the concerned decentralised entity.

Stamp taxes

There are no stamp duties in Rwanda.

Payroll taxes

Employers are required to withhold tax on payments to employees in respect of employment services that they have rendered. The tax is withheld through the pay-as-you-earn (PAYE) system. The tax deducted should be remitted to the RRA by the 15th day of the following month.

Social security contributions

All people working in Rwanda, both nationals and foreigners, are required to contribute to a national social security contribution fund managed by the Rwanda Social Security Board (RSSB). The employer is required to contribute 5% of the employee's gross salary to the scheme, while the employee's contribution is 3%.

Gross salary means total remuneration received by the employee, including allowances, bonuses, commissions, and all other cash benefits, as well as any fringe benefits, but excludes reimbursement of business expenses and transport allowances.

The social security contributions computed are required to be remitted to the RRA by the 15th day of the following month.

Maternity leave benefits scheme

The law governing maternity leave benefits requires all employers and employees to contribute towards a maternity fund, which is administered by the RSSB.

The law grants employed women full monthly salary for the entire 12 weeks duration of maternity leave. The main requirements affecting employers are summarised below:

- The employer is responsible for collecting and remitting the contributions to the RSSB.
- The total contribution for maternity leave benefits is 0.6% of the contribution base. The employer and the employee are each required to contribute 0.3%.
- The contribution base is the gross pay to the employee, including benefits in kind, but excluding termination benefits, retirement benefits, dismissal compensation, and any other allowances that have a compensatory character.
- The employer is required to declare and remit the collected contribution to the RSSB by 15th day of the month following the month to which the contribution relates.

Trading licence fee

Districts charge a trading licence fee, which is paid by any person who commences a profit-oriented activity in Rwanda. The tax year starts on 1 January, and the trading licence fee must be paid for a whole year. If such activity starts after January, the taxpayer must pay a trading licence fee equivalent to the remaining months, including the one in which the activities started.

The tax declaration is made not later than 31 March of the tax year. The trading licence fee is calculated on the basis of turnover, and the amount of the fee varies between RWF 60,000 (for turnover of less than RWF 40 million) and RWF 250,000 (for turnover of over RWF 150 million).

The turnover applied is as per the amount approved in the previous year by the RRA. Every year, not later than 31 January, the RRA submits the necessary data to the concerned decentralised entity.

There are also different trading licence fee rates for other small traders (not registered for VAT). These include vendors without shops, small-scale technicians who do not use machines, sewing machine operators, transporters of people and goods on motorcycles, non-VAT registered traders and technicians who use machines, all other vehicles besides bicycles, transport activities by motor boat, and other profit-oriented activities.

Branch income

The tax law does not prescribe special provisions for taxation of branches; consequently, tax rates on the profits of PEs are the same as for domestic corporations. PEs are subject to tax at a rate of 30% and treated as domestic companies.

A branch is considered a PE for the parent company; consequently, it is taxed on the income that is sourced from Rwanda only.

Income determination

Inventory valuation

Trading stock is valued at a lower of cost price or market price on the last day of the tax period. Work in progress is valued at cost.

Capital gains

Capital gains tax is charged on the direct or indirect sale or transfer of shares or debentures. The capital gains tax is charged at the rate of 5% of the capital gain. The capital gain on sale or transfer of shares is determined as the difference between the acquisition value of the shares and their selling or transfer price.

The capital gains tax is required to be withheld and accounted for by the company in which the share sale or share transfer transaction occurred.

The capital gains tax is required to be declared and paid within 15 days following the month in which the sale or transfer of shares occurred.

However, the following transactions are exempted from capital gains tax:

- Capital gains from the sale or transfer of shares on the capital market.
- Capital gains from the sale or transfer of units of collective investment schemes.
- Capital gains resulting from restructuring of companies in respect of the transferring company.

There is a general capital gains tax law in Rwanda that provides that capital gains arising from the sale of commercial immovable property are subject to tax at the rate of 30%. However, capital gains arising from secondary market transactions on listed securities are exempt from taxation.

In addition, a capital gain arising from a corporate restructuring is exempt from tax in respect of the transferring company.

Corporate restructuring is defined to include the following:

- a merger of two or more resident companies into a separate company
- the acquisition or a takeover of 50% or more of shares or voting rights by number or value in a resident company in exchange for shares of the purchasing company
- the acquisition of 50% or more of the assets and liabilities of a resident company by another resident company solely in exchange of shares in the purchasing company
- the acquisition of the entire company's assets so that its existence is replaced by the purchasing company, or
- splitting of a resident company into two or more resident companies.

Dividend income

Dividend income includes income from shares in any societies, other similar income that may be generated by all entities that pay CIT, as well as the outstanding balance after the taxation of income from the correction made by the tax administration in the transfer pricing.

Dividend income is subject to WHT at the flat rate of 15%. Where there is a double taxation agreement (DTA) between the recipient country and Rwanda, a lower rate as per the DTA will apply.

If dividend distribution has been subjected to WHT, this becomes the final tax. Consequently, dividends paid between resident companies and subjected to the WHT are not included in taxable income for CIT purposes.

Financial income

Financial income includes income from loans, income from deposits, and income from guarantees. It also includes income from government securities and bonds, as well as from negotiable securities issued by the government, securities issued by public and private companies, as well as income from cash negotiable securities.

Financial income is subject to WHT at the flat rate of 15%. Where there is a DTA between the recipient country and Rwanda, a lower rate as per the DTA will apply.

However, the following financial interests are not subject to the 15% WHT:

- Interests on deposits in financial institutions for at least a period of one year.
- Interests on loans granted by a foreign development financial institution exempted from income tax under applicable law in the country of origin.

- Interests paid by banks operating in Rwanda to banks or other foreign financial institutions.

Royalty income

Royalty income includes:

- all payments of any kind received as a prize for the use of, or the right to use, any copyright of literary, craftsmanship, or scientific work, including cinematograph films, films, or tapes used for radio or television broadcasting
- any payment received from using a trademark, design or model, computer application, and invention patent
- the price of using, or of the right to use, industrial, commercial, or scientific equipment or for information concerning industrial, commercial, or scientific knowledge, and
- payments from use of natural resources.

Royalty income is subject to WHT at flat rate of 15%. Where there is a DTA between the recipient country and Rwanda, a lower rate as per the DTA will apply.

Rental income

Rental income includes all revenue derived from rent of machinery and other equipment, including agriculture and livestock equipment, in Rwanda. This is reduced by 10% of gross revenue deemed expenses, interest paid on loans, and depreciation expenses.

Foreign income

Resident companies and enterprises are taxed on their worldwide income. However, a foreign tax credit is granted in respect of taxes paid on the foreign income, subject to the limit of the tax that would have been paid in Rwanda on the same income.

There are no provisions in Rwanda for tax deferral of income earned abroad.

Deductions

A trading company is generally permitted to deduct expenses that are incurred wholly and exclusively for purposes of the company's trade, provided these costs are not capital in nature and are charged to the profit and loss account.

The Rwandan tax law stipulates that deductible expenses should fulfil the following conditions:

- Are incurred for the direct purpose of the business and are directly chargeable to the income.
- Correspond to a real expenses and can be substantiated with proper purchase receipts.
- Lead to a decrease in the net assets of the business.
- Are used for activities related to the tax period in which they are incurred.

Depreciation and amortisation

Accounting depreciation of fixed assets is not allowable as a deduction for tax purposes. The same applies in the case of amortisation of assets. However, businesses are allowed specified deductions, referred to as tax depreciation in respect of specified classes of assets. This is deducted in arriving at taxable income.

Tax depreciation allowance is granted to persons who own depreciable assets at the end of the tax period and use such assets in the production of income.

Land, fine arts, antiquities, jewellery, and any other assets that are not subject to wear and tear or obsolescence are not depreciated. Buildings, heavy industrial equipment, and machineries are depreciated annually, each on its own, at a depreciation rate of 5% of the cost of acquisition, construction, refining, rehabilitation, or reconstruction.

Intangible assets, including goodwill that is purchased from a third party, are depreciated annually, each on its own, at a depreciation rate of 10%, while information and communication systems whose life is over 10 years are depreciated annually at the rate of 10% of the cost of acquisition.

Computers and accessories and information and communication systems whose life is under 10 years are granted tax depreciation at 50%.

Tax depreciation allowance is available on any other business asset at the rate of 25%.

Goodwill

As mentioned above, purchased goodwill will attract tax depreciation at the rate of 10%, which is an allowable deduction. However, amortisation of goodwill is not tax deductible.

Start-up expenses

There is no clear guidance on the tax treatment of start-up expenses. However, in practice, start-up expenses of a capital nature are not deductible for tax purposes. Where they relate to purchase of assets, respective tax depreciation is claimed. Start-up expenses of a revenue nature are tax deductible.

Interest expenses

Interest on borrowed money used for earning business profit or interest in respect of an amount payable for property acquired to earn income is deductible, provided the interest paid is pursuant to a legal obligation and is reasonable under the circumstances.

Thin capitalisation rules can limit interest deductions when debt owed to related entities exceeds four times the amount of the corporation's equity (*see Thin capitalisation in the Group taxation section*).

Bad debt

A bad debt provision will be deductible for tax purposes if it fulfils the following conditions:

a. The amount was previously included in the income of the taxpayer.
b. Debt is written off in the books of accounts.
c. Taxpayer has taken all possible steps in pursuing payment and has shown a court decision declaring the insolvency of one's debtor.

However, for an individual whose debt is less than RWF 3 million, in addition to the conditions referred to in (a) and (b), the taxpayer must provide proof that one has taken all reasonable steps over a period of three years to recover the debt.

Further, licensed commercial banks and leasing entities duly licensed as such are allowed to deduct, in determining business profit, any increase of the mandatory reserve for non-performing loans as required by the directives related to management of bank loans and similar institutions of the National Bank of Rwanda. Similarly, the business profit is increased by the entire amount recovered from bad debts deducted from such reserves.

Charitable contributions

Donations and gifts to charitable organisations and other non-profit making organisations are tax deductible to the extent of 1% of turnover. Consequently, donations to profit making organisations, irrespective of the amount, and any donations above 1% of turnover to non-profit making organisations are not allowed as deductions for CIT purposes.

Fines and penalties

Fines and similar penalties imposed for breaking the law or for statutory offences, such as late payment of taxes, are not tax deductible.

The law does not specify which type of non-statutory fines or penalties are not allowed for tax. For example, there is no guidance on whether fines or penalties paid for breach of contract are deductible or not.

Taxes

Income tax paid on business profit and recoverable VAT are not deductible for tax purposes. This includes any back taxes paid by the business.

Net operating losses

Tax losses can only be carried forward for five tax periods, earlier losses being deducted before later losses. However, on application, the tax administration may authorise the taxpayer to carry forward the tax loss for more than five tax periods. This is subject to fulfilment of certain conditions.

If the direct or indirect ownership of the share capital or the voting rights of an unlisted company changes more than 25% by value or by number during a tax period, such a company is restricted from carrying forward losses incurred during the tax period and previous tax periods.

There are no provisions for carrying back tax losses.

Payments to foreign affiliates

Royalties, management fees, and similar payments to non-residents are deductible expenses to the extent that:

- they do not exceed 2% of the turnover of the taxpayer, and
- they are incurred to earn income of the Rwandan company, adhere to the arm's-length principle, and comply with transfer pricing requirements.

Group taxation

There is no provision for group taxation in Rwanda. Each individual corporate group member is required to submit their own tax return on a stand-alone basis.

Transfer pricing

Rwandan transfer pricing legislation and the prescribed transfer pricing methods are generally consistent with OECD guidelines. The law requires that transactions between related parties be carried out under the arm's-length principle.

The tax law empowers the Commissioner General to adjust profits earned between related parties if the Commissioner General considers that the trading arrangements between related parties do not adhere to the arm's-length principle. The arm's-length principle requires that transfer prices charged between related parties are equivalent to those that would be charged between independent parties in the same circumstances.

Rwanda operates a self-assessment system; consequently, taxpayers are obligated to self-assess their compliance to the tax legislation, which includes transfer pricing policy. According to the new income tax law, related persons involved in controlled transactions are required to have documents justifying that their prices are applied according to the arm's-length principle. This means that companies are now expected to have transfer pricing policies and documentation.

Failure to do so would result into the tax administration's adjustment of transactions prices in accordance with general rules on transfer pricing, issued by an Order of the Minister.

Thin capitalisation

The interest paid on loans and advances from related entities is not tax deductible to the extent that the total amount of loans/advances exceeds four times the amount of equity during the tax period. For purposes of determining the above, equity excludes provisions and reserves. This provision does not apply to commercial banks, financial institutions, and insurance companies.

Controlled foreign companies (CFCs)

There are no provisions in Rwanda for CFCs.

Tax credits and incentives

There are tax incentives in the form of lower CIT rates (*see Special CIT regimes in the Taxes on corporate income section*) for registered investors.

The investment code also provides the following incentives to a registered investor:

- A seven-year tax holiday for investments in the following specific sectors: manufacturing, tourism, health, exports, energy projects producing at least 25 MW (excluding investors having an engineering procurement contract [EPC] executed on behalf of the government of Rwanda, and information and communications technology (ICT) with an investment involving manufacturing, assembly, and service. The investment should be of at least 50 million United States dollars (USD)

and the investor should contribute at least 30% of this investment in the form of equity in these sectors.
- A preferential CIT rate of 0% for international companies with their regional offices in Rwanda and that fulfil certain requirements.
- A preferential CIT rate of 15% for registered investors undertaking (i) exportation; (ii) energy generation, transmission, and distribution; (iii) transport of goods and related activities; (iv) mass transportation of passengers and goods; (v) ICT; (vi) financial services, including global business activities, private equity funds, fund management, wealth management, mutual funds, collective investment schemes, captive insurance schemes, venture capital, and asset backed securities; (vii) building of low-cost housing; and (viii) any another priority economic sector as may be determined by an Order of the Minister of Finance.
- Exemption from capital gains tax.
- Five-year tax holiday for micro-finance institutions.
- Customs exemption on products used in Export Processing Zones (EPZs).
- Prompt settlement of VAT refunds.

There are, however, certain conditions that have to be fulfilled to obtain the incentives above.

Foreign tax credit

Rwanda allows a foreign tax credit on income generated from business activities performed abroad by a tax resident. The income tax payable is offset by the foreign tax paid on that income. However, the foreign tax credit is limited to the amount of tax that would have been applicable on that income in Rwanda.

The credit is allowed where it is supported by appropriate evidence, such as a tax declaration, a WHT certificate, or any other similar acceptable document.

Withholding taxes

WHT of 15% of the total amount, excluding VAT, is required to be accounted for on payments or other methods of extinguishing an obligation made by resident individuals, including tax-exempt entities. The WHT is due where such payments or other methods of extinguishing an obligation are made to a person not registered with the tax administration or to a registered person who does not have recent income tax declaration.

Payments or other methods of extinguishing an obligation subject to WHT of 15% are related to the following:

- Dividends, except income distributed to the holders of shares or units in collective investment schemes.
- Financial interests, except interests on deposits in financial institutions for at least a period of one year; interests on loans granted by a foreign development financial institution exempted from income tax under applicable law in the country of origin; and interests paid by banks operating in Rwanda to banks or other foreign financial institutions.
- Royalties.
- Service fees, including management and technical service fees, except transport services.

- Performance payments made to a crafts person, a musician, an artist, a player, sports, cultural, and leisure activities, irrespective of whether paid directly or indirectly.
- Gambling activities.
- Goods sold in Rwanda.

However, money that is recorded in the books of account as a liability of a taxpayer to creditors and that reduces the taxable income is deemed a payment if it has exceeded six months following the tax period.

WHT is also applicable to non-resident persons for such payments on behalf of their PEs. This means that the local entity/PE is now required to declare and pay WHT at the time when the non-resident pays the foreign supplier on its behalf and not when the non-resident recharges for the costs.

As mentioned above, a WHT of 15% is required to be accounted for on dividends attributed to a company registered in Rwanda. However, the WHT shall be 5% if levied on:

- dividends and interest on securities listed on capital market when the beneficiary of the dividends or interest is a resident taxpayer of Rwanda or of the East African Community, and
- interests derived from treasury bonds with a maturity of at least three years.

There is also a WHT of 5% that is applicable on goods imported for commercial use. Public institutions are required to retain 3% on payments to winners of public tenders. However, businesses that possess a tax clearance certificate are exempted from deduction of the above WHT.

The WHT deducted should be remitted to the RRA within 15 days following the month of deduction.

Tax treaties

Rwanda has DTAs with Belgium, Jersey, Mauritius, Singapore, and South Africa. The WHT rates are as follows:

	WHT (%)			
Recipient	**Dividends**	**Interest**	**Royalty**	**Management or professional fees**
Non-treaty	15	15	15	15
Treaty:				
Belgium	15	10	10	10
Jersey	10	10	10	12
Mauritius	10	10	10	12
Singapore	7.5	10	10	10
South Africa	10/20	10	10	10

The DTAs contain conditions to be complied with for the preferential rates to apply; consequently, it is recommended that professional advice is sought before application.

Tax administration

Taxable period

The normal taxable period is between January and December. However, a different tax period can be allowed on approval by the Minister of Finance.

Tax returns

Companies are assessed with reference to accounting periods. This refers to the period for which a company prepares its accounts. However, an accounting period for CIT purposes cannot exceed 12 months, so companies preparing statutory accounts for longer than 12 months need to prepare more than one CIT return.

Rwanda operates a self-assessment regime. Quarterly tax returns are due on 30 June, 30 September, and 31 December (or by the sixth, ninth, and 12th month of the tax period). The annual tax return/declaration must be filed within three months after the tax period. The tax declaration must include audited financial statements as well as any other documents that may be requested by the tax administration.

Payment of tax

Advance CIT is payable in three instalments. Tax payments are due on 30 June, 30 September, and 31 December (or by the sixth, ninth, and 12th month of the tax period). Each instalment is 25% of the tax liability as calculated in the tax return/declaration of the previous tax period. This amount can be reduced by WHT paid during the tax period. The final payment of CIT for taxpayers with a December year-end is 31 March of the following year. In the case of other accounting year-ends, the final CIT payment is due by the last day of the third month following the accounting year-end.

Tax audit process

Large taxpayers are selected for audit by the RRA on a regular basis. The RRA tends to audit two tax periods, but this can be extended on request by the taxpayer. Most audits are carried out onsite. The RRA may conduct a desk audit of the taxpayer's tax affairs where they note discrepancies on tax returns filed by the taxpayer, anomalies with turnover, or any other situations that justify an audit.

Under normal in-depth audits, the RRA is required to issue a taxpayer with a draft notice of assessment following the completion of the field audit. The draft assessment is referred to as a rectification note. The taxpayer is granted 30 days within which to respond. In case the tax issues are not resolved, a final notice of assessment is issued. The taxpayer is allowed 30 days within which to appeal. Once an appeal is submitted to the Commissioner General, the RRA has 30 days within which to respond to the objection. This can be extended by another 30 days but not beyond this period. At this stage, the appeal is handled by the appeal committee, and the taxpayer and the taxpayer's agent are invited for a meeting to provide explanations.

Once the final assessment is issued, the tax due is payable, although the Commissioner General has powers to suspend the payment pending the determination of the appeal.

There is a provision for resolving the dispute through an amicable settlement process. Taxpayers can opt for this approach while at the same time exploring the next stage of the appeal process.

A taxpayer that disagrees with the response on the final assessment can appeal to the high court within 30 days.

Statute of limitations

The RRA has powers to audit a taxpayer for a period going back five years, although this can be extended to ten years in case of fraud. Taxpayers are required to keep their records for a period of ten years.

Topics of focus for tax authorities

Topics of interest for the RRA include:

- Deduction of WHT on payments to non-resident persons and reverse VAT.
- Treatment of capital gains on disposal of assets.
- Recovery of reverse VAT on services that are regarded as being available in the local market.
- Reconciliation of turnover per financial statements to receipts as per taxpayer bank statements.
- Reconciliation of cost of sales to importations.
- Reconciliation of turnover per financial statements to turnover declared in the VAT returns.
- Reconciliation of employment/staff costs per financial statements to staff costs declared in the PAYE returns.
- Transfer pricing arrangements
- Supporting expenses with proper, sufficient documents.
- Carry forward of tax losses.
- Categorisation of business assets for tax depreciation purposes.

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PwC contact

Matthias Hubert
PricewaterhouseCoopers Tax & Legal
3 Place de l'Indépendance - BP 6454
Immeuble SDIH
Dakar
Senegal
Tel: +221 33 849 05 00
Email: matthias.hubert@sn.pwc.com

Significant developments

Amendments to the General Tax Code (GTC)

In March 2018, the Parliament approved a government bill introducing significant amendments to the GTC (Law No. 2018-10 of 30 March 2018 amending the GTC).

Key changes of the law are discussed below:

- Introduction of the Local Economic Contribution (*Contribution Economique Locale* or CEL), which will substitute for the business license tax. The CEL is made of two different taxes: The company's properties contribution (*contribution sur la valeur locative des locaux professionnels*) and the company added value contribution (*contribution sur la valeur ajoutée*). *See the Other taxes section for more information*.
- Further developments on transfer pricing regulations arising from Base Erosion and Profit Shifting (BEPS) Action 13, such as country-by-country (CbC) reporting, the automatic exchange of CbC reporting, and light transfer pricing documentation. *See the Group taxation section for more information*.
- Companies will face more stringent legislation in regards to the deductibility of interest paid to a shareholder upon a loan or account advances (extension of the limitation to interests paid to a related party, fully paid-up capital for all type of company, deferral mechanism of non-deductible interests, etc.)
- Extension of the withheld VAT regime (*Précompte de TVA*) until 2020.
- Changes will occur on excise taxes (introduction of a tax on plastic bags, increasing of the tax rate applicable to oil products, extension of the scope of tax levied on beverages to juices).
- New requirements are provided for the bank industry (limitation concerning the withholding tax [WHT] on income derived from investments and securities, extension of declarative obligations).
- Introduction of tax incentives:
  - Agricultural industry (VAT exemption with a right to deduct, VAT refund on energy consumption).
  - Oil and gas companies (deductibility of provisions, exemption of the minimum CIT and the tax on built real estate).
  - Renewable energy (30% tax credit, VAT exemption on production).

Taxes on corporate income

Branches and companies are liable for corporate income tax (CIT) at the rate of 30%.

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Residents are taxed upon their worldwide income. Non-residents are generally taxed via the existence of a permanent establishment (PE) on Senegal-source income.

WHTs may also apply to non-residents, as per the services delivered to Senegalese taxpayers, subject to the application of a double tax treaty (DTT).

Minimum CIT

A minimum CIT is due, in case of lack of profits, at the rate of 0.5% applied on the annual turnover. The minimum amount cannot be less than 500,000 *Communauté financière d'Afrique* (Financial Community of Africa or CFA) francs (XOF), and the maximum amount cannot be more than XOF 5 million.

Local income taxes

See the Other taxes section for a description of local taxes based on turnover and property.

Corporate residence

Companies are considered as Senegalese residents if they have a registered fixed establishment. Nonetheless, foreign companies that are not registered locally may be deemed to have a PE in Senegal in relation to their local activity and will then be subject to tax liabilities.

Permanent establishment (PE)

The criteria for a PE were derived from the former GTC and are close to the Organisation for Economic Co-operation and Development (OECD) standards. The current GTC does not include a PE provision, but the former one should be applicable. DTTs can be applicable and can provide specific definitions. These DTTs are based on the OECD model in most cases. *See the Withholding taxes section for a list of countries with which Senegal has concluded DTTs*.

Other taxes

Value-added tax (VAT)

Subject to certain exclusions, most commercial operations are subject to an 18% VAT.

VAT on tourism activities is 10%.

A 17% special tax on financial activities (mainly banking, money transfers, and change operations) is applicable instead of VAT.

VAT returns must be filed monthly.

Customs duties/Import tariffs

In the case of import of goods, the following tariffs apply:

- Customs duties: 0%, 5%, 10%, or 20%, depending on the nature of the goods.
- Statistical import charge: 1%.
- Community solidarity levy: 0.8% since 1 July 2017 (1% before July 2017).
- Economic Community of West African States (ECOWAS) levy: 0.5% (only applicable to products originating from non-ECOWAS countries).

- Senegalese Shippers Council (COSEC) royalty: 0.4% (only applicable on importation by sea).

Excise taxes

The products on which the Senegalese authorities levy excise tax, and the relevant excise tax rates, are as follows:

- Beverages: 40% for beverages containing alcohol, plus an additional tax ranging from XOF 1,500 to XOF 5,000 per litre; 5% for sparkling beverages and juices.
- Tobacco: 45%.
- Coffee: 5%.
- Tea: 5%.
- Fat: Rate varies from 10% to 15%.
- Private cars with a horsepower (tax engine rating) superior to 13CV: 10%.
- Cosmetic products: 10% (increased to 15% for depigmentation products).
- Oil products (rates per nature and per hectolitre): XOF 21,665 for super-petrol, XOF 19,847 for conventional petrol, XOF 3,856 for petrol for the use of pirogues, XOF 10,395 for diesel.
- Plastic bags: XOF 3 per gram.

Tax on built real estate

The tax on built real estate applies annually to owners of buildings other than factories and industrial premises. Companies are no longer liable to the tax on built real estate on their properties listed in the balance sheet.

The tax rate is 5%. It is applied on the basis of the rental value of the lands, buildings, etc.

Tax on non-built real estate

The tax on non-built real estate applies annually to owners of land without buildings, factories, industrial premises, or equipment fixed on the land. The tax rate is fixed at 5%. It is applied on the basis of the rental value of the land.

Stamp/registration duties

There are many stamp and/or registration duties, depending on the operations, such as the following:

Operation	Stamp and/or registration duty
Commercial, house, or equipment lease	2% applicable on the basis of the annual rent
Transfer of real estate	5% on the sales price
Transfer of debt	1% on the debt value
Pledge	1% on the guarantee value
Increase of the capital in cash	1% of the increase where the share capital is greater than XOF 100 million
Transfer of business	5% on the sales price
Transfer of shares	1% on the sales price (or the market value if higher)

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Payroll taxes

Pay-as-you-earn (PAYE)

All compensation (including salary, cash allowances, and benefits in kind) paid to employees is generally taxable. For the calculation of the personal income tax (PIT) to be withheld by the employer, the tax administration provides a tax table determined on a monthly basis so that no calculation is necessary.

Employer tax

Employers are subject to a 3% tax based on the total gross salaries paid to employees.

Social Security contributions

Social Security contributions are borne exclusively by the employer.

The rate for the industrial accident/occupational disease branch has to be confirmed by the authority when registering the entity with the Social Security Office (applicable rate to be stated within the related certificate).

Sector	Rate of contributions (only payable by employers) (%)	Maximum monthly basis of calculation (XOF)
Family	7	63,000
Industrial accident / Occupational disease	1/3/5	63,000

Retirement contributions

Retirement contributions are payable both by the employer and the employees:

Regime	Rates of contributions (%)		Maximum monthly basis of calculation (XOF)
	Payable by employers	Payable by employees (withheld on the salary)	
General	8.4	5.6	360,000
Executive	3.6	2.4	1,080,000

Employment medical coverage

The employer shall subscribe for all employees a medical coverage. The level of coverage depends on the type of agreement concluded with the dedicated organism. Usually, the employee is reimbursed for 80% of medical expenses, even though the law provides a range between 50% and 80%.

The maximum monthly rate is 15%, to be levied on a contribution rate that cannot exceed XOF 250,000, for both the employee and the employer.

Local Economic Contribution (Contribution Economique Locale or CEL)

The CEL is a new contribution replacing the business license tax and consisting of two different taxes:

- the company's properties contribution, and
- the company value added contribution.

The company's properties contribution is assessed annually on the rental value of the company's business premises. The rental value corresponds to 7% of the cost price.

The applicable rates are 15% for leases premises and 20% for owned premises, lands, and installations.

The company added value contribution is based on the added value produced by a company during the previous year. The tax rate is 1%. An upper ceiling of 70% of the turnover applies to the company added value contribution.

Specific tax rates are provided for companies such as operators of public telecommunication networks licensed in Senegal (0.30%) and port facility operators (1.5%).

Tax on telecommunication

The tax rate is 5% on telecommunication use and access. To offset the tax, the purchase of mobile telephones (and other types of telephones) remains exempt from VAT and customs duty.

There are also two specific taxes payable by companies in the telecommunications sector. These taxes represent 3% (for the tax called 'CDE') and 1% (for the tax called 'PST') of the annual turnover less the payments made to other operators for networking services.

Tax on vehicles

An owner of a motor vehicle (car, truck, or motorbike) must pay an annual tax fixed at XOF 1,000 per hectolitre, except for the pirogue gasoline.

Company tax on vehicles

In addition to the tax on vehicles, companies owning or renting vehicles (more than 15 days a year) must pay a specific annual tax on them. Rates range from XOF 50,000 to XOF 200,000, depending on the type and horsepower of the vehicle.

Branch income

In general, the tax on branch income is similar to that of corporate income. Nonetheless, a 10% duty is automatically applied to profits generated after CIT. It corresponds to an automatic application of the 10% tax on payment on dividends applicable to a company.

Headquarter expenses, which are a proration of the worldwide office expenses, may be allocated to the Senegal branch. This proration is based upon a ratio of the local turnover of the branch and the worldwide turnover of the parent company. It applies to the total amount of headquarters' expenses incurred by the company. In addition, the deductibility of headquarters' expenses is limited to 20% of the accounting profits before the deduction. This limitation does not apply to other types of services provided by headquarters, such as technical assistance.

Income determination

Inventory valuation

Inventory is generally stated at the lower of cost or market value. Last in first out (LIFO) and first in first out (FIFO) are permitted. Book and tax conformity is required.

Capital gains

Capital gains derived from the transfer of assets are subject to the 30% CIT. There is no basket system. Sales of stocks by a non-resident are liable to the 30% CIT, subject to the application of a DTT.

Dividend income

If a parent company domiciled in Senegal owns 10% of the subsidiary (main condition for the application of the parent-subsidiary corporation special taxation status), a 95% reduction on the dividends received is applicable for CIT purposes.

If these conditions are not met, dividends received by a company are subject to CIT as follows:

- 40% of the dividends are added back to the taxable profit.
- The company benefits from a tax credit upon the CIT equal to 40% of the tax on distributions withheld (at the general WHT rate of 10%).

Stock dividends

Stock dividends are unusual in Senegal. However, this kind of distribution would be taxable at the general WHT rate of 10% on the basis of its real value.

Interest income

Article 105 of the GTC provides a list of interests that are not subject to CIT. For instance, the following are not subject to CIT:

- Interest on sovereign debt.
- Interest on deposit accounts opened at the Housing Bank of Senegal (*Banque de l'Habitat du Senegal*).
- Interest on loans granted by the Central Bank.

Royalty income

There are no specific provisions for royalty income. In general and in case of foreign payment, they are subject to 20% WHT (subject to a DTT that can limit or exempt the WHT), and in any case to 18% reverse VAT.

Foreign income

In general, profits generated in Senegal are taxed under Senegal's income tax law. Profits generated outside Senegal and constituting a PE in the relevant country are not taxed in Senegal. A DTT can provide different rules.

Deductions

Depreciation and depletion

The rates of depreciation are not provided by the law. The rate is determined on the normal and predictable duration of use of the asset by taking into account normal wear and tear. In practice, there are standard rates for common assets. Accelerated depreciation can be applicable, subject to conditions.

Goodwill

There are no provisions in Senegal for goodwill.

Start-up expenses

Start-up expenses are deductible if justified and approved by the shareholders.

Interest expenses

Interests on current account advances or loans from a shareholder (directly or indirectly) or a related party are subject to restrictions as to their deduction from taxable income:

- The share capital of the company receiving the loan or advance shall be, beforehand, fully paid.
- The amount of the loan or advance shall not exceed the share capital of the company receiving it. It is not an individual but an overall ceiling on the total amount of loans and advances of all shareholders and seniors.
- The rate of interest shall not exceed the rate of advance of the Institute of Emissions plus 3 points. The rate published by the Ministry of Economy and Finance for 2017 is 3.5437%.

Bad debt

There are no provisions in Senegal for bad debt.

Charitable contributions

Only payments made to specific chartered organisations are deductible, at a rate of up to 0.5/100 of turnover. On the contrary, payments made to non-chartered organisations are not deductible.

Fines and penalties

Fines and penalties are not deductible for CIT purposes.

Taxes

CIT and the company tax on vehicles are not deductible.

Other significant items

Provisions are deductible if they correspond to a risk or a probable cost that is more than possible and leads to a decrease in the assets. Provisions for paid holidays and retirement compensation are not deductible.

Net operating losses

Tax losses may be carried forward to the next three years. Losses corresponding to the depreciation of assets can be carried forward indefinitely. The carryback of losses is not allowed.

Payments to foreign affiliates

Reasonable royalties, interest, and management service fees paid to foreign parent companies are deductible. Supporting documents (e.g. invoices, contracts) will be necessary to prove that these expenses are justified.

Group taxation

Group taxation is not permitted in Senegal.

Transfer pricing

The transfer pricing regulations globally correspond to the OECD requirements standards (i.e. identifying related-party transactions, choosing the suitable transfer pricing method, and preparing documentation to support the selection of such method).

Companies with an annual turnover or amount of gross assets of at least XOF 5 billion are required to make available documentation upon a tax audit. This applies when the company directly or indirectly owns more than 50% of the share capital or more than 50% of the voting rights in another company.

An annual transfer pricing tax return shall also be provided with CIT filing (by April 30). This is a kind of simplified transfer pricing documentation, which includes information such as the description of the related companies and activities performed, group transfer pricing policy, intra-group flows, etc.

Country-by-country (CbC) reporting

Companies with group revenues exceeding XOF 491 billion must file a CbC report showing the allocation of revenues, profits, and taxes paid. The company shall prepare consolidated financial statements, and own directly or indirectly one or more legal entities located in Senegal.

The filing must be done electronically. The deadline is 12 months after the end of the fiscal year to which the CbC report relates.

Automatic exchange of the CbC report will take place between the Senegalese tax administration and other tax authorities of the jurisdictions in which the group operates and which have concluded a tax treaty providing such exchange with Senegal.

Thin capitalisation

There are no specific rules regarding thin capitalisation in Senegal. Nonetheless, the following tax and legal rules should be known:

- From a legal point of view (corporate law), the net assets must be equal to at least half of the share capital of the company. In case the net assets are lower than this threshold, the situation should be regularised by any lawful means within a period

of two years following the financial year it appears. Otherwise, any third party can request the closing of the entity before the courts.
- The deductibility of interest paid to a shareholder upon a loan or an advance in general is limited to a maximum rate calculated on the Central Bank legal interest rate (currently fixed at 3.5%) plus 3 points, calculated on the amount of the share capital *(see Interest expenses in the Deductions section for more information)*. Portions exceeding this limit are not deductible for CIT purpose.

Controlled foreign companies (CFCs)

There are no provisions in Senegal for CFCs.

Tax credits and incentives

Foreign tax credit

Usually, DTTs may provide some tax credit on the basis of the relationship between Senegalese entities and their partners located abroad. For each DTT, the specific process to enforce those tax credits either in Senegal or abroad (depending on the payments directions) are stipulated within that DTT. Nonetheless, as far Senegal is concerned, the practice consisting of enforcing foreign tax credits locally is very rare.

The Investment Code

The Investment Code applies to investments over XOF 100 million (mainly production, processing, industrial, tourism, agricultural, and complex trade). The benefits of the Investment Code include exemption from customs duties, suspension of VAT payment for three years, CIT limitation, etc. The tax benefits are directly integrated in the GTC and do not require administrative authorisation (i.e. as long the requirements are met, the taxpayers may benefit from those tax benefits).

Free export company status

Agriculture, industry, and telecommunications companies that have an exporting potential amounting to at least 80% of their turnover may qualify for the free export company status.

There are several advantages provided by the GTC for companies that qualify, including a CIT rate of 15%, exemption from the CEL, exemption from registration and stamp duty for incorporation or bylaws change purposes, and exemption from employer tax.

Miscellaneous incentives

There are a wide range of tax incentives, such as the special economic zone, which is an area designed to host economic activities that have a strong impact on economic growth and that focus their activities on exports (industrial activities, agrobusiness, ICT, tourism, medical services, port activities, and services in general).

Companies established within the zone benefit from a preferential tax regime (a 15% CIT, exemption from taxes and duties at the importation, exemption from CEL, etc.)

There are also some tax benefits for companies involved in the mining and petroleum sector (exemption from the CEL, employer tax, VAT [under conditions], etc.).

Withholding taxes

Senegal has various WHTs. The primary ones are as follows:

- 20% WHT on remuneration paid for services (including royalties) rendered by a foreign individual or foreign company.
- 5% WHT on remuneration paid for services rendered by a resident individual (liable for tax under lump sum taxation, among others) or resident company that are not subject to CIT.
- 10% WHT on dividends distributed.
- 13% WHT on bond interest.
- 8% WHT on deposits or guaranteed interest on accounts with a bank.
- 16% WHT on other revenues, notably interest on loans.

These WHTs may be limited by DTTs.

Double tax treaties (DTTs)

The DTTs concluded by Senegal are based on the OECD model in most cases. Senegal has concluded such treaties with the countries listed in the table below.

Treaty WHT rates are as follows:

	WHT (%)		
Recipient	**Dividends**	**Interest**	**Royalties**
Non-treaty	10	8 to 16	20
Treaty:			
Belgium	10	15	10
Canada	10	16	15
France	10	15	15
Italy	10	15	15
Lebanon	10	10	10
Mauritania	10	16	N/A
Mauritius	N/A	N/A	N/A
Morocco	10	10	10
Norway	10	16	16
Portugal	5/10 (1)	10	10
Qatar	N/A	N/A	N/A
Spain	10	10	10
Tunisia	10	16	N/A
United Kingdom	5/8/10/15 (2)	10	10
WAEMU *	10	15	15

* West African Economic and Monetary Union (member states are Benin, Burkina-Faso, Côte d'Ivoire, Guinea-Bissau, Mali, Niger, and Togo).

Notes

1. The 5% rate is applicable if the beneficial owner is a company that directly holds at least 25% of the capital of the company paying the dividends. The 10% rate applies in all other cases.
2. The below rates are applicable in the following cases:
   - 5% if the beneficial owner is a company that directly holds at least 25% of the capital of the company paying the dividends.
   - 8% if the beneficial owner is a pension scheme established in the United Kingdom.
   - 10% in all other cases.

- 15% if dividends deriving directly or indirectly from immovable property are paid by an investment vehicle resident in Senegal, whose income from such immoveable property is exempt from tax, and which distributes most of that income annually to a beneficial owner resident of the United Kingdom.

Tax administration

Taxable period

The tax year in Senegal is the calendar year.

Tax returns

Companies must file CIT returns by 30 April of the year following the tax year.

Also, in addition to the miscellaneous annual returns (business licence tax, company car tax, etc.) and other monthly tax returns (VAT, payroll taxes, WHT, etc.), taxpayers must file by 31 January for the prior financial year:

- An annual recapitulative payroll tax return.
- An annual recapitulative return on payment for services.

Payment of tax

CIT must be paid in two instalments (each equal to one-third of the previous year's tax) by 15 February and 30 April. The outstanding balance payment amount of the tax due must be paid by 15 June.

For the first financial year of a newly incorporated company, no instalment is due; the new company pays the whole CIT before 15 June of the following year.

Penalties

In case of late payment, a 5% interest of delay on the amount due plus an additional 0.5% duty per month of delay or portion of month of delay are applicable. This late payment is due when the taxpayer's regularisation is spontaneous.

On the other hand, if such payment is triggered by a tax audit from the authority itself after the deadline is crossed, the following penalties apply:

- 50% for any WHT and VAT.
- 25% for other taxes (CIT, business licence tax, taxes on real estate, registration duties, company car tax).

Also, the late filling of tax returns triggers an XOF 200,000 penalty per return.

Tax audit process

The tax authorities may request information, clarifications, or justification to the taxpayers. The taxpayers have 20 days to answer to those requests.

The tax authorities may also implement an inspection of the accounting documents at the premises of the taxpayer or at any place the taxpayer would consider more appropriate for material reasons upon a specific request. In such cases, a notice is sent to the taxpayer at least five days before the beginning of the inspection.

The tax authorities are not allowed to process a new tax inspection on a period already inspected by their services unless a new element or document is revealed after the first inspection was processed.

Where the tax authorities estimate that the taxpayer has not fulfilled all of one's tax obligation, a tax reassessment shall be transmitted to the taxpayer, who has 30 days in order to answer or comment on the findings.

After the tax authorities have received those comments, they can confirm partially or totally the reassessment within a statutory delay of 60 days.

Statute of limitations

The statute of limitations is, generally speaking, four years.

Topics of focus for tax authorities

With regards to corporate tax compliance, the tax authorities are generally focusing on certain expenses with forbidden or limited deductibility, such as depreciation of assets, provisions, interest, royalties/services fees, insurance premiums, head office costs, etc., but they usually define their approach according to the business sector of the company.

Recently, tax authorities have also focused on transfer pricing issues by requiring documentation upon their tax audit. The implementation of BEPS Action 13 is likely to result in more interest on this subject.

South Africa

PwC contact

Jabu Masondo
PricewaterhouseCoopers Inc
2 Eglin Road
Sunninghill 2157
South Africa
Tel: +27 11 797 0836
Email: jabu.masondo@pwc.com

Significant developments

- From 1 April 2018, the value-added tax (VAT) rate increased from 14% to 15% (the VAT rate was last increased in the early 1990s).
- It has been proposed that regulations prescribing foreign electronic services subject to VAT be broadened to include cloud computing and other online services.
- The Carbon Tax Bill is expected to be enacted before the end of 2018, bringing the Carbon Tax into effect from 1 January 2019.
- The introduction of National Health Insurance, in terms of which universal health coverage will be provided with all individuals contributing to a national health fund based on their ability to afford the contributions, is currently under debate (it appears that the introduction of National Health Insurance has been accepted, and it is merely the mechanisms in terms of which it will be implemented that are under debate).

Taxes on corporate income

A South African (SA)-resident company is subject to corporate income tax (CIT) on its worldwide income, irrespective of source. Non-residents are taxable on SA-source income.

In South Africa, the CIT rate applicable for corporate income of both resident and non-resident companies for tax years ending between 1 April 2018 and 31 March 2019 is a flat 28%.

Small business corporations (i.e. companies with only natural persons as members/owners and with gross income of not more than 20 million South African rand [ZAR]) are taxed at the following rates:

- 0% on the first ZAR 78,150 of taxable income.
- 7% on taxable income above ZAR 78,150 but not exceeding ZAR 365,000.
- 21% on taxable income above ZAR 365,000 but not exceeding ZAR 550,000.
- 28% on taxable income exceeding ZAR 550,000.

Special CIT rates apply in certain industries, such as mining and long-term insurance (*see below*).

Alternative turnover-based tax for very small companies

To reduce the compliance costs for very small companies, a turnover-based presumptive tax is available. Companies with a turnover of less than ZAR 1 million per year can elect to pay this tax instead of normal CIT, at a rate ranging from 0% to 3%, depending on the level of turnover.

Dividends tax

Dividends tax is imposed at 20% on dividends declared and paid by all resident companies as well as by non-resident companies in respect of shares listed on a South African exchange (i.e. generally the Johannesburg Stock Exchange [JSE]).

Dividends are tax exempt if the beneficial owner of the dividend is an SA-resident company, SA-retirement fund, or other prescribed exempt person.

The tax must be withheld by the company that pays the taxable dividend or, where the dividend is paid by a 'regulated intermediary', by the regulated intermediary (generally, this applies to listed shares). In the case of *in specie* dividends (i.e. dividends paid 'in kind', or dividends other than dividends paid in cash), the company declaring the *in specie* dividend is liable for the dividends tax (and not the beneficial owner of the dividend).

Exemptions from dividends tax and treaty-imposed reduced rates only apply if the beneficial owner of the dividend has made a prescribed declaration and undertaking to the paying company or regulated intermediary.

CIT for mining companies

Special rates of normal tax, based on a standard formula, are prescribed for companies mining for gold. Companies mining for other minerals are subject to the same 28% rate of normal tax that applies to ordinary companies.

CIT for long-term insurance companies

Life insurance companies are required to follow the 'five-funds approach', with policies divided into five funds, depending on the nature of the beneficiary. Each fund is then allocated assets according to the risk carried by the fund. Each of the five funds is treated as a separate taxpayer and taxed at the rate applicable to that type of fund. These rates are 30% for individual policyholder funds, 0% for untaxed policyholder funds, and 28% for company policyholder funds, risk policy funds, and corporate funds (a corporate fund being the company itself).

Local income taxes

No local government taxes on income apply to either SA-resident or non-resident companies.

Corporate residence

A company is resident in South Africa if it is incorporated, established, or formed in South Africa or has its place of effective management in South Africa. However, a company that is deemed to be exclusively resident in another country in terms of a double taxation agreement (DTA) is excluded from SA residency.

In terms of an Interpretation Note issued by the South African Revenue Service (SARS), the place of effective management is regarded as the place where key management and commercial decisions that are necessary for the conduct of its business as a whole are, in substance, made. This approach is consistent with internationally accepted principles.

Permanent establishment (PE)

South Africa does not, as a general rule, tax non-residents on the basis of having a PE in South Africa. Rather, non-residents are subject to income tax in South Africa on income derived from a South African source. The primary exception to this rule is in relation to capital gains, where non-residents are subject to tax on assets attributable to a PE in South Africa. A PE is defined with reference to the definition thereof in the Organisation for Economic Co-operation and Development (OECD) Model Tax Convention.

Other taxes

Value-added tax (VAT)

VAT is an indirect tax that is largely directed at the domestic consumption of goods and services and at goods imported into South Africa. The tax is designed to be paid mainly by the ultimate consumer or purchaser in South Africa. It is levied at two rates, namely a standard rate and a zero rate (0%).

With effect from 1 April 2018, the standard rate of VAT is 15% (prior to that date, the standard rate was 14%).

Very few business transactions carried out in South Africa are not subject to VAT. The tax is collected by businesses that are registered with the SARS as 'vendors' on all taxable supplies throughout the production and distribution chain. Sales or supplies by non-vendors are not subject to VAT.

VAT registration and administration

All suppliers of goods and services having an annual turnover exceeding ZAR 1 million are required to register as VAT vendors and to charge output VAT. Other vendors may elect to register as VAT vendors, provided their annual turnover exceeds ZAR 50,000. Two exceptions apply. Firstly, non-resident suppliers of electronic services are required to register once aggregate supplies of ZAR 50,000 have been made. Secondly, persons likely to make taxable supplies only after a period of time may register if the activities are of a nature set out in regulations. If they do not register, they are prohibited from charging VAT on goods or services they supply and claiming an input tax (rebate of VAT paid) on goods and services that they acquire.

Under the VAT system, vendors normally pay VAT on expenses (input tax) and charge VAT on supplies made (output tax). This mechanism, therefore, ensures that only the so-called 'added-value' is taxed. Due to VAT being a self-assessment system, the output tax collected may be reduced by input tax paid. Thereafter, the net amount is payable to, or refundable by, the SARS. The self-assessment returns are due regularly within prescribed periods (tax periods).

Taxable supplies

Standard-rated and zero-rated supplies are known as taxable supplies. Other supplies are known as exempt and non-supplies.

Goods and services

For a liability for VAT to exist, there must be a supply or importation of goods or services. Goods are corporeal movable things, fixed property, and real rights in such things and property. The meaning of 'services' is very broad and includes the granting, assignment, cession, or surrender of any right or the making available of any facility or advantage.

Electronic services

Non-resident suppliers of electronic services are required to register for VAT on the payments basis and account for VAT on supplies of electronic services to SA residents.

Imports

Services imported by a vendor and utilised or consumed by the vendor for the making of taxable supplies are not subject to VAT. In addition, the VAT Act has a schedule that lists goods that are exempt from VAT on importation, whether by a vendor or an unregistered person.

Zero-rated supplies

The VAT Act contains a list of the supplies of goods or services that are taxed at the zero rate. Most of the items refer to exports and international transport, but other specified goods utilised for farming purposes, the sale of an enterprise as a going concern, certain basic foodstuffs, fuel subject to the fuel levy, and deemed supplies by welfare organisations are also zero-rated.

A zero-rated supply made by a vendor is subject to VAT but at a rate of 0%. Under a zero-rated supply, a vendor does not charge VAT on the consideration for the supply and obtains a refund or credit for the VAT paid on taxable supplies utilised in the making of the zero-rated supplies.

Exempt supplies

In addition to zero-rated supplies, the VAT Act contains a list of the supplies of goods or services that are exempt from VAT. While all fee-based financial services are subject to VAT, interest charged is exempt. Other exempt supplies include residential rentals, non-international passenger transport by road or rail, and educational services.

In the case of an exempt supply made by a vendor, the vendor does not charge VAT on the supply and is not entitled to a deduction or credit for the VAT paid on goods and services supplied for the making of the exempt supply. Accordingly, vendors treat the VAT paid by them, and for which they do not obtain a deduction or credit, as another cost and recover it in the consideration they charge for the making of the exempt supply.

Customs duties

Customs duties are charged on importation of goods into South Africa at rates ranging between 3% and 45%. In addition, import duties may also include anti-dumping and countervailing duties of up to 150%. No customs duties are charged on trade between South Africa and Botswana, Lesotho, Namibia, and Swaziland, as these five countries constitute the Southern African Customs Union.

Excise duties

Excise duty is levied on certain locally manufactured goods as well as their imported equivalents. A specific duty at a pre-determined amount is levied on tobacco and liquor, and an *ad valorem* duty (calculated as a percentage of price) on certain luxury goods and automobiles. Relief from excise duty is available for exported products and for certain products produced in the course of specified farming, forestry, and (limited) manufacturing activities.

Property taxes

Local municipalities levy rates on land. These rates are based on a percentage of the municipal valuation of land and improvements and vary from municipality to municipality. Generally, a higher rate is levied on properties zoned for business use.

Transfer duty

Transfer duty levied on the sale of immovable property is payable by the person acquiring the property within six months from the date of acquisition at the following rates:

Purchase price (ZAR)	Transfer duty rate
Not exceeding 900,000	0%
900,001 to 1,250,000	3% on value above 900,000
1,250,001 to 1,750,000	10,500 plus 6% on value above 1,250,000
1,750,001 to 2,250,000	40,500 plus 8% on value above 1,750,000
2,250,001 to 10,000,000	80,500 plus 11% on value above 2,250,000
Exceeding 10,000,000	933,000 plus 13% on value above 10,000,000

Transfers of immovable property subject to VAT are exempt from transfer duty.

Securities transfer tax (STT)

STT is levied at a rate of 0.25% of the taxable amount in respect of the transfer of a security. The taxable amount is usually the consideration for which the security is purchased or the market value of the security if the consideration declared is less than the market value or if no consideration was paid. STT is payable by the company that issued the securities in question. However, the company can recover the tax from the person acquiring the shares. Slightly different rules apply in the case of listed securities.

Payroll taxes

Employers are liable to withhold pay-as-you-earn (PAYE) on behalf of their employees. PAYE is payable to SARS on a monthly basis, calculated on the remuneration paid to an employee. The rates vary depending on the employee's remuneration.

Skills Development Levy (SDL)

SDL is a compulsory levy to fund education and training. It is payable by an employer and cannot be deducted from the remuneration payable to an employee. Small employers with an annual payroll of less than ZAR 500,000 are exempt from the levy. SDL is levied at the rate of 1% of payroll. It is payable monthly, together with income tax that the employer has withheld on its employees' salaries.

Unemployment Insurance Fund (UIF) contributions

Employers are required to contribute on behalf of their employees on a personalised basis to the UIF. The rate of contributions is 1% of gross remuneration payable to an employee, with a monthly cap of ZAR 148.72 per employee. Another 1%, subject to the same cap, is payable by the employee and withheld by the employer.

Compensation for Occupational Injuries and Diseases Act (COIDA) fund

Employers are liable for making annual contributions to the COIDA fund. COIDA contributions are a payroll cost that cannot be deducted from the employee's salary, with a maximum salary cap per employee of ZAR 430,044 *per annum*. The rates vary depending on the employer's industry.

Donations tax

Disposals of assets below an adequate consideration are a deemed donations and subject to donations tax. Donations tax is payable by resident companies at a rate of 20% of the value of property donated to the extent that this value does not exceed ZAR 30 million, and at a rate of 25% of the value of property disposed of that exceeds ZAR 30 million. An annual exemption of ZAR 10,000 is available for companies.

Public companies, comprised of mostly listed companies, are exempt from donations tax. An exemption is also available for donations made to certain charities and other non-profit organisations.

Vehicle emissions tax

An environmental levy is levied on new passenger motor vehicles at a rate of ZAR 110 per gram of CO2 produced per kilometre over the first 120g of CO2 per kilometre, and at a rate of ZAR 150 per gram of CO2 produced per kilometre over the first 175g of CO2 per kilometre (in the case of double cab passenger vehicles).

Fuel levy

A fuel levy is included in the price of petroleum fuel sold. The general fuel levy for 2018/19 is 337 cents per litre of petrol and 322 cents per litre of diesel. A refund of the diesel fuel levy may be claimed in certain industries, such as agriculture, fishing, and mining.

Electricity levy

To support energy efficiency, the government has implemented a levy on electricity generated from non-renewable sources at 3.5 cents per kWh. The levy is paid at source by the electricity producer and recovered in the price to the consumer.

Tyre levy

A tyre levy is applicable at a rate of ZAR 2.30/kg.

Sugar tax

A tax on sugar-sweetened beverages, in the form of the Health Promotion Levy on Sugary Beverages, was introduced on 1 April 2018. The base on which the levy is applied is the sugar content of the beverage. The rate of the levy is 2.1 cents per gram for sugar content in excess of 4g/100ml. For powder and liquid concentrates, sugar content is calculated on the total volume of the prepared beverage.

Air passenger tax

Passengers departing on international flights must pay air passenger tax at the rate of ZAR 100 on flights to Botswana, Lesotho, Namibia, and Swaziland, and ZAR 190 on other flights. The tax is added to the price of the ticket.

Branch income

SA branches of foreign companies are not considered to be separate legal entities for tax purposes, and no tax is withheld on transfers of profits to the head office. Branches of foreign companies are taxed at a rate of 28% and are not liable for dividends tax or any branch profits repatriation tax.

Note that a branch must register as a taxpayer and submit tax returns. Separate financial statements must be drawn up for the SA branch. For all practical purposes, the SARS will treat the branch as a separate entity. For example, inter-branch cost recoveries levied by the head office incurred in the production of SA income normally will be allowed as a deduction by the branch, although this treatment is not extended to interest on inter-branch loans.

In terms of DTAs, the taxation of branches is limited to cases where the branch constitutes a PE.

Income determination

Inventory valuation

Inventories generally are stated at the lower of cost or net realisable value. Write-downs of inventory for slow-moving and obsolete items must be justified, and a general policy on a percentage basis is not permitted. Last in first out (LIFO) is not accepted for tax purposes.

Capital gains

Although the capital gains tax forms part of income tax, the two taxes are not fully integrated. While gains realised by companies are taxed at the normal CIT rate, only 80% of gains are included in taxable income, making the effective capital gain tax rate for companies 22.4%.

Dividend income

Dividends are generally taxed in the hands of the beneficial owner at a rate of 20% (*see Dividends tax in the Taxes on corporate income section*). Dividends tax is withheld by the company declaring the dividend on behalf of the shareholder receiving it. *In specie* dividends are subject to tax in the hands of the company and not the beneficial owner.

Foreign dividends received by or accrued to an SA-resident taxpayer are included in income based on a formula and taxed at the normal CIT rate, which results in an effective tax rate of 20%. Qualifying foreign dividends are also generally not subject to tax where they are received by resident shareholders holding in excess of 10% of the equity shares and voting rights of the company declaring the dividend. Dividends received by residents holding less than 10% of such shares will generally be taxable in South Africa, subject to a tax credit for foreign taxes payable by the recipient shareholder.

Stock dividends

Stock dividends (capitalisation issues of shares) are not subject to CIT or dividends tax.

Interest income

Interest income of resident companies is taxed at the normal CIT rate.

Interest received by a non-resident company is only subject to CIT if the debt claim in respect of which it is paid is effectively connected with a PE of that non-resident company in South Africa during the tax year, and where that non-resident company is registered as a taxpayer in South Africa.

A 15% withholding tax (WHT) applies to interest paid on certain debt instruments to non-resident companies and where the interest is not subject to CIT.

Royalty income

Royalty income of resident companies is taxed at the normal CIT rate.

Royalty income received by a non-resident company is only subject to CIT if the property in respect of which the royalty income is paid is effectively connected with a PE of that non-resident company in South Africa during the tax year, and where that non-resident company is registered as a taxpayer in South Africa.

A 15% WHT applies to royalties paid to non-resident companies where the royalties are from a South African source and where the interest is not subject to CIT.

Foreign income

Foreign income of an SA-resident company is subject to tax in South Africa on the earlier of receipt or accrual. However, income that may not be remitted to South Africa in terms of the laws of the country where the amount arose is deferred until the income can be remitted. Double taxation may be avoided under certain DTAs or by way of unilateral credit or deduction for foreign tax payable on foreign income (*see Foreign tax credit in the Tax credits and incentives section*).

Deductions

Depreciation and depletion

A depreciation (wear and tear) allowance may be deducted on movable assets used for the purpose of trade. There are no statutory provisions relating to rates of wear and tear, but the SARS has published a table of periods over which the assets may be written off. The rates of wear and tear, based on the cash cost, are calculated either according to the straight-line or diminishing-balance method.

New and unused machinery used in a process of manufacture or in a similar process is depreciable at the rate of 40% in the first year of use and 20% in the three following years. If the machinery is not new and unused, an allowance of 20% per year over five years is available.

An accelerated depreciation allowance (50% in the first year of use, 30% in the second, and 20% in the third year) applies to the machinery and articles used in farming, production of biodiesel or bioethanol, and production of energy from certain renewable sources.

Specific allowances are also provided for pipelines, transmission lines, railway lines, rolling stock, airport property, ports, ships, mining operations, and other qualifying industrial assets.

Buildings and other permanent structures may not be depreciated, apart from an annual allowance for each of the following:

- Buildings used in a process of manufacture or a process similar to a process of manufacture: For buildings erected before 1 January 1989, a 2% rate applies per year. For buildings erected after 1 January 1989, a 5% rate applies.
- Hotel buildings: For buildings built prior to 4 June 1988, a 2% rate applies per year. For hotel buildings erected after 4 June 1988, a 5% rate applies. Improvements within the existing building framework that commenced on or after 17 March 1993 are depreciated at the rate of 20%.
- Agricultural cooperative storage buildings: For buildings built prior to 1 January 1989, a 2% rate applies per year. For buildings erected on or after 1 January 1989, a 5% rate applies.
- Housing projects of not less than five units: Housing projects of not less than five units of residential accommodation, which consist of more than one room and the erection of which commenced on or after 1 April 1982 and before 21 October 2008, are subject to a 2% rate of depreciation. After 21 October 2008, an allowance of 5% is available on this type of property. The 5% depreciation rate is available to the taxpayer provided that the unit is used by the taxpayer solely for trade purposes, the unit is situated in South Africa, and the taxpayer owns at least five units in South Africa used for the purposes of trade. An additional allowance is available for a low-cost residential unit. Additionally, from 21 October 2008, taxpayers are granted relief for the transfer of ownership on a contract for deed basis of employer provided low-cost residential units to employees.
- Buildings in urban development zones: Improvements to an existing building in an urban development zone, where the existing structural or exterior framework is preserved and brought into before 31 March 2014, qualify for an accelerated allowance of 20% per year. Buildings that are erected, extended, or added to in an urban development zone on or after 21 October 2008 and which are not covered by the first mentioned allowance qualify for a 20% allowance in the first year and an 8% allowance in the following ten years. As of 21 October 2008, new and unused low-income residential units located in urban development zone demarcations are subject to an additional annual depreciation allowance. The rate is 25% in the first year, 13% in the succeeding five years, and 10% in the year following the last year. Improvements are subject to a depreciation allowance of 25% over a period of four years.
- Commercial buildings: The cost to the taxpayer of any new and unused building owned by the taxpayer, or any new and unused improvement to any building owned by the taxpayer, if that building or improvement wholly or mainly is used by the taxpayer for trade purposes, other than the provision of residential accommodation, is subject to a 5% rate of depreciation. This allowance is applicable to any building or improvement contracted for on or after 1 April 2007 and the construction of which commenced on or after 1 April 2007.

An allowance for assets disposed of or scrapped during a year of assessment is determined by reference to the cost less allowances already granted and the proceeds on disposal (if any). Recoupments of allowances granted are taxable where disposal proceeds exceed the tax basis at the time of sale. Such recoupments cannot exceed the cost of the asset. Proceeds above cost will be taxed as a capital gain.

Book depreciation does not need to be consistent with tax depreciation.

No cost or percentage depletion is available for natural resources.

Goodwill

The sale and purchase of goodwill is generally a transaction on capital account, and the person paying for the goodwill will usually be unable to claim a deduction. No capital allowances are available for goodwill.

Start-up expenses

Special relief is provided for start-up (or pre-trade) expenditure to allow for a deduction in the year that trade commences. The expenses are only deductible if they would have been deductible had they been incurred after the commencement of trade. These expenses and any loss they create are ring-fenced and may only be deducted against income from the trade to which the start-up costs relate.

Interest expenses

Generally, interest expenditure incurred in the production of non-exempt income and for the purposes of trade is deductible. However, interest that is incurred to produce income that is exempt from tax will not be allowed as a tax deduction. A special dispensation applies to the deduction of interest on debt used to acquire shares in a company, provided certain requirements are met.

Special rules apply to determine the amount of interest and timing of any deductions taking into account all payments and receipts in respect of debt instruments with interest being determined on the basis of an internal rate of return.

Certain debt instruments that are convertible to shares or may be settled in shares or where repayment is subject to solvency or related to connected-party debt with a maturity of 30 years or more are treated as hybrid debt instruments and no interest deduction is allowed in respect thereof. Certain hybrid interest is also treated as a dividend.

In addition, the interest deduction for interest paid between related parties is limited where such interest is not subject to income tax or WHT on interest. In terms of these rules, interest deductions are limited to an amount determined with reference to a percentage of taxable income before interest and depreciation. The percentage is determined with reference to the repo rate with a ceiling of 60% of adjusted taxable income. Any excess interest may be carried forward to the following year for deduction. The transfer pricing and thin capitalisation rules continue to apply to such interest.

Further interest deduction limitations also apply to interest paid on debt used to fund acquisitions of shares or businesses under certain of the corporate rollover relief provisions (*see the Group taxation section*). In terms of these rules, with some amendments thereto only applying for years of assessment commencing on or after 1 January 2015, interest deductions on such transactions are limited to an amount determined with reference to a percentage of taxable income before interest and depreciation. The percentage is determined with reference to the repo rate with a ceiling of 60% of adjusted taxable income.

The deduction of cross-border interest paid to connected persons is subject to limitation under transfer pricing rules (*see Transfer pricing and thin capitalisation in the Group taxation section*).

Bad debt

Bad debts are tax deductible if the debt relates to an amount that has been included in the taxpayer's taxable income in any tax year if it is due at the end of the year of assessment. A tax allowance is also provided for in respect of specifically identified doubtful debts.

Any bad debts arising on loaned money is deductible if it was lent in the course of a money-lending business.

Charitable contributions

Donations to certain charitable organisations approved as public benefit organisations are tax deductible, up to a maximum of 10% of taxable income.

Cost of inventory

The cost of inventory is, in principle, deductible as soon as the inventory is acquired. However, at the end of each year, the cost of the inventory still on hand has to be added to the company's income. Then in the next year, it can be deducted again. This has the effect of timing the deduction of the cost of inventory to match the time of its realisation.

Assets acquired for shares issued

When assets are acquired by a company in return for shares issued to the seller, the purchaser of the assets is deemed to have incurred expenditure equal to the market value of the shares immediately after acquisition. Special rules apply in the case of a mismatch in the value of the shares and assets.

Fines and penalties

Any fine or penalty imposed in respect of an unlawful activity carried out in South Africa, or in any other country where it would be unlawful in South Africa, is not deductible for tax purposes.

Taxes

Most taxes (other than income taxes, donations tax, WHT on interest, and dividends tax) are deductible from taxable income for the corporation, provided they qualify for deduction under general rules.

Net operating losses

Losses may be carried forward indefinitely, provided an active trade or business of a similar nature is carried on without interruption. Loss carrybacks are not provided for in South Africa.

Payments to foreign affiliates

Deductions may be claimed for royalties, managerial service fees, and interest charges paid to foreign affiliates, provided such amounts approximate those that would be paid to an unrelated party in an arm's-length transaction.

Interest deductions may be limited in certain circumstances (*see Interest expenses above and Transfer pricing and thin capitalisation in the Group taxation section*).

Group taxation

Group taxation is generally not permitted in South Africa. However, relief is given for transactions between group companies to allow for reorganisations, provided certain requirements are met.

In general, the relief will only apply to transactions between companies within the same group. A group of companies is defined as a controlling company and one or more controlled companies in relation to that controlling company. A controlling company means a company holding, directly or indirectly, at least 70% of the equity shares of any other company. Foreign-incorporated companies do not form part of a group of companies for the purposes of this relief unless effectively managed in South Africa, although relief is extended to controlled foreign companies (CFCs) in certain circumstances.

Corporate rollover relief is available for asset-for-share transactions, amalgamation transactions, intra-group transactions, unbundling transactions, and transactions relating to liquidation, winding-up, and deregistration.

The relief may cover the capital gains tax arising from the disposal of capital assets, income tax arising from the disposal of a depreciable asset, income tax arising from the disposal of trading stock, donations tax arising from the disposal of an asset, dividends tax, VAT, securities transfer tax, and transfer duty.

Transfer pricing and thin capitalisation

South Africa has transfer pricing legislation applying to cross-border transactions involving connected persons. The transfer pricing legislation applies the arm's-length standard.

The transfer pricing legislation does not separately address transfer pricing and thin capitalisation. Rather, thin capitalisation is simply treated as a potential breach of the general arm's-length standard (i.e. in relation to the level of funding).

Where a transfer pricing adjustment is required to be made, that adjustment is subject to a secondary adjustment where it is deemed to be either a dividend or a donation.

In addition, South Africa has formally adopted the OECD's three-tiered documentation approach, and certain taxpayers are required to electronically submit Country-by-Country Reports, Master File, and/or Local File returns within 12 months of the end of their financial year.

The SARS has also, in recent years, expanded the transfer pricing questions contained in the CIT returns. In answering these questions, taxpayers are required to make a full disclosure of all requested information, as well as any information that may be relevant.

Controlled foreign companies (CFCs)

If one or more residents together, directly or indirectly, hold more than 50% of the voting or participation rights in a foreign company, then it is a CFC in relation to those residents. The income of a CFC is imputed to the residents in proportion to their holdings, subject to certain exclusions and tax credits, where applicable. The most notable exclusions are for high-taxed CFCs and for income attributable to 'foreign business establishments'.

Tax credits and incentives

Foreign tax credit

The South African Income Tax Act makes provision for a rebate against CIT in respect of foreign taxes paid on foreign-sourced income or a deduction against income of foreign taxes paid on SA-sourced income. In both instances, the taxpayer must be an SA resident, the income must be included in taxable income, and that income must have been subject to a foreign tax that is not recoverable. The rebate is limited to the total normal tax payable calculated by applying the ratio of the total taxable income attributable to the foreign tax to the total taxable income. The deduction, however, may not exceed the income on which the foreign tax was levied.

Research and development (R&D)

The current costs related to certain R&D activities carried on in South Africa are 150% deductible, subject to pre-approval by a government-appointed approval committee. The cost of machinery and other capital assets acquired for the purposes of R&D may be depreciated 40% in the first year of use, 20% in the second, 20% in the third year, and 20% in the fourth year. Buildings used in the process of R&D may be written-off over a 20-year period.

Headquarter company regime

A 'headquarter company' regime encourages the use of South Africa as a location for intermediate holding companies.

The main benefits offered to a headquarter company are:

- Exemption from South Africa's CFC rules.
- Exemptions from dividend WHT on the headquarter company's dividend distributions.
- Exemption from the WHT on interest in certain circumstances.
- Exemption from South Africa's transfer pricing rules on back-to-back loans, outbound loans, back-to-back intellectual property (IP) licensing arrangements, and outbound IP licensing arrangements.
- The participation exemption for dividends received from, or gains derived on the disposal of, foreign qualifying holdings (these exemptions are not specific to headquarter companies but are available generally to SA-resident shareholders).

The requirements for a headquarter company are as follows:

- The headquarter company must be SA resident.
- Each shareholder in the headquarter company must hold at least 10% of the headquarter company's equity shares and voting rights. This means that a headquarter company can never have more than ten shareholders.
- At least 80% of the headquarter company's assets (measured on a 'cost' basis and excluding cash and certain bank deposits) must be comprised of certain assets

related to the foreign companies in which the headquarter company holds at least 10% of the equity shares and voting rights. Specifically, these assets must be:
  - the equity shares in those companies
  - loans to those companies, and
  - IP licensed to those companies.
- At least 50% of the headquarter company's gross income must be comprised of dividends, interest, royalties, rentals, service fees, or proceeds from the sale of equity shares or IP from its 10%-plus holdings, where the gross income exceeds ZAR 5 million.

Industrial policy projects

In 2008, a ZAR 20 billion incentive package for investors in energy efficient projects was announced. The incentive is available for industrial projects participating in the manufacturing sector (other than alcohol or alcohol-related products, tobacco or tobacco-related products, arms and ammunition, and biofuels, which have a negative impact on food security). Companies are divided into those with a qualifying status and those with a preferred status. The status is determined in terms of a point system.

The proposed project must either be a 'brownfield project' (expansion or upgrade of an existing industrial project) or a 'greenfield project' (a wholly new industrial project, which uses new and unused manufacturing assets). Approved projects may be granted a tax allowance known as an additional investment allowance equal to 55% (100% if located in an industrial development zone) of the cost of any manufacturing asset used in an industrial policy project with preferred status or 35% (75% if located in an industrial development zone) of the cost of any manufacturing asset used in any other approved industrial policy project.

The additional investment allowance may not exceed ZAR 900 million in the case of any greenfield project with a preferred status, ZAR 550 million in the case of any other greenfield project, ZAR 550 million in the case of any brownfield project with a preferred status, or ZAR 350 million in the case of any other brownfield project.

In addition to the above, a company may also claim a deduction known as an additional training allowance.

Special Economic Zones (SEZs)

An SEZ incentive has been introduced for companies carrying on business in an SEZ comprising of a reduced corporate tax rate of 15% as well as a 10% allowance in respect of the cost of new and unused buildings owned by a qualifying company or any new or unused improvements to any building owned by a qualifying company.

In addition, employment incentives have also been introduced for employers carrying on a trade in an SEZ that will allow for an employees' tax reduction for the employer in respect of qualifying employees, up to a prescribed monthly amount.

Energy efficiency savings

The energy efficiency savings incentive provides an income tax deduction to qualifying taxpayers. The deduction equates to ZAR 0.95 for each kilowatt hour (or equivalent) saved by the taxpayer during the relevant year of assessment against a baseline from the beginning of the year.

International shipping incentive

Income from international shipping of a resident company that holds a share in a South African flagged ship is exempt from income tax. Qualifying shipping companies can also use a currency other than the rand as their functional currency.

Venture capital companies

In order to assist small and medium-sized businesses to raise capital to finance businesses, a tax incentive for investors in small and medium-sized enterprises through venture capital companies was introduced.

A deduction is allowed from the income of a taxpayer in respect of expenditures actually incurred by that person in respect of shares issued to that person by a venture capital company.

Withholding taxes

Payments to residents

The only payments to residents that are subject to WHT are in respect of dividends, although resident companies are exempt from the dividend WHT.

Royalties payable to non-residents

Royalties and know-how payments made to non-residents for the use of or right to use IP rights in South Africa are deemed to be from an SA source. The payer of the royalty or know-how payment is obligated to deduct a WHT of 15% of this payment, which is a final tax payable by the recipient of such income.

Dividends payable to non-residents

A dividend WHT of 20% applies to any dividend paid by a resident company to a non-resident or by a non-resident company to a non-resident where the shares in respect of which the dividends are paid are listed on a South African exchange. The tax is imposed on the beneficial owner of the dividend and not on the company, with the exception of *in specie* dividends. The payer of the dividend or regulated intermediary is required to deduct the 20% WHT from the payment. The treaty rate is the maximum allowable rate to be charged by the treaty countries; where this rate is higher than the domestic tax rate, the latter will apply.

Interest payable to non-residents

A 15% WHT on interest applies to interest payable from an SA source to non-residents on certain debt instruments. The resident payer of the interest is required to deduct the 15% WHT from the payment.

Treaty rates for dividends, interest, and royalties

The WHT may be reduced by the terms of the relevant tax treaty, as follows:

	WHT (%)		
Recipient	**Dividends**	**Interest**	**Royalties**
Non-treaty	20	15	15
Treaty:			
Algeria (1, 11)	10/15	10	10
Australia (1, 2, 12D)	5/15	10	10

Recipient	WHT (%) Dividends	Interest	Royalties
Austria (11D)	5/15	0	0
Belarus (1, 2, 6, 11D, 27)	5/15	5/10	5/10
Belgium (1, 11)	5/15	10	0
Botswana (1, 2, 11)	10/15	10	10
Brazil (1, 2, 7, 11)	10/15	15	10/15
Bulgaria (1, 2, 6, 8, 11D)	5/15	5	5/7/10
Cameroon (11)	10/15	10	10
Canada (1, 4, 12D, 33)	5/15	10	6/10
Chile (11)	5/15	5/15	5/10
China, People's Republic of (1, 5, 35, 38, 39, 40)	5	10	7/10
Croatia (11, 26)	5/10	0	5
Cyprus (1, 12, 26)	5/10	0	0
Czech Republic (1, 11D, 26)	5/15	0	10
Democratic Republic of Congo (1, 11, 35)	5/15	10	10
Denmark (1, 11, 26)	5/15	0	0
Egypt (1)	15	12	15
Ethiopia (1, 2)	10	8	20
Finland (1, 12, 26)	5/15	0	0
France (1, 2, 12D, 28)	5/15	0	0
Germany (2, 13D)	7.5/15	10	0
Ghana (1, 2, 12, 32)	5/10	5/10	10
Greece (1, 2, 9, 11D)	5/15	8	5/7
Grenada (29, 36, 37)	15	15	15
Hong Kong (12, 42)	5/10	0/10	5
Hungary (1, 11D, 26)	5/15	0	0
India (1)	10	10	10
Indonesia (1, 12)	10/15	10	10
Iran (1)	10	5	10
Ireland (1, 12D, 26)	5/10	0	0
Israel (2, 3)	25	25	0/15
Italy (1, 14)	5/15	10	6
Japan (1, 15)	5/15	10	10
Kenya	10	10	10
Korea, Republic of (1, 11D)	5/15	10	10
Kuwait (1, 2, 10, 26)	0	0	10
Lesotho (1)	15	10	10
Luxembourg (1, 11D, 26)	5/15	0	0
Malawi (2, 22, 29)	15	10	0
Malaysia (1, 2, 11)	5/10	10	5
Malta (1, 12, 16, 35)	5/10	10	10
Mauritius (1, 12, 41)	5/10	0/10	5
Mexico (1, 2, 12)	5/10	10	10
Mozambique (1, 2, 11)	8/15	8	5
Namibia (1, 11)	5/15	10	10
The Netherlands (1, 2, 12, 25, 26)	5/10	0	0
New Zealand (1, 11, 34)	5/15	10	10
Nigeria (1, 2, 12)	7.5/10	7.5	7.5

	WHT (%)		
Recipient	Dividends	Interest	Royalties
Norway (1, 2, 11D, 26)	5/15	0	0
Oman (1, 10, 12, 26)	5/10	0	8
Pakistan (1, 12)	10/15	10	10
Poland (1, 11D)	5/15	10	10
Portugal (1, 2, 17D)	10/15	10	10
Qatar (12, 38, 41)	5/10	10	5
Romania (1)	15	15	15
Russia (2, 18)	10/15	10	0
Rwanda (1, 11)	10/20	10	10
Saudi Arabia (1, 2, 12D)	5/10	5	10
Seychelles (1, 2, 12, 26)	5/10	0	0
Sierra Leone (29, 36, 37)	15	15	15
Singapore (1, 12, 26)	5/10	7.5	5
Slovak Republic (1, 11D, 26)	5/15	0	10
Spain (1, 2, 11D)	5/15	5	5
Swaziland (1, 11)	10/15	10	10
Sweden (1, 2, 19, 28)	5/15	0	0
Switzerland (1, 2, 20D)	5/15	5	0
Taiwan (1, 12D)	5/15	10	10
Tanzania (1, 21)	10/20	10	10
Thailand (1, 11, 30)	10/15	10/15	15
Tunisia (1, 31)	10	5/12	10
Turkey (1, 11D)	10/15	10	10
Uganda (1, 11)	10/15	10	10
Ukraine (1, 20)	5/15	10	10
United Arab Emirates (1, 12)	5/10	10	10
United Kingdom (2, 22, 26)	5/10/15	0	0
United States (1, 2, 23)	5/15	0	0
Zambia (2, 24, 26)	15	0	0
Zimbabwe (2, 24, 29)	15	15	0

Notes

'D' refers to direct capital holding.

1. Recipient is the beneficial owner of the royalty.
2. Royalty is subject to tax in recipient country.
3. 15% is levied on royalties for cinematographic or television films.
4. The maximum rate for copyright royalties, royalties for use of computer software, and patents concerning industrial, commercial, and scientific experience is 6% of the royalties paid; otherwise, 10%.
5. Maximum rate of 10% on royalty of the adjusted amount (being 70% of the gross royalties) for use of industrial, commercial, or scientific equipment.
6. The 5% rate applies to royalties for the use of a copyright. A 7% rate applies to royalties for the use of patents, trademarks, designs, models, etc.
7. In respect of right to use industrial, commercial, or scientific equipment and transport vehicles, a 10% rate applies.
8. The lower rate of 5% applies to any cultural, dramatic, musical, or other artistic work (but not including royalties in respect of motion picture films) as well as industrial, commercial, or scientific works. The rate of 10% applies in all other cases.
9. The 5% lower rate applies to use of literary, artistic, and scientific works. The 7% lower rate applies to right of use of patents, trademarks, designs, and models.
10. No right to tax dividends in payor state if the beneficial owner of the dividend is resident in the payee state.

11. Lower rate applies to a beneficial owner that is a company and has a minimum holding of 25% of capital, and the higher rate applies in other cases.
12. Lower rate applies to a beneficial owner that is a company and has a minimum holding of 10% of capital, and the higher rate applies in other cases.
13. Lower rate applies to a beneficial owner that is a company and has a minimum holding of 25% of voting shares, and the higher rate applies in other cases.
14. Lower rate applies to a beneficial owner that is a company and has a minimum holding of 25% of capital and a minimum 12-month holding period prior to the end of the accounting period prior to the dividend payment, and the higher rate applies in other cases.
15. Lower rate applies to a beneficial owner that is a company and has a minimum holding of 25% of voting shares and a minimum six-month holding period prior to the end of the accounting period prior to the dividend payment, and the higher rate applies in other cases.
16. SA resident payor to Maltese resident beneficial owner (Maltese resident payor to SA resident beneficial owner is limited to tax on profits).
17. Lower rate applies to a beneficial owner that is a company and has a minimum holding of 25% of capital and a minimum two-year uninterrupted holding period prior to the dividend payment, and the higher rate applies in other cases.
18. Lower rate applies to a beneficial owner who has a minimum holding of 30% of capital and a minimum direct investment of 100,000 United States dollars (USD) in the company declaring the dividend, and the higher rate applies in other cases.
19. Lower rate applies to a beneficial owner that is a company and has a minimum holding of 10% of capital, and the higher rate applies in other cases. However, a ‘most favoured nations’ clause applies, which will limit the above rates to the lowest treaty rate in terms of any other treaty.
20. Lower rate applies to a beneficial owner that is a company and has a minimum holding of 20% of capital, and the higher rate applies in other cases.
21. Lower rate applies to a beneficial owner that is a company and has a minimum holding of 15% of capital, and the higher rate applies in other cases.
22. Lower rate of 5% applies to a beneficial owner that is a company and has a minimum holding of 10% of capital. Lower rate of 10% applies in all other cases. 15% rate applies to all dividends from property investment companies.
23. Lower rate applies to a beneficial owner that is a company and has a minimum holding of 10% of voting power (directly), and the higher rate applies in other cases.
24. The treaty contains no provisions regarding dividends WHT, thus the domestic rate will apply.
25. The Netherlands Protocol has a ‘most favoured nation’ provision whereby the rate most favourable in any other treaty will apply over the default treaty rate. This, however, only applies to treaties concluded after this treaty.
26. No right to tax interest in payor state if the beneficial owner of the interest is resident in the payee state.
27. The 5% rate applies to interest derived by a bank or any other financial institution, and the 10% rate applies in other cases.
28. No right to tax interest in payor state if the beneficial owner of the interest is resident in the payee state and provided interest is taxable in that other state.
29. No specific provision is made for interest in the DTA.
30. The 10% rate applies to interest received by a financial institution (including an insurance company), and the 15% rate applies in other cases.
31. The 5% rate applies to interest on loans made by banks, and the 12% rate applies in other cases.
32. The 5% rate applies if the interest is paid to a bank; the 10% rate applies in other cases.
33. In Canada, a beneficial owner that is a company controls a minimum of 10% of the voting power (directly/indirectly), but excludes non-resident owned investment corporation resident in Canada.
34. In New Zealand, dividends are taxed at a flat rate of 15%.
35. No right to tax interest in payor state if the beneficial owner is the government of the other state or a government entity.
36. No specific provision is made for royalties in the DTA.
37. No right to tax interest on stocks and securities issued by any government other than South Africa, even if business is carried on in South Africa, if taxed in residence state.
38. Lower rates for royalties do not apply if attributable to a PE in the payor state or the right or property on which royalty is paid is attributable to PE in payor state.
39. The 10% rate applies if the beneficial owner is resident in the payee state.
40. Lower rate of 5% applies to the dividend if beneficial owner is resident in payee state.
41. The interest exemption in the source country is only retained for interest paid or received by a government or central bank, or for interest on debt instruments listed on a recognised stock exchange.
42. The interest exemption applies if the beneficial owner of the interest is the Hong Kong Special Administrative Region (HKSAR) Government, the Hong Kong Monetary Authority, the SA Government, the SA Reserve Bank, or institutions wholly or mainly owned by them.

Non-resident entertainers and sportspersons

A WHT at the rate of 15% applies to all payments made to non-resident entertainers and sports persons in respect of their activities exercised in South Africa.

Disposal of immovable property by non-residents

Any person who pays an amount to a non-resident in respect of the sale of immovable property in South Africa must withhold from the amount payable an amount equal to:

- 7.5% if the non-resident seller is an individual
- 10% if the non-resident seller is a company, or
- 15% if the non-resident seller is a trust.

No WHT is levied if the amount is less than ZAR 2 million.

The amount so withheld is not a final tax for the non-resident seller. Instead, this amount is regarded as an advance payment of the non-resident seller's normal tax liability for the year of assessment during which the property is disposed of. The non-resident seller is still required to submit an income tax return for that year.

Tax administration

Taxable period

The corporate tax year is the same as the company's financial year. It may be changed upon application showing reasonable cause.

Tax returns

Annual income tax returns must be submitted within one year from the end of the company's tax year. The annual tax return includes a supplementary reconciling return where requested. Furthermore, schedules apply for CFCs, short-term insurers, mining companies, headquarter companies, and learnership allowances.

'Signed off' financial statements are required to be submitted with the annual tax return.

Payment of tax

Payments are made with provisional returns filed at six-month intervals from the tax year-end based on an estimate of taxable income for the year. Interest is charged on any underpayment outstanding for more than six months after the tax year-end, except in the case of February year-ends, in which case it is seven months. Any balance (together with interest) is then paid following assessment.

Tax audit process

There is no prescribed audit process, and an audit can be initiated by any factor as determined by the SARS. The audit or inspection will commence with a request from the SARS for the taxpayer to make available any such records or information as may be required.

Statute of limitations

Tax debts to the state prescribe after a period of 15 years. Tax returns submitted that have been assessed may not be reopened after a period of three years from date of assessment by the SARS or five years if it is a self-assessment by the taxpayer, unless there has been fraud, misrepresentation, or non-disclosure by the taxpayer.

The prescription period may be extended by three years in the case of an assessment by the SARS or by two years in the case of self-assessment in respect of certain complex matters, such as transfer pricing and general anti-avoidance cases.

Topics of focus for tax authorities

The SARS, in their 2015/16 to 2019/20 Strategic Plan, stated that they will focus on the following areas:

- Large business and transfer pricing.
- The construction industry.
- Illicit cigarettes.
- Undervaluation of imports in the clothing and textile industry.
- Small business and cost of compliance.
- Collaboration with other jurisdictions on tax base erosion.

Other issues

Intergovernmental agreements (IGAs)

South Africa entered into an agreement with the United States to improve international tax compliance and to implement the Foreign Account Tax Compliance Act (FATCA). The date of entry into force is 28 October 2014.

South Africa is also a party to the Multilateral Convention on Mutual Administrative Assistance on Tax Matters as well as a number of bilateral tax information exchange agreements. As a signatory to the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information, also referred to as the Common Reporting Standard (CRS), South Africa enacted domestic enabling legislation. The first exchange date was September 2017. South Africa also has bilateral CRS agreements with Hong Kong and Singapore.

Base Erosion and Profit shifting (BEPS)

South Africa is a member of the OECD's Inclusive Framework on BEPS and has been amongst the first adopters of BEPS Actions in general. Notably, South Africa:

- was amongst the first batch of signatories to the so-called Multilateral Instrument (MLI) in June 2017, and
- enacted (in 2016 and 2017) domestic regulations to enact transfer pricing documentation requirements aligned with Chapter V of the OECD's 2017 Transfer Pricing Guidelines (also referred to as BEPS Action 13), including the exchange of Country-by-Country Reports.

Swaziland

PwC contact

Theo Mason
PricewaterhouseCoopers
Rhus Office Park
Old Tavern Hotel Site
Karl Grant Street
Mbabane
Swaziland
Tel: +268 2 404 3143
Email: theo.mason@pwc.com

Significant developments

There have been no significant corporate tax developments in Swaziland during the past year.

Taxes on corporate income

Income tax is levied on all income derived from sources generated within or deemed to be generated within the country, irrespective of whether the recipient of the income is actually resident in Swaziland.

All companies generating income within Swaziland are taxed on that income at a flat rate of 27.5%.

Corporate residence

Permanent establishment (PE)

PE in Swaziland is determined according to physical presence.

Other taxes

Value-added tax (VAT)

VAT is charged at the standard rate of 14%.

Customs duties

Swaziland has a provision for customs duties for various goods imported into the country. Details are available in the Harmonized Tariff Schedule (HTS).

Excise duties

Swaziland has an excise duty provision for various goods manufactured in the country.

Goods	Excise duty rate (%)
Cigarettes	6.34
Cigarette tobacco	8.00
Cigars	6.19
Other tobacco products	16.10

Goods	Excise duty rate (%)
Spirits	8.90
Beer	8.20
Alcoholic fruit beverage	8.30
Wine	8.10

Property taxes

There are no property taxes in Swaziland.

Transfer taxes

Transfer taxes are applied on a variable rate basis to property transfers based on the fair market value of the property being transferred.

Stamp taxes

Swaziland has a provision for stamp taxes on various documents. The tax is determined either by way of a set fee or on a sliding scale percentage basis.

Payroll taxes

Pay-as-you-earn (PAYE) is to be deducted from employees on a monthly basis and according to the tax tables applicable to individuals*, which are provided in the Taxes on personal income section of Swaziland's Individual tax summary at www.pwc.com/taxsummaries.*

Social security contributions

There are no social security contributions in Swaziland.

Branch income

Income tax on registered branch profits is calculated as for a resident company, and a branch profits tax of 15% is assessed for deemed repatriated income. In practice, however, branches are rare since most foreign companies incorporate local subsidiary companies.

	SZL*
Net profit before tax	100.00
Tax @ 27.5%	(27.50)
Repatriated income	72.50

* Swaziland lilangeni

Income determination

Inventory valuation

Inventory valuation is not specific but is effectively at the lower of cost (i.e. first in first out [FIFO] or average cost) and net realisable value.

Capital gains

Capital gains are not subject to income tax, provided it can be demonstrated that the gains are of a capital and not an income nature (i.e. not recurring transactions).

Dividend income

Dividend income is taxable via withholding tax (WHT) for non-residents (*see the Withholding taxes section*). No tax is due if received from another local company.

Inter-company dividends

Inter-company dividends are not subject to income tax.

Stock dividends

Stock dividends are paid out of taxed profits. Such dividends are not subject to income tax when received by a local company, but they are subject to taxation in the hands of local individual taxpayers at the rate of 10%.

Interest income

Interest income sourced in Swaziland is taxable.

Foreign income

Foreign income is not subject to income tax unless it is deemed to be from a Swaziland source.

Deductions

Depreciation

Depreciation (wear-and-tear) allowances calculated by the net-reducing-balance method are available as follows:

Asset	Depreciation rate (%)
Aircraft	25
Casino equipment	15
Construction equipment	25
Computer hardware	33.33
Computer software	33.33
Furniture and fittings	10
Hotel soft furnishings, including carpets	10
Legal and professional libraries	5
Lifts and elevators	25
Motor vehicles:	
Buses	33.33
Cars	20
Light delivery vehicles	25
Lorries	33.33
Office equipment	10
Plant and machinery	10
Sound and projection equipment	20
Television sets	20
Tractors	25

Asset	Depreciation rate (%)
Trailers	20
Video recorders	33.33
Videotapes	25

For the first year after the addition of an asset, the wear-and-tear allowance is calculated on a monthly basis. With respect to leased assets, the lessor's claim for wear-and-tear allowance is usually spread over the lease period.

An initial allowance of 50% is granted for plant and machinery used in a manufacturing process, including hotel equipment. An initial allowance of 50% is granted for industrial buildings used for manufacturing purposes and hotels, together with a 4% annual allowance.

Goodwill

The write-off of any goodwill is not allowed for tax purposes.

Start-up expenses

It is departmental practice to not allow the deduction of any start-up expenses.

Interest expenses

Interest is deductible as long as it is incurred in the production of income.

Bad debt

Swaziland does allow a deduction for bad debts, subject to the Commissioner's approval and provided that the debts were included in the taxpayer's income in the year of assessment or in years past.

Charitable contributions

Subject to the Commissioner's approval in regard to the amount allowable as a deduction in the year of grant and subsequent years, Swaziland allows a deduction for, among other things, grants made to the government for the building of schools and hospitals.

Fines and penalties

Fines and penalties resulting from late payment of any tax or levied as payable under any Act administered by the Commissioner will be a non-deductible expense.

Taxes

Taxes are not deductible.

Net operating losses

Losses may not be carried back but may be carried forward for as long as trading continues (i.e. indefinitely). If any break in trading occurs, however, the losses are forfeited.

Payments to foreign affiliates

Deductions may be claimed for payments of management service fees, interest, and royalties to foreign affiliates, provided the payments are made under a written agreement, are reasonable, and receive exchange control approval for transfers outside the rand monetary area. Note that this approval is routinely given without any significant delay for *bona fide* transactions.

Group taxation

Swaziland does not have group taxation legislation. All companies are assessed on their individual profits and losses.

Transfer pricing

Swaziland does not have transfer pricing legislation; however, under the anti-avoidance provision, the Revenue Authority will look for arm's-length transactions.

Thin capitalisation

Swaziland does not have thin capitalisation rules.

Controlled foreign companies (CFCs)

Swaziland does not have any legislation regarding CFCs.

Tax credits and incentives

Foreign tax credit

Swaziland does not have a foreign tax credit regime.

Development Approval Order

The Minister of Finance, along set guidelines and with prior consent of the Cabinet, may nominate a business as a developmental enterprise (i.e. a business the Minister deems to be beneficial to the development of the economy) for a grant of a Development Approval Order. If approved, the business generally will be granted tax concessions, such as a lower corporate tax rate.

Withholding taxes

Non-resident WHTs are levied as follows.

Dividends

WHT for dividends is payable at the rate of 15% (12.5% for companies registered in Botswana, Lesotho, and the Republic of South Africa).The rate drops to 10% under the double taxation agreement (DTA) with South Africa where the holding company owns more than 25% of the shares. Non-resident shareholders' WHT is payable within 30 days of the date on which the dividend is payable.

Interest

WHT for interest is payable at the rate of 10%. Non-resident WHT on interest is payable within 14 days of the date of the accrual of the interest.

Royalties and management fees

WHT for royalties and management fees is payable at the rate of 15%. Upon application, 5% may be refunded if there is a DTA in place.

Entertainers and sportsmen

WHT is payable at the rate of 15% on income earned in Swaziland by entertainers and sportsmen. This tax relates only to public entertainers and sportsmen not ordinarily resident in Swaziland. The payer is required to deduct the tax and pay it within 15 days.

Contractors or professionals

WHT is payable at the rate of 15% on services provided by contractors or professionals in Swaziland (materials are not taxed to the extent that materials are incidental to the overall charge). The Commissioner of Taxes must be notified of any agreement relating to construction operations or professional services under which payments are made to non-resident persons within 30 days after entering into the agreement. It is required that the tax be paid within 15 days from the date of payment.

Tax administration

Taxable period

The tax year runs from 1 July to 30 June. Companies are required to have a 30 June year-end unless another year-end date is approved by the Commissioner of Taxes; such approval is routinely given.

Tax returns

Income tax returns should be submitted within 120 days of 30 June, unless an extension of time for submission is granted, which also is routinely given if all tax requirements for the prior year are up to date and the provisional tax has been paid in accordance with the law. The extension of time is usually granted for a further 60 days, which effectively gives the taxpayer six months to submit their income tax return.

Payment of tax

Notice of the date of payment is usually given on the tax assessment.

Provisional tax payments

With respect to companies, provisional tax is payable in two instalments: one payment is due within six months of the company's financial year-end, and the other payment is due no later than the last day of the company's financial year.

The estimate of taxable income for provisional tax purposes should not be less than the taxable income assessed for the latest preceding year of assessment for which an assessment has been issued that is not less than 21 days before the date the estimate is made. This rule does not apply if the taxpayer can convince the Commissioner of Taxes that the taxable income for the current year will be less than the taxable income for the preceding year.

A provisional taxpayer becomes liable to pay a penalty if the estimate for taxable income for the second payment of provisional tax is found to be both less than 90% of the taxable income as finally determined and less than the taxable income as assessed for the immediately preceding tax year.

Tax audit process

All assessments are subject to a tax audit. Current departmental practice is to perform tax audits going back four years.

Statute of limitations

There is no statute of limitations in Swaziland.

Topics of focus for tax authorities

Currently, the tax authorities are conducting full tax audits.

Tanzania

PwC contact

David Tarimo
PricewaterhouseCoopers
Pemba House
369 Toure Drive, Oyster Bay
Dar es Salaam, Tanzania
Tel: +255 22 219 2600
Email: david.tarimo@pwc.com

Significant developments

Some of the significant changes brought in by the Finance Act 2017 are:

- Reduced corporate income tax (CIT) rate for assemblers of vehicles, tractors, and fishing boats from 30% to 10% for the first five years of operations to encourage manufacturers.
- Introduction of 5% final withholding tax (WHT) on small-scale miners, to be applied on payments for minerals (on the market value of minerals for specified minerals) that a 'licensed dealer' (as defined in the Mining Act 2010) is authorised to deal with (being gold, metallic minerals, coloured gemstones, diamonds, coal, and industrial minerals).
- Disallowance of WHT paid by a withholder as a deductible expense for CIT. This change targets the net of tax contracts. A new category of disallowable expenditure has been introduced by amending the definition of 'excluded expenditure' to include 'withholding tax paid by withholder'.
- New provisions to ring fence 'speculative transactions', including hedging and other similar financial transactions. Speculative transactions are defined to include hedging and other similar financial arrangements. Specifically, 'speculative transaction' is defined to mean: "(i) a transaction that is a contract for sale or purchase of a commodity, including stocks and shares settled otherwise than actual delivery or transfer of the commodity or scrip, or (ii) any agreement for repurchase or resale, forward sale or purchase, futures contracts option, or swap contracts".

These changes are effective since 1 July 2017.

Taxes on corporate income

A Tanzanian resident is taxed on worldwide income, irrespective of source. Non-residents are taxable on income with a source in Tanzania.

Income tax is charged at a rate of 30% on income of a resident corporation and of a permanent establishment (PE) of a non-resident corporation or 5% of turnover for technical and management service providers to mining, oil, and gas entities (deducted by way of WHT). Certain payments to non-residents are subject to tax at the relevant non-resident WHT rates (*see the Withholding taxes section for the relevant rates*).

Small-scale miners are subject to 5% final WHT on the market value of minerals.

Gain from the disposal of investments in Tanzania is subject to income tax where such investments fall within the source rules, and, in such a case, the gain will be taxed at a rate of 30%.

Reduced rate for newly listed companies

A reduced CIT rate of 25% applies for three consecutive years for companies newly listed on the Dar es Salaam Stock Exchange (DSE). To qualify, at least 30% of the company's shares must be issued to the public.

Reduced rate for specific persons

A reduced CIT rate of 10% applies to new assemblers of vehicles, tractors, and fishing boats for the first five years from commencement of operations.

Alternative minimum tax

Alternative minimum tax applies at a rate of 0.3% to the turnover of companies with perpetual unrelieved tax losses for the current and preceding two income years. Exemption applies to (i) agricultural companies and (ii) companies engaged in provision of health or education.

Local income taxes

There are no local income taxes levied by local authorities. *Please see Local taxes in the Other taxes section for a description of the local service levy based on turnover*.

Corporate residence

A company is tax resident if it is incorporated or formed under the laws of Tanzania or if the management and control of its affairs is exercised in Tanzania.

Permanent establishment (PE)

A non-resident entity has a PE in Tanzania if it carries on business in Tanzania. This includes a place where a person (i) is carrying on business through a dependent agent; (ii) has used or installed, or is using or installing, substantial equipment or machinery; and (iii) is engaged in a construction, assembly, or installation project for six months or more, including a place where a person is conducting supervisory activities in relation to such a project.

Other taxes

Value-added tax (VAT)

VAT is chargeable on all taxable goods and services supplied in, or imported into, mainland Tanzania. The standard rate of VAT is 18%, but the export of goods and certain services is eligible for zero rating. Businesses with an annual taxable turnover of more than 100 million Tanzanian shillings (TZS) must register for VAT.

There is also mandatory registration for professional services providers (e.g. lawyers and accountants) and government entities/institutions carrying on economic activity. A non-resident who carries on economic activity in mainland Tanzania without a fixed place and makes taxable supplies in excess of the VAT registration threshold is required to appoint a VAT representative.

For imported goods, VAT is payable at the time of importation together with any customs and excise duties. VAT payable with respect to capital goods (as defined), which are imported or purchased in Tanzania, may be deferred, subject to certain procedures being followed. The Commissioner for VAT has the discretion to register (as intending traders) investors whose projects have not commenced production but who wish to be VAT-registered in order to reclaim the tax they incur on start-up costs.

For imported services, VAT is accounted for by registered businesses through a 'reverse-charge' mechanism, such accounting is only relevant where a taxpayer has exempt supplies of 10% or more of total supplies.

Depending on the industry, there are a number of exempt supplies. These include (this list is not exhaustive):

- Agricultural implements, agricultural inputs, livestock, basic agricultural products and foods for human consumption; implements for fisheries and bee-keeping; dairy equipment, maize flour, and wheat flour.
- Food, clothing, and shoes donated to non-profit organisations for free distribution to orphanages or schools for children with special needs in mainland Tanzania.
- Goods imported by non-profit organisations for the provision of emergency and disaster relief (conditional).
- Goods imported by religious organisations for the provision of health, education, water, and religious services (conditional).
- Educational services provided by a relevant approved educational institution; education materials.
- Laboratory equipment and reagents imported by a registered educational institution and to be used solely for educational purposes.
- Goods eligible for relief under the East African Customs Management Act (where imported by a registered and licensed explorer or prospector for exclusive use in oil, gas, or mineral exploration or prospecting activities).
- Various goods imported by a natural gas distributor (including compressed natural gas [CNG] plants equipment, natural gas pipes, transportation and distribution pipes, CNG storage cascades, CNG special transportation vehicles, natural gas metering equipment, CNG refuelling of filling, gas receiving units, flare gas system, condensate tanks and leading facility, system piping and pipe rack, and condensate stabiliser).
- Healthcare, medicine, or pharmaceuticals products, not including food supplements or vitamins; articles designed for people with special needs; funeral services.
- Firefighting vehicles imported by the government and firefighting equipment.
- Sale of vacant land.
- Lease, license, hire, or other form of supply, to the extent that it is a supply of the right to occupy and reside in residential premises.
- Water (except bottled or canned water or similarly presented water).
- Solar equipment (in particular, solar panels, modules, solar charger controllers, solar inverters, solar lights, vacuum tube solar collectors, and solar batteries). Wind generators and liquid elevators are no longer included in the list of exemptions (unlike the 1997 Act).
- All unprocessed vegetables and unprocessed edible animal products, including live fish, fruits and nuts, cereals, and seeds, as well as raw soya beans.
- Vitamins and food supplements (micronutrient compound) that have been approved by the Minister for Health, Community Development, Gender, Elderly, and Children.
- Water treatment chemicals, as approved by the Minister responsible for health.

- Aviation insurance.
- Bitumen.
- Dam liner.
- Insurance for workers compensation.
- Pasteurised goat and cow milk, excluding milk with additives and long-life milk.

A business that only makes exempt supplies is unable to register for VAT and, consequently, unable to recover the VAT incurred on inputs.

Export of goods and certain services is zero-rated (i.e. taxable at a rate of 0%).

Registered businesses must submit VAT returns, and pay any tax due, on a monthly basis.

The new VAT Act has broadened restrictions on claiming input tax. For example, one cannot claim VAT paid on entertainment, sporting, social, or recreational clubs or associations, nor on spare parts and repair or maintenance costs in respect of passenger vehicles.

The input tax claim time limit is six months. However, this time limit starts to run not only by reference to the date of the tax invoice/fiscal receipt but also by reference to the date of the time of supply.

Input tax incurred in the six months prior to VAT registration can be claimed no later than in the third VAT return submitted following registration.

A company with taxable supplies of more than 90% of total supplies is entitled to full input tax credit.

A company with taxable supplies less than 10% of total supplies is not entitled to claim any input tax incurred.

A company with taxable supplies between 10% and 90% of total supplies is entitled to partial input tax recovery. Only one apportionment method, namely the average method, can be used. Imported services are not taken into account as supplies when determining the allowance of input tax for partial exemption purposes.

Businesses entitled to VAT refunds can claim any remaining credit six months after a refund first became due, subject to all intervening returns being rendered. Any claim for a VAT refund must be supported by an auditor’s certificate. Businesses in a consistent refund position (e.g. exporters) can apply for approval to lodge their refund claims on a monthly basis.

Zanzibar has its own VAT Act, but it is similar to the Mainland Tanzania Act.

Customs duties

Tanzania is a member of the East African Community, which became a Customs Union on 1 January 2005 on the implementation of the East African Customs Union Protocol. This protocol provides for a common external tariff (CET), elimination of internal tariffs, rules of origin, anti-dumping measures, a common customs law, and common export promotion schemes.

The import duty rates applicable under the CET are as follows:

Category	Rate (%)
Raw materials, capital goods, agricultural inputs, pure-bred animals, medicines	0
Semi-finished goods	10
Finished final consumer goods	25
Machinery and spare parts imported by licensed mining companies and used in mining activities	0
Machinery, spares, and inputs imported by licensed company for direct use in oil, gas, and geothermal exploration	0

Tanzania is also a member of the Southern African Development Community (SADC). Where goods are subject to a lower rate of duty from another trade bloc, such as the SADC, the lower duty rate applies until such a time as the trading arrangements between the trading blocs are harmonised.

Excise duties

Excise duty rates apply as follows:

Item	Rate for FY 2017/18 (TZS)
Sugared mineral water, sugared carbonated drinks, and sugared aerated water (locally manufactured/imported)	58 per litre/61 per litre
Other not containing sugar, including club soda (locally manufactured/ imported)	58 per litre/61 per litre
Malt beer	765 per litre
Clear beer (with 100% local unmalted barley)	450 per litre
Wine with more than 25% imported grapes	2,349 per litre
Wine with domestic grapes content exceeding 75%	200 per litre
Spirits, vodka, and whiskies	3,481 per litre
Cigarettes without filter containing more than 75% domestic tobacco	12,447 per mil
Cigarettes with filter containing more than 75% domestic tobacco	29,425 per mil
Other cigarettes not mentioned above	53,235 per mil
Cut rag/filler	25,608 per kg
Motor spirit (gasoline) premium	379 per litre
Motor spirit (gasoline) regular	379 per litre
Gas oil (diesel)	255 per litre
Jet fuel	0 per litre
Illuminated kerosene	425 per litre
Other medium oil and preparation	9.32 per litre
Industrial diesel oil	392 per litre
Heavy furnace oil	0 per litre
Lubrication oil	669 per m^3
Lubrication greases	0.79 per kg
Music and film products	50 per unit

Item	Rate for FY 2017/18 (%)
Satellite and cable television broadcasting	5
Electronic communication services	17
Charges or fees by a telecommunication service provider for money transfer service	10
Charges or fees by a financial institution for services provided by such institution	10
Disposable plastic bags	50

Tanzania

Item	Rate for FY 2017/18 (%)
Liquefied petroleum gas (LPG)	0
Motor car with cylinder capacity exceeding 1,500cc but not exceeding 2,000cc	5
Motor vehicle with engine size greater than 2,000cc but not exceeding 3,000cc	5
Old passenger motor vehicles (more than five years)	10
Old motor vehicles (eight years but not more than ten years)	15
Old motor vehicles (more than ten years)	30
Imported used spare parts (for vehicles, motorcycles, domestic and electrical appliances)	25
Imported furniture (per unit)	20
Aircraft (including helicopters, aeroplanes) but excluding commercial aircraft, yachts, and other vessels for pleasure or sport	20

Fuel levy

Fuel levy is charged on petroleum and diesel at a rate of TZS 313 per litre.

Petroleum levy

Petroleum levy is charged on petroleum and diesel at TZS 100 per litre and on kerosene at TZS 150 per litre.

Stamp duty

Examples of instruments giving rise to stamp duty obligations include conveyances, leases, share transfers, and issue and transfer of debentures. For most of these instruments, the applicable stamp duty rate is 1% of the consideration.

Infrastructure levy

The 'infrastructure levy' applies at the rate of 1.5% of the value of imported goods (cost, insurance, and freight [CIF]). The levy is not applicable to imported goods that have relief or exemption under the East African Community Customs Management Act 2004 (EACCMA 2004) and goods in transit.

Payroll taxes and social security contribution

Apart from individual income tax (deducted at source by the employer), payroll taxes include:

- Skills and development levy at 4.5% of payroll cash costs.
- 20% social security contribution, which is normally split equally between employer and employee (i.e. 10% each).
- Workers compensation fund tariff charged at 1% or 0.5% of cash sums paid to employees. The tariff is payable on a monthly basis (1% for private sector and 0.5% for public sector).

Gaming tax

Under the gaming tax, gaming prize winners are taxed at 18% of the prize offered.

Local taxes

Property taxes

The Tanzania Revenue Authority (TRA) levies a property tax based on the value of a premises. The rates vary depending on the value and location of the property. For unvalued properties, TZS 10,000 is payable for a normal building and TZS 50,000 per storey for a storey building.

Service levy

The local government is entitled to charge a 0.3% service levy based on turnover generated in the relevant district.

Cess levy

For agricultural produce and livestock, there is a cess levy, currently capped at 3% of the producer price. However, there is an exemption from cess levy on the transportation of crops of less than one ton from one local government authority to another.

Branch income

The income tax liability of a person with a PE in Tanzania is calculated as if the person and the PE are independent but as if the PE is resident in Tanzania. The income of the PE is taxed at the normal income tax rate for entities, namely 30% on net income or 5% of turnover for technical and management service providers to mining, oil, and gas entities.

The PE is also subject to a tax on 'repatriated income', which applies at a rate of 10% (the same rate as a company would withhold on dividends).

In certain circumstances, business activities of the head office may be attributed to the branch. Arrangements between a PE and head office generally are not recognised, other than the transfer of an asset or liability between the two. Amounts derived (or payments received) and expenditures incurred (or payments made) that relate to assets held by, or liabilities owed by, the business of the PE are attributed to the PE.

Income determination

Subject to any provision to the contrary in the Income Tax Act, income is to be calculated in accordance with generally accepted accounting principles (GAAP). Local GAAP is in accordance with International Financial Reporting Standards (IFRS). Corporations must apply an accrual basis of accounting.

Inventory valuation

Trading stock is valued at the end of the year at the lower of cost and market value. No explicit method is stated for determining inventory cost, and, so far, for tax purposes, such cost will match the cost determined in accordance with GAAP. Special rules apply for the valuation of long-term work in progress.

Capital gains

There is no separate capital gains tax in Tanzania. Instead, income tax is charged on the taxable profit arising on a gain arising from the realisation of an 'investment asset' (a term that [subject to certain exceptions] includes shares, interests in land and buildings, and a beneficial interest in a non-resident trust). The gain is determined as the difference between costs incurred and sale proceeds.

Dividend income

Dividend payments are taxed by way of WHT, and this is a final tax. The normal rate of WHT on dividends is 10%.

Where a dividend is paid by a resident corporation to another resident corporation holding 25% or more of shares and voting rights in the corporation paying the dividend, the WHT rate is 5%.

Dividends paid by a company listed on the DSE are subject to 5% WHT (regardless of whether they are paid to a resident or non-resident).

Interest income

Interest income is treated as income from investment. The term 'interest' is defined as payment for the use of money and includes payment made or accrued under a debt obligation that is not a repayment of capital, as well as any gain realised by way of a discount, premium, swap payment, or similar payment.

Interest income is taxed by way of WHT at 10%.

Royalty income

Royalty income is treated as income from investment and is taxed by way of WHT at 15% (regardless of whether it is paid to a resident or non-resident). WHT on royalty payments to a non-resident is a final tax.

The term 'royalty' means any payment made by the lessee under a lease of an intangible asset and includes payments for:

i. the use of, or the right to use, a copyright, patent, design, model, plan, secret formula or process, or trademark
ii. the supply of know-how, including information concerning industrial, commercial, or scientific equipment or experience
iii. the use of, or right to use, a cinematography film, videotape, sound recording, or any other like medium
iv. the use of, or right to use, industrial, commercial, or scientific equipment
v. the supply of assistance ancillary to a matter referred to in paragraphs (i) to (iv), or
vi. a total or partial forbearance with respect to a matter referred to in paragraphs (i) to (v), but excludes a natural resource payment.

Foreign income

A resident person's foreign-source income or loss (from employment, business, and investment) is calculated as that person's worldwide income or loss less any income sourced in Tanzania and plus any loss sourced in Tanzania.

A resident person may claim a foreign tax credit on any foreign tax paid by the person on foreign income. However, such credit should not exceed the Tanzanian tax rate applicable to that income. Any unrelieved amount of foreign tax credit may be carried forward (subject to 'change in control' provisions *as detailed in the Group taxation section*). An election may be made to relinquish foreign tax credit and claim a deduction for the amount of foreign income tax.

There are no provisions for the deferral of the taxation of foreign income.

Deductions

In calculating taxable profit, deductions are allowed for revenue expenditures incurred wholly and exclusively in the production of income, with some statutory exceptions. For capital expenditures, there are specific tax depreciation allowances.

There are special rules with regard to the valuation of trading stock and long-term contracts and in relation to the treatment of instalment sales and finance leases.

There is ring-fencing of mining or petroleum operations by reference to the relevant mining or petroleum licence area.

Depreciation

The categories of depreciable assets and their tax depreciation rates are set out in the table below.

Expenditures on plant and machinery are generally written off on a reducing-balance basis at rates of 37.5%, 25%, or 12.5%, depending on the category of the asset. Certain plant and machinery for manufacturing, fish farming, and tourist hotels benefit from a 50% allowance in the first year, with the normal rates applying to the remaining balance in subsequent years. There is an immediate write-off of expenditures on plant and machinery used in agriculture.

Expenditures on buildings qualify for a depreciation allowance of 5% per year on a straight-line basis. For intangible assets, the write-off is over the useful life of the asset.

Apart from the immediate write-off of plant and machinery, agricultural businesses also benefit from the immediate write-off of agricultural improvement expenditures (including the costs of clearing land, excavating irrigation channels, and planting perennial crops or tree bearing crops). Buildings, structures, dams, water reservoirs, fences, and similar works of a permanent nature used in agriculture, livestock, or fish farming are written off on a straight-line basis over five years.

A 100% capital deduction applies to capital expenditure (i) by mining companies on prospecting, exploration, and development and (ii) on petroleum prospecting and exploration.

Depreciation allowances rates

Class	Depreciable assets	Rate (%)
1	Computers and data handling equipment, together with peripheral devices; automobiles, buses, and minibuses with a seating capacity of less than 30 passengers; goods vehicles with a load capacity of less than seven tonnes; construction and earth-moving equipment.	37.5

Class	Depreciable assets	Rate (%)
2	Buses with a seating capacity of 30 or more passengers, heavy general purpose or specialised trucks, trailers, and trailer-mounted containers; railroad cars, locomotives, and equipment; vessels, barges, tugs, and similar water transportation equipment; aircraft, other self-propelling vehicles; plant and machinery (including windmills, electric generators, and distribution equipment) used in manufacturing or mining operations; specialised public utility plant and equipment; and machinery or other irrigation installations and equipment.	25
3	Office furniture, fixtures, and equipment; any asset not included in another class.	12.5
4	Natural resource exploration and production rights and assets in respect of natural resource prospecting, exploration, and development expenditure. (However, note that the Income Tax Act 2004 does provide for predecessor capital deduction provisions in the Income Tax Act 1973 to continue for the holders of mining rights.)	20
5	Buildings, structures, dams, water reservoirs, fences, and similar works of a permanent nature used in agriculture, livestock farming, or fishing farming.	20
6	Buildings, structures, and similar works of permanent nature other than those mentioned in Class 5.	5
7	Intangible assets other than those in Class 4.	1 divided by the useful life of the asset in the pool and rounded down to the nearest half year
8	Plant and machinery (including windmills, electric generators, and distribution equipment) used in agriculture; electronic field devices purchased by a non-VAT-registered trader; equipment for prospecting and exploration of minerals or petroleum.	100

Interest in land

Interest in land does not qualify for depreciation allowance as it is excluded from the definition of 'depreciable asset'.

Goodwill

Goodwill does not qualify for depreciation allowance as it is excluded from the definition of 'depreciable asset'.

Start-up expenses

Start-up expenses are deductible to the extent that they meet the general deduction criteria (i.e. they are revenue in nature and were incurred wholly and exclusively in the production of income). The definition of 'business' includes a prospective business.

Interest expenses

Interest expenses are deductible on an accrual basis, subject to thin capitalisation rules *as detailed in the Group taxation section*.

Bad debt

In order to claim relief for a bad debt, it is necessary to demonstrate that all reasonable steps have been taken to pursue payment and that there is a reasonable belief that the debt claim will not be satisfied.

Charitable contributions

The Income Tax Act allows deduction for contributions made:

i. to charitable institutions (approved by the Commissioner to operate as such) and social development projects
ii. under Section 12 of the Education Fund Act 2001, or
iii. to local government authorities under statutory obligations to support community developments projects.

The deduction available under item (i) above is restricted to 2% of the company's taxable income before such deduction.

Fines and penalties

Fines and similar penalties payable to a government or a political subdivision of any country for the breach of any law or subsidiary legislation are not deductible.

Taxes

Taxes payable under the Income Tax Act 2004 are not deductible.

WHT paid by withholder

WHT paid by withholder is not deductible.

Net operating losses

There is no limit on the carryforward period for tax losses. However, there is ring-fencing of tax losses as follows:

- Losses from agricultural business can only be offset against profits derived from agricultural business.
- Losses from one mining licence area can only be offset against profits from the same mining licence area.
- Losses from one petroleum licence area can only be offset against profits from the same petroleum licence area.
- Foreign-source losses can only be offset against foreign-source profits.
- Losses on investments can only be offset against investment income.
- Foreign-source losses on investments can only be offset against foreign-source investment income.
- Losses incurred on speculative transactions can only be offset against income derived from speculative transactions.

In addition, the deductibility of the losses carried forward is restricted (for holders of a petroleum exploration licence, mineral licence, and licence in respect of midstream and downstream activities) such that only 70% of the taxable profits of the company can be sheltered by losses brought forward (with any excess losses carried forward to future years).

In certain circumstances, tax losses may be forfeited on a change in the underlying control of an entity.

Tax losses can be carried back only in long-term contracts in a case where a contract is completed and a person has unrelieved losses for that period or a previous period that is attributable to the long-term contract. These losses can then be carried back to a previous year of income and treated as unrelieved loss for that year.

Payments to foreign affiliates

Payments to foreign affiliates are deductible to the extent they are wholly and exclusively incurred in the production of the company's income. The deduction is subject to transfer pricing provisions *as detailed in the Group taxation section*.

Group taxation

There are no provisions for tax consolidation or group relief in Tanzania.

Transfer pricing

With respect to transactions between related parties, there is an obligation to 'quantify, apportion, and allocate amounts' for income tax purposes on an arm's-length basis. The Transfer Pricing Regulations and Guidelines require a taxpayer with related-party transactions to have transfer pricing documentation in place at the time of filing the tax return and provide this within 30 days from the date of request by the TRA.

Thin capitalisation

There is a thin capitalisation restriction on the amount of deductible interest for what are termed 'exempt-controlled resident entities', where the debt-to-equity ratio exceeds 7:3. There are specific definitions of 'debt' and 'equity' for the purposes of thin capitalisation.

Controlled foreign trusts and corporations

There are provisions that relate to the treatment of unallocated income of controlled foreign trusts and corporations.

Change in control provisions

The change in control provisions are triggered at the moment the underlying ownership of an entity changes by more than 50% as compared to any time during the previous three years. Where there is such a change, the consequences are that:

- the accounting period of the entity is split at the point of such a change, so that the parts of the year of income before and after the change are treated as separate years of income, and
- there is deemed realisation of assets and liabilities at market values.

In certain cases, such a change can also result in the forfeiture of unutilised tax losses and tax credits.

The Commissioner has to be notified immediately before and after the change in control has occurred.

Other anti-avoidance provisions

Other anti-avoidance provisions exist to address the following:

- Income or dividend stripping arrangements.
- Income splitting.

Tax credits and incentives

Foreign tax credit

See Foreign income in the Income determination section for a description of the foreign tax credit regime.

Agriculture, manufacturing, mining, and tourism incentives

Tax incentives by way of generous capital deduction provisions are given for specific sectors, namely agriculture, manufacturing, mining, petroleum, and tourism. *See the Deductions section for more information*.

Export processing zones (EPZs) and special economic zones (SEZs)

There are special benefits for EPZs and SEZs. Included in the benefits available to a person licensed to carry on business in an EPZ, as well as to SEZ investors selling in export markets, are a ten-year income tax holiday and WHT holiday, subject to a requirement to export at least 80% of production.

Assemblers of vehicles, tractors, and fishing boats

There is a tax incentive by way of a reduced CIT rate for new assemblers of vehicles, tractors, and fishing boats from 30% to 10% for the first five years from commencement of operations.

Newly listed companies

Companies that are newly listed on the DSE get an incentive of a reduced CIT rate for the first three years from 30% to 25%, provided at least 30% of shares are publicly listed.

Withholding taxes

WHT rates

	WHT (%)	
Payment	**Resident**	**Non-resident**
Dividend:		
To a company controlling 25% or more of the voting power and holding 25% or more of the shares	5	10
From a DSE-listed company	5	5
Otherwise	10	10
Interest	10	10
Rent:		
Land and buildings	10	10
Aircraft lease	10	10
Other assets	0	10
Royalty	15	15
Natural resource payment	15	15
Service fees	5	15
Director fees (other than full time service)	15	15
Insurance premium	0	5
Money transfer commission paid to money transfer agent	10	N/A
Payments for goods by government institutions	2	N/A

Tanzania

Double tax treaty (DTT) rates

	WHT (%)			
Recipient	Dividend	Interest	Royalties	Management / technical fees
Domestic rate (1)	10	10	15	15
Treaty:				
Canada	20/25 (2)	15	20	20
Denmark	15	12.5	20	20
Finland	20	15	20	20
India	5/10 (3)	10	10	0
Italy	10	15	15	15 (6)
Norway	20	15	20	20
South Africa	10/20 (2)	10	10	0
Sweden	15/25 (4)	15	20	20
Zambia	0 (5)	0 (5)	0 (5)	0

Notes

1. The domestic WHT rate applies unless the DTT rate is lower, in which case the lower DTT rate applies.
2. The lower rate applies if the beneficial owner is a company that controls, directly or indirectly, at least 15% of the voting power in the company paying the dividends; otherwise, the higher rate applies.
3. The lower rate applies if the recipient is a company that owns at least 25% of the shares of the company paying the dividends; otherwise, the higher rate applies.
4. The lower rate applies if the recipient is a company that owns at least 25% of the shares of the company paying the dividends during the six month period immediately preceding the date of payment of the dividends; otherwise, the higher rate applies.
5. The domestic rate applies if income is exempt from tax in Zambia.
6. The domestic rate applies in the absence of a rate specified in the DTT.

Tax administration

Taxable period

While the year of income for tax purposes is the calendar year, an entity may apply to use its own accounting period rather than the calendar year.

Tax returns

A statement of estimated tax payable, which contains an estimate of the chargeable income and the tax payable thereon, is due for submission within three months from the beginning of the accounting period. A final tax return must be furnished within six months from the end of the accounting period.

WHT returns must be submitted every half year. The due date for filing the WHT return is 30 days after each six-month calendar period (e.g. the January to June return is due by 30 July).

Payment of tax

Instalment tax is payable in four equal instalments not later than three months, six months, nine months, and 12 months from the beginning of the accounting period. Final tax is payable on the date on which the final return is due for submission, namely six months after the end of the accounting period.

WHT is due seven days after the month of deduction.

Penalties

A late filing penalty applies monthly at an amount equal to the higher of (i) TZS 225,000 or (ii) 2.5% applied to unpaid tax. If estimated tax is significantly underestimated, a penalty may also apply.

Interest on late payment is charged at the Bank of Tanzania discount rate.

Tax audit process

The normal practice is for the TRA to carry out a review every two or three years.

Statute of limitations

There is a five-year time limit for the TRA to adjust an income tax return filed by a taxpayer. The five years runs from the due date of filing the final tax return.

Topics of focus for tax authorities

Currently, the topics of particular focus for the TRA include transfer pricing, VAT compliance, WHT on payments to both residents and non-residents, and compliance on payroll taxes.

Functional currency

Taxable income and deductible expenditure is quantified in Tanzanian shillings. Upon request by the taxpayer, the Commissioner has the power, by notice in writing, to permit quantification in a foreign currency convertible to Tanzanian shillings.

Tunisia

PwC contact

Mabrouk Maalaoui
Immeuble PricewaterhouseCoopers
Rue du Lac d'Annecy,
Les Berges du Lac,
Tunis
1053 Tunisia
Tel: +216 71 160 105
Email: mabrouk.maalaoui@tn.pwc.com

Significant developments

Major changes implemented by the Finance Law 2018:

- Exemption from corporate tax for newly created companies: Newly created companies incorporated in 2018 and 2019 benefit from a total exemption from corporate tax during four years starting from the activity start date (that should not exceed two years). This measure does not involve companies operating in the financial sector, energy sector (except renewable energy), real estate development, on-site consumption, trade, and telecommunication operators sectors.
- Lower corporate tax rate for small and medium-sized entities (SMEs): Reduction of SMEs corporate tax rate from 25% to 20%. SMEs are defined as trade and processing companies with total revenues (excluding taxes) not exceeding 1 million Tunisian dinars (TND), and companies operating in services and non-commercial activities with total revenues (excluding taxes) not exceeding TND 500,000.
- Increase to the 35% corporate tax rate for profits realised from 1 January 2019 to:
  - Hypermarkets (constructed area exceeding 3,000 m² or sales area exceeding 1,500 m²).
  - Car dealers.
  - Franchisees of a foreign brand or trademark, except for enterprises with a rate of integration equal to or greater than 30%.
- Institution of a social solidarity contribution (CSS) due by individuals subject to personal income tax (PIT), companies subject to corporate tax, and companies exempted from corporate tax and that benefit from the deduction of their profits. The CSS is due at the rate of 1% of revenues/profits realised as of 1 January 2018.
- Institution of an exceptional contribution for banks (including Islamic banks), financial institutions (leasing companies, factoring companies, investment banks), and insurance and reinsurance companies: The contribution is due at the rate of 5% for profits realised in 2017 (to be declared in 2018) and 4% for profits realised in 2018 (to be declared in 2019) with a minimum of TND 5,000. Such contribution is calculated based on the taxable income (same as corporate tax taxable base).
- Value-added tax (VAT) rates increase: VAT rates are increased by 1 point starting from 1 January 2018. Thus, the VAT applicable rates of 18%, 12%, and 6% increased, respectively, to 19%, 13%, and 7%.
- Increase in the withholding tax (WHT) due on distributed profits as well as branch tax from 5% to 10% starting from 1 January 2018.
- Increase in the WHT due on interests paid to banks non-established in Tunisia from 5% to 10% starting from 1 January 2018.

Taxes on corporate income

Tunisian-resident companies are subject to corporate tax in Tunisia on the basis of profits generated from permanent establishments (PEs) located in Tunisia and those attributable to Tunisia by virtue of a double tax treaty (DTT). Non-Tunisian-resident companies are subject to corporate tax on the basis of their Tunisian-sourced income.

PEs of non-Tunisian-resident companies are subject to corporate tax in the same way and under the same conditions as Tunisian-resident companies. However, certain particularities, related mainly to deductions, exist (*see the Branch income section*).

Corporate tax is also due by non-resident, non-PE companies on Tunisian-sourced income through WHTs.

Corporate tax is broadly levied on the total net income resulting from the statutory financial statements of the company, duly adjusted according to the specific tax rules.

Positive/negative items of income are taxed/deducted based on the accrual basis. Income items accruing in a tax period where the above principle is not met are not allowed for tax deduction nor taxed in that tax period. Tax deduction/taxation is correspondingly deferred to the future tax periods where the principle will be met.

Income items have to be certain in their occurrence and objectively determined or determinable in their amount.

Corporate tax rates

The general corporate tax rate is 25%. However, specific rates are foreseen for specific sectors of activity. Indeed, corporate tax is due at the rate of:

- 10% for:
  - companies carrying out craft activities, agricultural and fishing activities, and fitting out fishing boats
  - trading groups of retail businesses organised as service cooperatives, governed by the general cooperation legislation
  - service cooperatives formed between producers for the wholesale of their production
  - consumer cooperatives governed by the general cooperation legislation
  - profits made in the context of industrial or commercial projects benefiting from the youth employment programme or the national fund of the promotion of crafts and small businesses
  - benefits derived from exports (except wholly exporting companies where the ten-year tax holiday period has not expired)
  - support and pollution control activities, and
  - companies operating in the regional development zones after the expiry of the total deduction period.
- 20% for:
  - Small and medium-sized entities (SMEs): SMEs are defined as trade and processing companies with total revenues (excluding taxes) not exceeding TND 1 million, and companies operating in services and non-commercial activities with total revenues (excluding taxes) not exceeding TND 500,000.
- 35% for:
  - banks (including Islamic banks) and financial institutions (leasing companies, factoring companies, investment banks)

- offshore financial institutions governed by the code related to financial services destined to non-residents, and this only for the benefits derived from services provided to non-resident persons
- investment companies (SICAF and SICAR)
- insurance, mutual insurance, and reinsurance companies
- debt collection companies
- telecommunication operators
- companies rendering services to companies operating in the oil and gas field
- companies operating in the production and the transport of hydrocarbons and governed by particular conventions, as well as companies operating in the transfer of hydrocarbons via pipeline
- companies operating in the oil refining sector and the wholesale of hydrocarbon products
- hypermarkets (constructed area exceeding 3,000 m² or sales area exceeding 1,500 m²)
- car dealers, and
- franchisees of a foreign brand or trademark, except for enterprises with a rate of integration equal to or greater than 30%.

Minimum corporate tax

A minimum corporate tax is due at the rate of 0.2% of the local turnover, including VAT, in case:

- the company realises losses or
- the corporate tax due at the rate of 25%, 20%, or 35% is less than the minimum corporate tax of 0.2% of the local turnover, including VAT.

However, the minimum corporate tax is reduced to 0.1% of the turnover for companies subject to corporate tax at the rate of 10% (e.g. exporting companies after expiry of the ten-year tax holiday period) and companies selling products subject to the government homologation of prices with a gross margin not exceeding 6%.

The minimum corporate tax is not due by companies benefiting from the whole exemption of profits deriving from operations (e.g. companies established in the regional development zones, companies operating in the agricultural sector) during the period of tax holidays. These latter are fixed by decree.

Local income taxes

For a description of local taxes, see Vocational training tax, Local authority tax (LAT), and Hotels tax in the Other taxes section.

Corporate residence

A company is tax resident in Tunisia if it is registered or has its effective place of management therein.

Permanent establishment (PE)

No definition of PE is given by the Tunisian domestic law. In practice, the Tunisian tax authorities refer to the definitions given by DTTs.

Other taxes

Value-added tax (VAT)

VAT scope and rates

VAT is levied under the Tunisian VAT Code and is due on all transactions taking place in Tunisia.

The sale of goods is considered as taking place in Tunisia, and subject to VAT, if the goods sold are delivered in Tunisia. The sale of services is considered as taking place in Tunisia, and subject to VAT, if the services sold are exploited or used in Tunisia.

The standard rate of VAT is 19%. Lower rates of 13% and 7% apply to specifically designated operations. Note that these rates are effective as of 1 January 2018 (previously 18%, 12%, and 6%, respectively), except for amounts paid till 31 December 2018 and related to contracts concluded before 1 January 2018 with the state, local authorities, and state-owned companies. For these amounts, the VAT rates applicable in 2017 still apply.

Some operations, products, or services are out of the scope of VAT in Tunisia, and some others are expressly exempt from VAT.

Some goods and services may be acquired VAT free, based on a certificate delivered for the purpose by the relevant tax authorities. This exemption is granted mainly to wholly exporting companies, oil and gas companies, their contracts, and their subcontractors.

Registration for VAT purposes may be either obligatory or optional.

Voluntary registration is allowed where persons:

- carry out activities that are outside the scope of the Tunisian VAT, in which case the option has to be a full option, which means that all the activities carried out by these persons will be subject to VAT, or
- carry out operations that are exempt from VAT and that are destined for export, or supply products and services that are exempt from VAT to persons liable to VAT, in which case the option may be a partial or a full option.

Output VAT

Output VAT is calculated on the basis of the amount of the invoice excluding VAT.

Input VAT

Individuals and companies that are subject to VAT may deduct the input VAT incurred on the purchase of goods and services necessary to carry out activities subject to VAT.

VAT declaration

VAT is declared and paid on a monthly basis.

Refunds

If the input VAT exceeds the output VAT, the VAT credit resulting from the difference between the input VAT and the output VAT may be reimbursed on the basis of a written request made to the tax authorities.

The VAT credit is refundable if it arises from:

- exportation operations of goods and services, sales made to clients allowed to acquire goods and services VAT-free, and WHT made on the remunerations paid to companies that are neither resident nor established in Tunisia (such VAT credit is refundable if it is shown on one monthly tax return)
- investments destined for the carrying out of new projects under the conditions set out by the Investment Law (such VAT credit is refundable if it is shown on at least three successive monthly tax returns), or
- other operations (such VAT credit is refundable if it is shown on at least six successive monthly tax returns).

In order to benefit from the refund of VAT credits, the taxpayer has to file supporting documents, such as declarations relating to exportation of goods, documents proving that the service rendered by the Tunisian taxpayer was used or consumed outside Tunisia, authorisations to sell VAT-free, and WHT certificates.

To benefit from the refund of VAT credits, the taxpayer must already have submitted all tax returns and paid all taxes due at the time of submission of the request for the refund.

The VAT credit (other than the one derived from exports, VAT-free sales, and WHT of VAT and from some investments as provided for by article 15 of the VAT Code) subject to six successive monthly tax returns showing a credit, is reimbursable through an advance payment of 15% on request without preceding tax audit. This rate is increased to 50% for companies which financial statements are subject to statutory audit, subject to the certification with no modification affecting the tax basis of the last financial statements due at the date of the refund request. The remaining balance will be reimbursed subject to a tax audit.

The VAT credit derived from exports, VAT-free sales, and WHT of VAT and from some investments as provided for by article 15 of the VAT Code is reimbursable through an advance payment of 100% on request without preceding tax audit. The refund would be considered as final subject to a tax audit.

Time limits

The taxpayer may claim the VAT credit within three years starting from the date from which the VAT credit becomes refundable.

Customs duties/Import tariffs

Import VAT

Importation of goods and services are subject to import VAT unless:

- the imported good is expressly exempt, such as for:
  - fresh milk, uncondensed and unsweetened, whether skimmed or full-fat
  - milk flour
  - devices intended for use by physically disabled persons
  - pure-bred breeding animals
  - equipment with nothing similar manufactured locally, expressly designated, or
  - boats destined to maritime navigation and fishing, and other pleasure boats, or
- the importer benefits from the acquisition of goods necessary to its activity VAT-free (e.g. oil and gas companies).

Tunisia

Customs duties

Customs duties are due on importations other than those made from the European Union (EU).

Some equipment expressly designated by the Tunisian domestic law is exempt from customs duties, whether imported from EU countries or not.

Customs duties are not due in cases where the importer is expressly exempt, even if the goods are imported from outside the European Union.

For temporary importation of equipment, the customs duties due are to be calculated in proportion to the period spent in Tunisia. 1/60 of the total customs duties are due per month spent in Tunisia.

As per article 39 of the Finance Law 2018, subject to fixed customs rates, common customs duties for products and equipment with NGP codes included in chapters 25 to 97 are increased as of 1 January 2018 from 20% to 30% and from 0% to 15% for listed products (listed in appendix 2 to the Finance Law 2018).

In addition, the Finance Law 2018 provided for an increase in the customs duties rates applicable to a list of products originated from Turkey for a period of two years as of 1 January 2018. These provisions will be eliminated progressively over a period of three years using equal average annual rates, after the expiry of a period of two years.

Excise taxes

There are no provisions for excise taxes in Tunisia.

Property taxes

A real estate tax (RET) is calculated by the relevant municipalities and is notified annually to the taxpayers at the beginning of the civil year.

For companies subject to the payment of the local authority tax (LAT) (*see below*) and in case the LAT paid over the year is less than the RET notified by the municipalities, then the differential is due and is payable as complementary LAT. In other words, the RET constitutes a minimum of due LAT per year.

Transfer taxes

The registration of some operations is compulsory. In these cases, the registration fees are expressly determined by the Registration and Stamp Fees Code.

Registration remains optional for certain operations. In case of optional registration, the registration fees due to be paid are equal to TND 25 per page and per copy.

In case of compulsory registration, the fees due depend on the nature of the transaction and the goods involved.

Some transactions are subject to proportional registration fees, for example:

- 5% on the transfer of immovable properties. However, this rate is reduced to 3% for the acquisition of social housing from real estate developers for the portion exceeding TND 200,000. An additional registration fee is due at the rate of 2% for the transfer of immovable properties (other than immovable properties used

for business purposes and subject to a favourable tax regime) which value ranges between TND 500,000 TND and TND 1 million and 4% for immovable properties which value exceeds TND 1 million.
- 2.5% for the transfer of goodwill (*fonds de commerce*).

Transactions that are not subject to proportional registration fees, as well as transactions for which registration is optional, are subject to insignificant fixed registration fees (TND 25 per page).

Contracts and agreements (including concessions agreements, marketing, franchise, etc.) should be registered at the rate of 0.5% (based on the gross amount including taxes). In case of agreements with an indefinite duration or for a duration exceeding three years, registration fee is due based on the gross amount related to the first three years.

Stamp duties

Stamp duties are due, in general, on certain contracts expressly designated, as well as invoices, unless the customer is expressly exempt.

In general, stamp duties are TND 0.6 for invoices, subject to exemptions provided for by the law, including invoices related to export operations.

Certain documents are expressly exempt from stamp duties, mainly judgments, checks, etc.

Social solidarity contribution (CSS)

The CSS is due at a rate of 1% on taxable profit with a minimum due as follow:

Companies corporate tax rate	Minimum CSS due (TND)
35%	300 DT
25%; 20% or 15%	200 DT
10%	100 DT
0% (companies exempted from corporate tax or that benefit from the full deduction of its profits)	200 DT

Payroll taxes

There are no payroll taxes applicable in Tunisia other than those mentioned *below*.

Social security contributions

The Tunisian social security system is financed by contributions from both employers (16.57%, reduced to 0.5% for wholly exporting companies) and employees (9.18%) based on salaries. Employers collect and pay the social security contributions from each wage-earner.

Contributions for Accident and Professional Insurance are collected in the same manner.

Social logging tax

Employers established in Tunisia, regardless of being liable or not to income tax, are subject to a social logging tax, calculated at 1% of the gross amount of salaries paid to its employees, including benefits in kind.

The social logging tax is filed on the monthly tax return through which VAT and other direct taxes, except corporate tax, are filed.

This tax is payable monthly before the 28th day of the following month.

Vocational training tax

Entities subject to corporate tax are subject to vocational training tax, calculated at 2% of the gross amount of salaries paid to its employees, including benefits in kind. The rate of this tax is 1% for manufacturing industrial companies.

This tax is payable monthly before the 28th day of the following month.

Local authority tax (LAT)

LAT is payable by entities subject to corporate tax, except entities operating in the tourism sector. The tourism sector is defined as accommodation, entertainment, tourist transportation, thermals, congressional tourism, companies managing hotels and entertainment centres, and travel agencies.

If a company is engaged in several activities, some of which are subject to LAT and the remaining are not subject to LAT, the taxable base to be considered is constituted only by the turnover of the activities that are subject to LAT.

The LAT is paid to the local authority at the rate of:

- 0.2% of the total turnover of the entity, with a minimum calculated on the basis of the number of square metres of construction used by the entity.
- 0.1% of the turnover deriving from exportation as defined by the legislation in force.

LAT is payable monthly before the 28th day of each month.

Hotels tax

The hotels tax is due by entities that work with tourists; provide accommodation, food, and beverages; or organise leisure activities for clients. The tax is calculated at 2% of the gross turnover generated from the tourism and relating activities.

This tax is payable monthly before the 28th day of the following month.

Tourism Sector Development Fund (FDCST) tax

The FDCST tax is a tax that is paid by entities operating in the tourism sector. The tax is calculated at 1% of the turnover, excluding VAT, generated from tourism and relating activities.

Hotel residency tax

A hotel residency tax was implemented by the Finance Law 2018. The tax is due by the hotels residents (aged more than 12 years) of the hotels of 2 to 5 stars category as follows:

- TND 1 for each night spent in a 2-star hotel.
- TND 2 for each night spent in a 3-star hotel.
- TND 3 for each night spent in a 4 or 5-star hotel.

This tax is capped at seven nights.

The said tax does not apply to contracts and agreements concluded with travel agencies that have acquired a certain date before 1 January 2018, and it is paid on the basis of a monthly declaration.

Branch income

The income attributable to a PE corresponds to:

- the revenues generated directly by the PE further to the exercise of its activity
- the revenues corresponding to works carried out by it, even if invoiced by the head office, and
- the revenues that would have been realised by an independent company carrying out the same business, in case the activity of the PE is provided for free.

The following charges are deductible for the purpose of the determination of the taxable results of a PE:

- All the charges incurred directly by this PE and necessary for its proper functioning. These charges have to be supported by proper documentation.
- Direct charges incurred by the head office exclusively for the PE and supported by proper documentation.
- A proportion of the indirect charges (real central administration costs) incurred by the head office. The proportion admitted for deduction is most often calculated on the basis of the turnover of the Tunisian branch against the global turnover of the head office. The deduction is limited to 10% of the Tunisian turnover in case the head office is resident of a state that did not conclude a DTT with Tunisia.

Income determination

Inventory valuation

Inventory is valued at cost.

Capital gains

According to the provisions of article 11 of the Income and Corporate Tax Code, "the net income of a company is determined as the result of all the operations undertaken by the company, including mainly the transfer of assets…" Consequently, capital gains, if any, arising from the transfer of assets will be considered as taxable income and will be subject to corporate tax.

Capital gains are calculated as the difference between the sale price, which is supposed to be equal to the fair market value, and the net book value.

In the particular case of goodwill (*fonds de commerce*) generated internally, capital gains will be equal to the total sale price, as goodwill, other than derived from acquisitions, has no value on the books of the company.

All tangible and intangible transaction assets have to be valued at their fair market value.

The goodwill (*fonds de commerce*) generated internally, even if not booked as an asset of the company, also has to be valued at fair market value.

Particular case of capital gains resulting from mergers

Capital gains arising from the transfer of assets, other than inventories, on the occasion of a merger operation are deductible from the taxable income of the merged company and are to be added back to the taxable income of the absorbing company at up to 50% of their amount, spread out over five years.

Dividend income

Dividends distributed by Tunisian-resident companies to non-resident, non-establishment companies, to non-resident individuals, and to resident individuals are subject to corporate tax paid through a discharging WHT at the rate of 10% of its total amount.

Dividends distributed by non-resident companies are subject to tax in Tunisia, unless otherwise provided for by the DTTs concluded by Tunisia.

Interest income

Interest income arising from Tunisia or outside is part of the taxable results of the company, unless expressly exempt by the law (e.g. interests on deposits in foreign currencies).

Royalty income

Royalty income is part of the taxable results of the company.

Foreign income

Foreign income derived from services that are realised outside Tunisia are part of the taxable income (*see the Tax credits and incentives section*).

Deductions

Depreciation

Depreciation expenses of fixed assets that are owned by the company and within the limit of the depreciation expense calculated according to the straight-line method are deductible for the purpose of determination of taxable income at a maximum depreciation rate fixed by decree.

Buildings may be depreciated according to the accounting legislation. However, the tax deductible depreciation expense must not exceed the depreciation expense calculated at a maximum depreciation rate of 5%, according to the straight-line method. Extra depreciation expenses are to be added back to the taxable base subject to corporate tax.

Equipment and machinery may be depreciated according to the accounting legislation. However, the tax deductible depreciation expense must not exceed the depreciation expense calculated at a maximum depreciation rate of 15%, according to the straight-line method. Extra depreciation expenses are to be added back to the taxable base subject to corporate tax.

The equipment and machinery depreciation rate may be increased by 50% if the equipment is used at least 16 hours a day, or doubled if used 24 hours a day, but the tax deductible depreciation expense must not exceed the depreciation expense calculated at a maximum depreciation rate of 15%, according to the straight-line method, multiplied by 1.5 or by 2, depending on whether the equipment will be used 16 or 24 hours a day.

Depreciation expenses of assets exploited under leasing contracts are also deductible for the purpose of determination of taxable income. In fact, even if assets exploited under leasing contracts are not owned by the company, they are booked as assets in the balance sheet and depreciated accordingly over a minimum period fixed by decree, as follows:

Asset exploited under leasing contracts	Minimum period (years)
Constructions	7
Machinery and equipment	4
Transportation equipment	3

Goodwill

Goodwill (*fonds de commerce*) amortisation expenses are not tax deductible for the purpose of the determination of taxable income.

Start-up expenses

The maximum amortisation expense allowed for deduction is equal to 100% of the start-up expenses.

Interest expenses

Interest expenses (commissions, bank charges, interest loans, etc.) relating to loans contracted by the company and necessary for its proper functioning are tax deductible.

Interest expenses on shareholders current account are tax deductible within the limit of the maximum rate of 8%, provided that the capital is fully paid and the amount to be remunerated shall not exceed 50% of the capital; the rate of 8% is not applied to banks.

Bad debt

Provisions for bad debts are tax deductible within the limit of 50% of the taxable result (after deduction of non-taxable revenues and add-back of non-deductible charges).

The deduction of bad debts is subject to the presentation of a detailed statement of the concerned creditors while filing the annual corporate tax return, as well as court cases against the creditors in order to claim payment.

Provisions for bad debts that are initially constituted tax-free and become groundless during an exercise (e.g. by the covering of the debt totally or partially) are taxable.

Charitable contributions

Charitable contributions are either deductible:

- totally, in cases where they are granted notably to the state, local authorities, and state-owned companies, and to organisation dedicated to disability promotion
- totally, with regard to the acquiring or constructing cost granted to spouses, ascendants, and descendants of martyrs of the army, internal security forces, and customs authorities, or
- within 0.2% of the revenue, in other cases.

The deduction of charitable contributions is subject to the presentation of a detailed statement of the beneficiaries while filing the annual corporate tax return of the year during which these charitable contributions were granted.

Fines and penalties

Transactions, fines, and any other penalties for violating legal provisions are not tax deductible. However, contractual penalties (e.g. for late payment) remain tax deductible.

Taxes

All taxes due by the company are considered as tax-deductible charges, except corporate tax.

Note that when the tax due by non-resident, non-PEs on royalties is borne by a Tunisian-established company (the debtor), then the correspondent charge is not tax deductible.

Net operating losses

Under the Tunisian tax legislation, tax losses are divided into two categories: operating losses and deferred depreciation.

Operating losses are to be carried forward for five years, starting from the year following the one during which they were booked.

Deferred depreciation is to be carried forward indefinitely, starting from the year following the one during which they were booked.

With regard to the Tunisian tax legislation, operating losses cannot be carried back.

Payments to foreign affiliates

See Transfer pricing in the Group taxation section.

Group taxation

There are no specific tax rules for groups of companies in Tunisia.

Transfer pricing

According to the Tunisian tax legislation, where there is evidence for the tax authorities of the existence of commercial or financial business transactions between a company and other dependent companies, which, for the determination of their value, are based on rules that differ from those governing relations between independent companies and which result in the reduction of taxable benefits, the tax department is allowed to add back to the taxable result of the invoicing company the differential between the benefits that would have been realised if the practiced prices were in line with the arm's-length principle and those actually accounted for by the company.

The burden of proof is on the tax department.

Thin capitalisation

Projects may be financed by shareholders' equity, shareholders' loans, or external debts.

Interest due on shareholders' loans is tax deductible within the limit of an interest rate of 8%, provided that the following conditions are met:

- The capital is fully paid-up.
- The amount of the sums put at the disposal of the company must not exceed 50% of the capital.

In case shareholders' loans exceed 50% of the share capital, then interests due in the part exceeding 50% are not tax deductible.

Controlled foreign companies (CFCs)

There is no provision in Tunisia for CFCs.

Tax credits and incentives

Two laws have been promulgated in order to promote investment in Tunisia, the Investment Law and the Tax Incentives Law.

Investment Law n° 2016-71 of 30 September 2016

Objectives of the Investment Law

The purpose of the Investment Law is to promote investment and to encourage the creation of enterprises, notably through:

- Increasing the added value, competitiveness, and export capacity of the national economy, and technological development at the regional and international levels.
- Job creation and promotion of human resources competence.
- Achieving an integrated and balanced regional development.
- Achieving sustainable development.

Main features of the Investment Law

The Investment Law defines the legal regime for investment promoted by persons, resident or non-resident, in all sectors of economic activities, fixed by decree.

Under the Investment Law, investors benefit from the following incentives:

- Right to acquire, lease, or operate non-agricultural immovable property.
- Possibility of recruiting executives of foreign nationality for up to 30% of the total number of managers; this rate is reduced to 10% as of the fourth year. In all cases, the company can recruit four executives of foreign nationality (even if the limit of 30% or 10% is less than four).
- Free transfer of the profit, dividends, and capital abroad in foreign currency, in accordance with the applicable foreign exchange legislation. Indeed, the Investment Law specifies that the investor is free to transfer one's capital and profits abroad in foreign currency (in compliance with the applicable foreign exchange legislation). In case the transfer requires authorisation from the Tunisian Central Bank, any refusal must be in writing. The failure to reply within the time limit to be set by decree is considered as an acceptance (except for activities excepted to be defined by decree).
- Investment subsidies for direct investment operations, as follows:
  - Subsidies for the increase in value added and competitiveness.
  - Subsidies for the development of employability capacity.
  - Subsidies for regional development.

- Subsidies for sustainable development.

  Conditions and modalities to benefit from subsidies are defined by decree.

- Possibility to benefit from arbitration in case of dispute with the Tunisian State. The Investment Law provides rules for settlement of disputes between the Tunisian State and foreign investors. These shall be settled by conciliation; otherwise, the dispute may be submitted to arbitration under a specific agreement between the two parties. In case the dispute is not settled through conciliation and in the absence of an arbitration agreement, the dispute falls within the jurisdiction of Tunisian courts.

Also, as per the Investment Law, foreign investors have the same rights and obligations provided for by the Investment Law as Tunisian investors in comparable situations.

The Investment Law provided for the need to comply with response deadlines for each authorisation requested by the investor and the obligation to justify each refusal in writing. Failure to reply within the time limit constitutes acceptance under article 4 of the Law (except for activities excepted to be defined by decree).

Investors' properties and intellectual property (IP) rights are protected in accordance with the legislation in force. Investor's property may not be expropriated except for public interest reasons, without discrimination between Tunisian and foreign investors, subject to fair and equitable compensation.

Tax Incentives Law n° 2017-8 of 14 February 2017

The major tax incentives provided for by the Tax Incentives Law are mainly relating to:

- Export operations.
- Investments in regional development zones.
- Agricultural development.
- Support and depollution activities.
- Newly created companies.

Wholly exporting activities

The following are considered as wholly exporting companies:

- Companies with products manufactured in Tunisia, totally destined to be sold outside Tunisia.
- Companies providing services totally used/exploited outside Tunisia.
- Companies operating in agriculture and fisheries, manufacturing, and craft industries that sell all their products to wholly exporting companies, as well as companies established in business parks, provided that such products and goods constitute components of the final product to be exported, and to international trade wholly exporting enterprises.
- Companies that carry out all their services for the benefit of wholly exporting companies, companies established in the economic activity parks, and international trade totally exporting companies, in the subcontracting operations, within the same sector or within the framework of services directly linked to production (set by decree).

Note that wholly exporting companies may commercialise locally, during a given year, up to 30% of the turnover of the previous year without losing the status of a wholly exporting company.

Tax incentives at the exploitation phase

Profits derived from the exportation activity are subject to corporate tax at the rate of 10%, and all other revenues will be subject to corporate tax at the rate of 25%.

The rate of 10% is also applicable to the below auxiliary and exceptional profits related to operations:

- Investment allowances granted under the legislation of investment incentives, allowances of upgrading granted under an approved upgrade program, and allowances granted to enterprises in the framework of the National Employment Fund.
- Capital gains derived from the sale outside Tunisia or to other wholly exporting companies of tangible assets used to carry out the exportation activity, excluding constructions, lands, and goodwill *(fonds de commerce)*.
- Realised exchange profits in connection with the exportation activity.
- Remission of debt for the benefit of the wholly exporting companies.

The wholly exporting company whose total deduction period (ten years) has not expired on 31 March 2017 will continue to benefit from the said deduction until the expiry of that period.

Tax incentives at the creation and capital increase phases

Profits/revenues invested in the subscription to initial capital or to capital increases of totally exporting companies are deductible from taxable profits/revenues at up to 100% of the taxable result, subject to the minimum tax of 15% of the taxable result before the said deduction for companies subject to corporate tax at the rate of 25% (20% for companies subject to corporate tax at the rate of 35%) and 45% for individuals. However, the deduction is subject to the conditions listed below:

- The deposit of an investment declaration to the concerned authorities.
- The annual tax return must be accompanied by a certificate issued by the competent authorities certifying the effective start of activity.
- The status of the company must be compliant with regard to the National Social Security Funds.
- The implementation of an investment financing scheme investment with a minimum rate of equity capital.

Other incentives

Wholly exporting companies also benefit from:

- VAT exemption on the import operations and local acquisitions of goods, products, equipment, and services necessary for its operations.
- Exemption from other indirect taxes, including customs duties.
- Exemption from professional training tax, registration fees and stamp duties, and social logging tax.

Also, foreign employees recruited by totally exporting companies may benefit from the payment of PIT at the reduced rate of 20% of gross revenues.

Regional development zones activities

The Tax Incentives Law provides that investments in certain activities (except for some sectors listed by decree) carried out by entities established in regional development zones (fixed by decree) benefit from a number of tax incentives, detailed as follows:

Tax incentives at the exploitation phase

Corporate tax

Profits derived from direct investments in regional development zones are totally deductible from the taxable income until the expiry of the period of five years (Group 1 zones listed by decree) or ten years (Group 2 zones listed by decree).

After the expiry of the exemption period, benefits derived from direct investment in development zones will be subject to corporate tax at the rate of 10%.

Taxation of exceptional or auxiliary revenues/profits

Enterprises that invested in development zones may also benefit from the deduction and taxation at the reduced rate (after the expiry of total deduction period) for other profits in connection, with the same limits and conditions. The profits in question are detailed as follows:

- Investment allowances granted under the legislation of investment incentives, allowances of upgrading granted under an approved upgrade program, and the allowances granted to enterprises in the framework of the National Employment Fund.
- The capital gain derived from the sale of fixed assets allocated to the main activity of enterprises, with the exception of buildings, unbuilt buildings, and goodwill.
- Realised exchange profits in connection with the principal activity.
- Remission of debt for the benefit of the companies.

Tax incentives at the creation and capital increase phases

Profits/revenues invested in the subscription to initial capital or to capital increases of companies located in development areas are deductible from taxable profits/revenues at up to 100% of the taxable result. However, the deduction is subject to the conditions listed below:

- The deposit of an investment declaration to the concerned authorities.
- The annual tax return must be accompanied by a certificate issued by the competent authorities certifying the effective start of activity.
- The status of the company must be compliant with regard to the National Social Security Funds.
- The implementation of an investment financing scheme investment with a minimum rate of equity capital.

Other incentives

Enterprises that invested in development zones may also benefit from the exemption from social logging tax and vocational training tax.

Agricultural activities

The Tax Incentives Law provides that investments in the agricultural sector benefit from a number of tax incentives, detailed as follows:

Tax incentives at the exploitation phase

Corporate tax

Profits derived from direct investments in the agricultural sector are totally deductible from the taxable income during a period of ten years.

After the expiry of the ten-year exemption period, benefits derived from direct investment in the agricultural sector will be subject to corporate tax at the rate of 10%.

Taxation of exceptional or auxiliary revenues/profits

Enterprises that invest in the agricultural industry may also benefit from the deduction and taxation at the reduced rate (after the expiry of total deduction period) for other profits in connection, with the same limits and conditions. The profits in question are detailed as follows:

- Investment allowances granted under the legislation of investment incentives, allowances of upgrading granted under an approved upgrade program, and the allowances granted to enterprises in the framework of the National Employment Fund.
- The capital gain derived from the sale of fixed assets allocated to the main activity of enterprises, with the exception of buildings, unbuilt buildings, and goodwill.
- Realised exchange profits in connection with the principal activity.
- Remission of debt for the benefit of the companies.

Conditions for the benefit of the tax incentives:

- The deposit of an investment declaration to the concerned authorities.
- The annual tax return must be accompanied by a certificate issued by the competent authorities certifying the effective start of activity.
- The status of the company must be compliant with regard to the National Social Security Funds.
- The implementation of an investment financing scheme investment with a minimum rate of equity capital.

Tax incentives at the creation and capital increase phases

Profits/revenues invested in the subscription to initial capital or to capital increases of agricultural companies are deductible from taxable profits/revenues at up to 100% of the taxable result. However, the deduction is subject to the conditions for the benefit of the tax incentives listed above.

Other incentives

The direct investments in Agricultural activities give entitlement to the following tax incentives (conditions and equipment listed by decree):

- Exemption from customs duties and taxes with a similar effect for imported equipment necessary for the investment.
- Suspension of VAT and consumption duty for imported equipment and equipment acquired locally that are necessary for the investment.

Also, registration duties paid on the transfer of agricultural land used for direct investment in the agricultural industry could be refunded on request (to be submitted within a three-year period).

Support and depollution activities

The supporting investments activities are defined as being the following:

- Child and elder care institutions.
- Education, teaching, scientific research, and professional training institutions.
- Cultural production and cultural industry establishments.
- Youth entertainment and leisure facilities.
- Health and hospital facilities.
- Private accommodation projects for students.

The list of activities is set by decree.

The depollution activities are defined as being the collection, transformation, recovery, recycling, or treatment of waste and residues.

Tax incentives at the exploitation phase

Corporate tax

Profits derived from direct investments in support and depollution activities are subject to corporate tax at the rate of 10% (subject to the below conditions).

Conditions for the benefit of the tax incentives:

- The deposit of an investment declaration to the concerned authorities.
- The annual tax return must be accompanied by a certificate issued by the competent authorities certifying the effective start of activity.
- The status of the company must be compliant with regard to the National Social Security Funds.
- The implementation of an investment financing scheme investment with a minimum rate of equity capital.

Other incentives

The direct investments in support and depollution activities give entitlement to the following tax incentives (conditions and equipment listed by decree):

- Exemption from customs duties and taxes with a similar effect for imported equipment necessary for the investment.
- Suspension of VAT and consumption duty for imported equipment and equipment acquired locally that are necessary for the investment.

Newly created companies

Tax incentives at the exploitation phase

Companies/enterprises newly created (except for those incorporated in the on-site consumption, trade, financial, energy other than renewable energy, and mining industries, telecommunication operators, and real estate developers) may benefit from the deduction of a portion of their taxable profits/revenues up the fourth year of activity as follows (subject to the below conditions):

- 100% for the first year.
- 75% for the 2nd year.
- 50% for the 3rd year.
- 25% for the 4th year.

Conditions for the benefit of the tax incentives:

- The deposit of an investment declaration to the concerned authorities.
- The annual tax return must be accompanied by a certificate issued by the competent authorities certifying the effective start of activity.
- The status of the company must be compliant with regard to the National Social Security Funds.
- The implementation of an investment financing scheme investment with a minimum rate of equity capital.

Newly created companies incorporated in 2018 and 2019 benefit from a total exemption from corporate tax during four years starting from the activity start date (that should not exceed two years). This measure does not involve companies operating in the financial sector, energy sector (except renewable energy), real estate development, on-site consumption, trade, and telecommunication operators sectors.

Tax incentives at the extension

Companies/enterprises newly created (except for those incorporated in the on-site consumption, trade, financial, energy other than renewable energy, and mining industries, telecommunication operators, and real estate developers) may benefit from the deduction from their taxable income of 30% as depreciation of machinery and equipment (excluding cars other than those constituting the main object of the company) acquired or manufactured in the context of extension operations for the first year from the acquisition, manufacturing, or use starting date.

Foreign tax credit

In the absence of DTTs, corporate tax (or any WHT in connection with) paid outside Tunisia is not deductible from the tax due in Tunisia.

However, in the presence of DTTs, in cases where profits derived from outside Tunisia were subject to corporate tax in Tunisia, the foreign tax, if any, is deductible, but only up to the corresponding Tunisian tax on these profits.

Withholding taxes

The payments of certain remunerations are subject to corporate WHT in Tunisia.

The WHT is an advance payment of corporate tax and is thus deductible from the corporate tax due by the invoicing entity. To this end, the paying entity shall withhold the tax at the appropriate rate. It shall then issue a WHT certificate to the invoicing company to enable the latter to use the certificate as proof of the payment at the moment of filing its corporate tax return. The paying entity subsequently pays the withheld amount to the tax authorities.

The withheld tax is to be declared and repaid by the paying entity each month before the 28th day of the following month.

The rates of the WHT differ according to the nature of the goods/services and the rates applicable within the framework of the DTTs.

Applicable WHT rates in Tunisia are as follows:

- 15% of the gross amount of the invoices related to fees, commissions, brokerage fees, rentals, payment of non-commercial activities.

  This rate is reduced to 5% for fees (including those paid for non-commercial activities) and hotel rentals when these amounts are paid to entities subject to corporate tax and individuals who keep proper accounts in accordance with the Tunisian accounting principles.

  This rate is reduced to 2.5% for fees, commissions, rentals, and non-commercial remunerations deriving from exportation, in accordance with the legislation in force.
- 15% on performance bonus paid to distributors of goods.
- 20% on interest and director's attendance allowance. This does not include interest on deposits and bonds in foreign currency or convertible dinars.
- 10% on bank loans granted by non-Tunisian resident banks.
- 2.5% on the sales price indicated in a real estate sale, in case the seller is an individual.
- 1.5% on payments exceeding TND 1,000 (including VAT) made for the acquisition of goods and services necessary to the activity and that are not subject to a specific WHT rate.

  This rate is reduced to 0.5% in case the remunerations are derived from exportation, in accordance with the legislation in force, or payment is made to companies subject to corporate tax at the rate of 10%.
- 15% on other payments made to non-Tunisian tax resident persons.
- Dividends distributed by Tunisian-resident companies to non-resident, non-establishment companies, to non-resident individuals, and to resident individuals are subject to corporate tax paid through a discharging WHT at the rate of 10% of its total amount.
- 25% on payments made to persons resident in tax havens.
- 25% on lottery and gambling gain.

DTT rates

Note that the following interest WHT rates are applicable to interest payable to non-resident, non-PE companies and financial institutions according to DTTs concluded by Tunisia.

The DTT rate is applicable in case it is lower than the domestic law, provided that the beneficiary of the payment provides the corresponding tax residency certificate. In case of failure, the domestic law will be applied.

	WHT (%)			
		Interest		
Recipient	**Dividends (62, 67)**	**Banks (45)**	**Other companies**	**Royalties**
Non-treaty	10	10	20	15/25 (68)
Treaty:				
Austria	10/20 (63)	10	10	10/15 (1)
Belgium	5/15 (64)	5/10 (46)	10	11 (2)
Cameroon	12	15	15	15 (3)
Canada	15	15	15	15 (4)
China	8	0/10 (47)	10	5/10 (5)
Czech Republic	10/15 (63)	12	12	5/15 (6)

Recipient	WHT (%) Dividends (62, 67)	Interest: Banks (45)	Interest: Other companies	Royalties
Denmark	15	12	12	15 (7)
Egypt	10	10	10	15 (8)
Ethiopia	5	0/11 (48)	11	5 (9)
France	5	12	12	5/15 (10)
Germany	10/15 (63)	0/10 (49)	10	10/15 (11)
Greece	10	15	15	10 (12)
Hungary	10/12 (63)	12	12	12 (13)
Indonesia	12	12	12	15 (14)
Iran	10	0/10 (50)	10	8 (15)
Italy	15	0/12 (51)	12	5/12 (16)
Jordan	5	5	20	(17)
Kuwait	10	0/2.5 (52)	10	5 (18)
Lebanon	5	0/5 (53)	0/5 (54)	5 (19)
Luxemburg	10	7.5/10 (55)	10	12 (20)
Mali	0/5 (63)	5	5	(21)
Malta	10	12	12	12 (22)
Mauritius Islands	0	2.5	2.5	2.5 (23)
Netherlands	0/20 (64)	7.5/10 (56)	7.5/10 (56)	7.5/11 (24)
Norway	20	12	12	5/15 (25)
Pakistan	10	13	13	10 (26)
Poland	5/10 (63)	12	12	12 (27)
Portugal	15	15	15	10 (28)
Qatar	0	5	20	5 (29)
Romania	12	10	10	12 (22)
Saudi Arabia	5	2.5	5	5 (61)
Senegal	5	5	20	(30)
South Africa	10	5	12	10/12 (31)
South Korea	15	0/12 (57)	12	15 (32)
Spain	5/15 (65)	5/10 (58)	5/10 (58)	10 (33)
Sudan	0/5 (63)	10	10	5 (34)
Sultanate of Oman	0	10	10	5 (35)
Sweden	15/20 (63)	12	12	5/15 (36)
Switzerland	10	10	10	10 (37)
Syria	0	10	10	15 (38)
Turkey	12/15 (63)	10	10	10 (39)
United Arab Emirates	0	5 (59)	10	7.5 (40)
United Kingdom	12/20 (63)	10	12	15 (41)
United Maghreb Arab	5	5	20	(42)
United States of America	14/20 (66)	0/15 (60)	15	10/15 (43)
Yemen	0	10	10	7.5 (44)

Notes

1. 10% of the gross amount of the royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work. 15% of the gross amount of the royalties for cinematographic films and TV films, patents, trademarks, designs or models, plans, secret formulae, or processes; technical and economical studies; information concerning industrial, agricultural, commercial, or scientific experience; and the use of or the right to use industrial, commercial, or scientific equipment.
2. 11% of the gross amount of the royalties for the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematographic films and films for TV broadcasting, patents,

trademarks, designs or models, plans, secret formulae, or processes; information concerning industrial, commercial, or scientific experience; the use of, or the right to use, industrial, commercial, scientific equipment, or port facilities; and economical and technical studies, and technical assistance realised in the state of source.

3. 15% of the gross amount of royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films, patents, trademarks, designs or models, plans, secret formulae, or processes; information concerning industrial, commercial, or scientific experience; the use of, or the right to use, industrial, commercial, or scientific equipment; and technical assistance and studies in all fields.
4. 20% of the gross amount of the royalties for the use of, or the right to use, licences, trademarks, cinematographic films, and films and discs for radio or television broadcasting and the use of, or the right to use, industrial, commercial, scientific equipment, or port facilities; however, since the 20% treaty rate is higher than the 15% common law rate, the latter will be applied. 15% of the gross amount of the royalties for all the other cases, mainly technical and economical studies; the use of, or the right to use copyrights, patents, trademarks, designs or models, plans, secret formulae, or processes; and information concerning industrial, commercial, or scientific experience. However, royalties paid for the use of, or the right to use, copyrights of literary, dramatic, musical, or artistic work, except royalties in respect of cinematographic films and films and discs for TV broadcasting, are taxable in the state of residency and thus cannot be subject to tax nor to any WHT in connection with the state in which they arise.
5. 10% of the gross amount of the royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films and films, tapes, or discs for radio or television broadcasting, patents, trademarks, designs or models, plans, secret formulae, or processes, and information in respect of industrial, commercial, or scientific experience. 5% of the gross amount of the royalties for technical and economical studies and technical assistance.
6. 5% of the amount of the royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic and films for TV and radio broadcasting. 15% of the amount of the royalties for the use of, or the right to use, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; the use of or the right to use industrial, commercial, or scientific equipment; and technical and economical studies and technical assistance rendered in the state in which they arise.
7. 15% of the gross amount of royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films and films, tapes, or discs for radio or television broadcasting, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; the use of or the right to use industrial, commercial, or scientific equipment; and technical and economical studies.
8. 15% of the gross amount of royalties for the right to publish any literary, artistic or scientific work, patents, trademarks, designs or models, plans, secret formulae or processes; information in respect of industrial, commercial or scientific experience; the use of or the right to use industrial, commercial or scientific equipment; and cartoons, films, and videos for TV broadcasting.
9. 5% of the gross amount of royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films and films, tapes, or discs for radio or television broadcasting, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; and the use of, or the right to use, industrial, commercial, or scientific equipment.
10. 5% of the gross amount of the royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work. 15% of the gross amount of the royalties for the use of, or the right to use, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; and economical and technical studies. 20% of the gross amount of the royalties for the use of, or the right to use, agricultural, industrial, commercial, scientific equipment, or port facilities and licences, trademarks, cinematographic films, and films for TV broadcasting. However, payments made to public entities for the use of cinematographic films or the broadcasting on radio and TV are exempt from WHT; however, since the 20% treaty rate is higher than the 15% common law rate, the latter will be applied.
11. 10% of the gross amount of the royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work; information concerning agricultural, industrial, commercial, or scientific experience; and technical and economical studies. 15% of the gross amount of the royalties for patents, trademarks, designs or models, plans, secret formulae, or processes, and cinematographic films or films for television.
12. 10% of the gross amount of the royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films and films, tapes, or discs for radio or television broadcasting, patents, trademarks, designs or models, plans, secret formulae, or processes; information concerning industrial, commercial, or scientific experience; the use of, or the right to use, industrial, agricultural, commercial, scientific equipment, or port facilities, except remunerations for chartering of vessels and aircraft; and technical and economical studies.
13. Royalties may be subject to tax in the contracting state in which they arise in cases where the legislation of that state allows such taxation, at a maximum rate of 12%.
14. 15% of the gross amount of royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films and films, tapes, or discs for radio or television broadcasting, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; the use of, or the right to

use, industrial, commercial, or scientific equipment; and technical services, such as technical and economical studies and technical assistance.

15. 8% of the gross amount of royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films and films, tapes, or discs for radio or television broadcasting, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; and the use of, or the right to use, agricultural, industrial, commercial, scientific equipment, or port facilities, except remunerations for the chartering of vessels and aircraft used for international transport.
16. 5% of the gross amount of the royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work. 12% of the gross amount of the royalties for the use of, or the right to use, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; and economical and technical studies. 16% of the gross amount of the royalties for the use of, or the right to use industrial, commercial, or scientific equipment, and licences, trademarks, cinematographic films, and films for TV broadcasting; however, since the 16% treaty rate is higher than the 15% common law rate, the latter will be applied.
17. Royalties may be subject to tax in the contracting state in which they arise in case the legislation of that state allows such taxation and according to the legislation of that state for the use of, or the right to use, any copyright of literary, artistic, or scientific work, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; and the use of, or the right to use, industrial, commercial, or scientific equipment.
18. 5% of the gross amount of royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films and films, tapes, or discs for radio or television broadcasting, patents, trademarks, designs or models, plans, secret formulae, or processes, and information in respect of industrial, commercial, or scientific experience.
19. 5% of the gross amount of royalties for the use of, or the right to publish, any literary, artistic, or scientific work, including cinematographic films and films, tapes, or discs for radio or television broadcasting, a transmission by satellite or optical fibre transmission or similar means of transmission, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; and the use of, or the right to use, industrial, commercial, or scientific equipment.
20. 12% of the gross amount of royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience, except remuneration for vessels and aircraft chartering in respect of international transport; the use of, or the right to use, industrial, agricultural, commercial, or scientific equipment; and technical services, such as technical and economical studies and technical assistance, carried out in the state of source.
21. Royalties may be subject to tax in the contracting state in which they arise in cases where the legislation of that state allows such taxation and according to its legislation for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films recording for radio or television broadcasting, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; and the use of, or the right to use, industrial, commercial, or scientific equipment.
22. 12% of the gross amount of royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films and films, tapes, or discs for radio or television broadcasting, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; the use of, or the right to use, industrial, agricultural, commercial, or scientific equipment; and technical and economical studies and technical assistance.
23. 2.5% of the gross amount of royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; and the use of, or the right to use, industrial, agricultural, commercial, or scientific equipment, except remunerations for the chartering of vessels and aircraft used for international transport.
24. Royalties may be subject to tax in the contracting state in which they arise in case the legislation of that state allows such taxation; but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 11% of their amount. However, this rate is reduced to 7.5% in case royalties received by a resident of Tunisia are not subject to WHT in the Netherlands and as long as the Netherlands does not proceed to the modification of its tax legislation. Remunerations paid for the following are considered royalties: the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films and films, tapes, or discs for radio or television broadcasting, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; the use of, or the right to use, industrial, commercial, or scientific equipment, except remunerations paid for the exploitation of vessels and aircraft in respect of international transport; and technical and economical studies and technical assistance rendered in the state from which royalties are paid.
25. 5% of the gross amount of the royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, except cinematographic films and films for TV broadcasting. 15% of the gross amount of the royalties for the use of, or the right to use, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; and economical and technical studies. 20% of the gross amount of the royalties

for the use of, or the right to use, agricultural, industrial, commercial, scientific equipment, or port facilities, and the use of, or the right to use, trademarks and cinematographic films and films for TV broadcasting; however, since the 20% treaty rate is higher than the 15% common law rate, the latter will be applied.

26. 10% of the gross amount of royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films, patents, trademarks, designs or models, plans, secret formulae, or processes; the use of, or the right to use, industrial, agricultural, commercial, scientific equipment, or port facilities, except remuneration for vessels and aircraft chartering in respect of international transport; and technical and economical studies and technical assistance.
27. 12% of the gross amount of royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; the use of, or the right to use, industrial, agricultural, commercial, scientific equipment, or port facilities; and technical and economical studies and technical assistance.
28. 10% of the gross amount of royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films and films, tapes, or discs for radio or television broadcasting, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; the use of, or the right to use, industrial, commercial, or scientific equipment; and technical and economical studies and technical assistance in respect of the use of, or the right to use, the equipments, rights, and information mentioned above.
29. 5% of the gross amount of royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; and the use of or the right to use industrial, commercial, or scientific equipment.
30. Royalties are subject to tax in the state of residency of the beneficiary. However, the non-exclusive taxation right attributable to the state of residency does not prohibit the taxation of such royalties in the state in which they arise in cases where the legislation of that state allows such taxation and according to its legislation. Remunerations paid for the following are considered royalties and thus are subject to tax in the state in which they arise: the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; and the use of, or the right to use, industrial, commercial, or scientific equipment that is not considered as an asset in the meaning of Article 6 of the present treaty.
31. 10% of the gross amount of the royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films and films, tapes, or discs for radio or television broadcasting, patents, trademarks, designs or models, plans, secret formulae, or processes, and information in respect of industrial, commercial, or scientific experience. 12% of the gross amount of the royalties for technical services, such as technical and economical studies and technical assistance.
32. 15% of the gross amount of royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films and films, tapes, or discs for radio or television broadcasting, patents, trademarks, designs or models, plans, secret formulae, or processes; the use of, or the right to use, industrial, agricultural, commercial, or scientific equipment; and economical and technical studies and technical assistance.
33. 10% of the gross amount of royalties for copyrights, patents, trademarks, designs or models, plans, secret formulae, or processes; studies and information in respect of industrial, commercial, or scientific experience; the use of, or the right to use, industrial, commercial, or scientific equipment; and cinematographic films and video tapes for TV broadcasting.
34. 5% of the gross amount of royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films and films, tapes, or discs for radio or television broadcasting, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; and the use of or the right to use industrial, agricultural, commercial, or scientific equipment, except chartering of ships and aircraft used for the international transport.
35. 5% of the gross amount of royalties for remunerations paid for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films and films, tapes, or discs for radio or television broadcasting, patents, trademarks, software, designs or models, plans, secret formulae, or processes.
36. 5% of the amount of the royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, excluding cinematographic and films for TV and radio broadcasting. 15% of the amount of the royalties for the use of, or the right to use, cinematographic films, films for TV and radio broadcasting, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; and the use of, or the right to use, industrial, commercial, or scientific equipment, and technical and economical studies.
37. 10% of the gross amount of royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience, and technical and economical studies and technical assistance related to these information; and the use of, or the right to use, industrial, commercial, or scientific equipment.

38. 18% of the gross amount of royalties for the use of, or the right to use patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; and the use of, or the right to use, industrial, commercial, or scientific equipment; however, since the 18% treaty rate is higher than the 15% common law rate, the latter will be applied.
39. 10% of the gross amount of royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films and films, tapes, or discs for radio or television broadcasting, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; and the use of, or the right to use, industrial, commercial, or scientific equipment.
40. 7.5% of the gross amount of royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films and films, tapes, or discs for radio or television broadcasting, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; and the use, of or the right to use, industrial, commercial, or scientific equipment.
41. 15% of the gross amount of royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films and films, tapes, or discs for radio or television broadcasting, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; the use of, or the right to use, industrial, agricultural, commercial, or scientific equipment; and technical and economical studies.
42. Royalties are only taxable in the contracting state in which they arise in cases where the legislation of that state allows such taxation and according to its legislation for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films and films for TV broadcasting, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; the use of, or the right to use, industrial, commercial, scientific equipment or port facilities; and economical and technical studies and economical assistance.
43. 15% of the gross amount of the royalties for copyright of literary, artistic, or scientific work, including cinematographic films and films, tapes or discs for radio or television broadcasting, patents, trademarks, designs or models, plans, secret formulae, or processes; information in respect of industrial, commercial, or scientific experience; and profits from any ownership, depending from the productivity, the use, or the alienation of that ownership. 10% of the gross amount of the royalties for the use of, or the right to use, industrial, commercial, or scientific equipment other than vessels and aircraft used for international transport, and technical studies paid from public funds or political subdivisions or local authorities or technical assistance for the use of the ownership of the rights above mentioned, in case the technical assistance is realised in the state of source.
44. 7.5% of the gross amount of royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematographic films and films, tapes, or discs for radio or television broadcasting, patents, trademarks, designs or models, plans, secret formulae, or processes, and the use of, or the right to use, industrial, commercial, or scientific equipment and port facilities, except remunerations paid for vessels and aircraft used in international transport.
45. These rates are applicable, in certain cases, to the loans extended by the Central Bank.
46. 5% for loans extended by banks and not represented by bonds or other debt securities.
47. 0% for loans granted by financial institutions, the capital of which is held up to 100% by the Chinese state.
48. 0% for loans granted by financial institutions, the capital of which is held at least up to 50% by the Ethiopian state, its political subdivisions, or local authorities.
49. 0% for loans granted by the Deutsche Bundesbank, Kreditanstalt für Wiederaufbau, and the Deutsche Gesellschaft für wirtschaftliche zusammenarbeite Gmbh. (*Entwicklumgsgesells*).
50. 0% for loans granted by financial institutions, the capital of which is held up to 100% by the state of Iran.
51. 0% for loans granted by financial institutions, the capital of which is totally held by the Italian state or its local authorities.
52. 0% for loans granted by financial institutions, the capital of which is held up to 100% by the state of Kuwait.
53. 0% for loans granted by financial institutions, the capital of which is totally held by the state of Lebanon, its political subdivisions, or local authorities.
54. 0% for loans granted by companies, the capital of which is totally held by the state of Lebanon, its political subdivisions, or local authorities.
55. 7.5% for loans guaranteed or granted by financial institutions and the reimbursement period of which exceeds five years.
56. 7.5% as long as the tax legislation of the Netherlands provides that interest paid by a company resident in the Netherlands to a company resident in Tunisia is exempt from any WHT.
57. 0% for loans, the reimbursement period of which exceeds seven years.
58. 5% for loans, the reimbursement period of which exceeds seven years, and 10% in the other cases.
59. 5% for bank loans since the Tunisian domestic tax legislation provides that interest on bank loans extended by non-established banks is subject to a 5% WHT rate.
60. 0% for loans granted by financial institutions, provided that the reimbursement period exceeds seven years.
61. 5% of the gross amount of royalties for the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematography and films for TV and radio broadcasting; the use of, or the right to use, patents, trademarks, designs or models, plans, secret formulae, or processes; information

in respect of industrial, commercial, or scientific experience; and the use of, or the right to use industrial, commercial, or scientific equipment.
62. According to the DTTs concluded by Tunisia, dividends are subject to the listed WHT tax rates, knowing that the rate provide by the domestic law is fixed at 5%.
63. The lower rate applies in cases where the beneficiary has equity participation of 25%.
64. The lower rate applies in cases where the beneficiary has equity participation of 10%.
65. The lower rate applies in cases where the beneficiary has equity participation of 50%.
66. The lower rate applies in cases where the beneficiary has equity participation of 25%, except for investment companies and real estate investment companies.
67. Certain DTTs foresee that in case companies resident of a contracting state have a PE in the other contracting state (state of source), the latter may levy WHT on profits made by the PE as a taxation on dividend.
68. 25% on payments made to persons resident in tax havens as defined by the decree 2014-3833.

Tax administration

Taxable period

Under Tunisian law, both the accounting year and tax year follow the calendar year. However, derogation is possible if prior authorisation is obtained from the Ministry of Finance.

Tax returns

Tunisian-established companies have the obligation to file monthly tax returns, an annual corporate tax return, and an annual Employer's Declaration.

Monthly tax returns include WHTs, VAT, LAT, social logging tax, and professional training tax, and must be filed each month before the 28th day of the following month. Filing and payment take place simultaneously.

The annual tax return is the corporate tax return, which must be filed before 25 March of the following year. The deadline for filing the corporate tax return is moved to 25 June for public liability companies and private liability companies subject to statutory audit. Filing and payment take place simultaneously.

The Employer's Declaration has to be filed each year before 30 April of the following year. This declaration must list all fees and salaries paid or incurred, even if not yet paid, to service suppliers and employees during the concerned year. No payment is due in connection with this filing, but fees not listed on this declaration are not recognised as deductible costs.

Payment of tax

Corporate tax is paid through:

- WHTs applied on certain payments and operated by the debtor on behalf of the taxpaying entity.
- Beginning from the second year of activity, three provisional instalments, each calculated at 30% of the total corporate tax due for the previous year. The instalments fall due on 28 June, 28 September, and 28 December.
- An annual tax return.

Both WHTs and provisional payments of income tax are creditable against the annual/final tax due.

Filing and payment take place simultaneously.

The most common process is the filing in person at the tax office. In this case, payment is made in cash or by check.

However, companies with turnover exceeding TND 1 million are constrained to file their tax returns electronically. Electronic filing remains optional for other companies. In this case, payment is made through bank transfer.

Tax audit process

Tax controllers may proceed either with a preliminary tax audit or an in-depth tax audit.

Preliminary tax audit

In case of a preliminary tax audit, the taxpayer under control is not notified prior to starting the audit. However, the tax authority has the obligation to send an information request concerning the tax findings. The taxpayer has to reply within 20 days.

The tax audit is conducted in the offices of the tax administration and deals with the documents made available to them (tax returns, registered contracts, etc.). However, preliminary tax audits can never deal with the taxpayer's accounts.

The results of the tax control are notified in writing to the taxpayer within a tax audit report, whereby the outcome of the audit activity must be detailed and the findings, if any, must be illustrated and motivated. The tax report is to be notified to the taxpayer within 90 days from the expiry date to reply to the information request (*see above*).

Indeed, the taxpayer has the possibility to answer to the tax audit report within 45 days starting from the day following the date of receipt of the report. Failing that, the taxpayer will receive a tax assessment notice that brings forth requests for payment of taxes and penalties to the taxpayer. In cases where the taxpayer answers to the notification of the results of the tax audit and brings additional explanations, clarifications, and documents to the tax auditors, they will be constrained to examine the evidence provided by the taxpayer and answer to the taxpayer's opposition within six months from the day following the notification date.

Once the taxpayer receives the answer of the tax authorities to the taxpayer's opposition, the taxpayer will have the possibility to file a second opposition within 15 days from the day after the notification day in cases where the taxpayer still disagrees with some or all the points raised by the tax controllers.

Also, the taxpayer can request for the submission of the tax audit file before the conciliation commission within the same deadline of 15 days. That commission shall express its opinion on the file before the tax assessment notice.

Once the second answer is filed by the taxpayer, there will be no other written correspondences with the tax auditors.

In cases where the tax administration agrees to the clarifications, explanations, arguments, and documents provided by the taxpayer, then the tax audit will be closed. However, in cases where the tax administration still disagrees with some or all the evidence provided by the taxpayer, then the taxpayer will receive a tax assessment notice and will have to pay the notified taxes. The tax assessment notice has to take into consideration the taxpayer's observations enclosed in the first and the second opposition filed by the taxpayer.

Further to the receipt of the tax assessment notice, the taxpayer may make an appeal to the relevant court.

A preliminary tax audit does not prevent an in-depth tax audit of the same period and the same taxes.

In-depth tax audit

In case of an in-depth tax audit, the taxpayer under control is notified 15 days prior to starting the audit. This period may be extended to a maximum period of 60 days.

In-depth tax audits deal with the accounts of the taxpayer under control (in cases where the taxpayer has the obligation to maintain accounts according to the accounting legislation into force) as well as any other evidence (presumptions, registered contracts, etc.).

In-depth tax audits take place, as a general rule, on the business premises of the taxpayer. However, and upon the request of the taxpayer or the tax controllers, the tax audit can be conducted in the tax authorities' office. In this case, books, records, and any other documentation deemed necessary to the tax auditors to complete the audit have to be moved to the tax auditors' office.

In-depth tax audits last for:

- six months, in case the taxpayer under control is constrained by the law to maintain accounts, and
- one year, in the other cases.

At the end of this period, the tax audit must come to an end and the tax auditors must draw up a tax audit report to be sent to the taxpayer, whereby the outcome of the audit activity must be detailed and the findings, if any, must be illustrated and motivated.

Once the tax audit report is sent to the taxpayer, the procedure of response and deadlines are the same as for preliminary tax audits.

Statute of limitations

The period open for tax audit, unless it was subject to a previous in-depth tax audit, is:

- Four years in case of partial omission; an omission is considered as partial in cases where the tax return is filed but the taxable base is not determined properly or in cases where the WHT rates applied to payments made to third parties are lower than the rates provided by the law.
- Ten years in case of total omission; an omission is considered as total in cases where the tax return is not filed at the date when the company becomes under tax control.

The four-year period and the ten-year period begin to run from 1 January (in cases where the fiscal year coincides with the calendar year) of the year following the completion of sales, earnings, receipt, or disbursement of any sum to be taxed.

Topics of focus for tax authorities

The tax authorities primarily focus on extraordinary transactions (e.g. mergers, restructuring, suspension of business). After introducing a transfer pricing provision as a part of the 2009 law, the tax authorities are increasing their attention towards transactions concluded between affiliated companies.

Uganda

PwC contact

Francis Kamulegeya
PricewaterhouseCoopers
Communications House
10th Floor
1 Colville Street
Kampala
Uganda
Tel: +256 414 236 018
Email: francis.kamulegeya@pwc.com

Significant developments

Amendments for the Financial Year 2017/18

Effective 1 July 2017, the following changes were made to the tax laws:

Income tax

The Income Tax Act (Amendment) Act 2017 introduced the following changes:

- A body established by law for the purpose of regulating the conduct of professionals was included on the list of exempt organisations, and, as such, their income is exempted from income tax. This includes bodies like Uganda Law Society, Institute of Certified Public Accountants, etc.
- Gave powers to the Minister of Finance to prescribe estimates of rent based on the rating of the rental property in a specific location. The amendment applies to persons who fail to file a return of rental income or whose return is misleading on the face of it and has been contested by the Commissioner. Further, the Act requires all rental agreements to be executed and effected in Ugandan shillings (UGX).
- Exempted the income of Bujagali Hydro Power Project from tax up to 30 June 2022, and the income of a savings and credit co-operative society up to 30 June 2027.
- Re-introduced the initial allowance deduction at 50% of the cost base of plant and machinery wholly used in the production of income included in gross income. The initial allowance deduction is applicable to plant and property placed into service for the first time during a year of income outside a radius of 50 kilometres from Kampala.
- Re-introduced initial allowance on industrial buildings at 20% of the cost base of a new industrial building or extension of an industrial building on which construction was commenced on or after 1 July 2000 and placed into service for the first time during the year of income. Previously, the initial allowance provisions were repealed in July 2014.
- Gave power to the tax authority to make adjustments to transactions between persons who are in an employment relationship although the Transfer Pricing Regulations do not apply to transactions between employers and employees.
- Waiver of interest on unpaid tax that is in excess of the aggregate of the principal tax and penal tax.

Value-added tax (VAT)

The VAT (Amendment) Act 2017 introduced the following changes:

- Extended the special VAT treatment for aid-funded projects to include taxable supplies made to a government ministry, department, or agency by a contractor executing an aid-funded project where the supply is for use solely or exclusively for the aid-funded project. Previously, the special treatment only applied to supplies made to contractors.
- Capped the interest payable on unpaid tax to a maximum of the aggregate of the principal tax and penal tax.
- Reinstatement of the VAT at 18% on the supply of wheat grain.
- Provided for VAT exemption of certain goods and services, including the supply of animal feeds and premixes, the supply of crop extension services, the supply of irrigation works, sprinklers, and ready to use drip lines, the supply of deep cycle batteries and composite lanterns, as well as raw materials for their manufacture, the supply of menstrual cups, and the supply of agriculture insurance premium or policy.

Excise duty

The Excise Duty (Amendment) Act 2017 introduced the following changes:

- Increase in excise duty on certain cigarettes and a distinction between locally manufactured and imported cigarettes. Locally manufactured soft cup and hinge lid cigarettes are now subject to duty of UGX 55,000 to UGX 80,000 per 1,000 sticks respectively. On the other hand, imported soft cup and hinge lid cigarettes are now subject to duty of UGX 75,000 to UGX 100,000 per 1,000 sticks respectively.
- Increase in duty on furniture imported or assembled in Uganda from foreign materials (excluding specialised hospital furniture) from 10% to 20%.
- Introduction of a new specific rate regime for certain beverages where excise duty will be calculated as the higher of a specific rate (i.e. based on volume) and an *ad valorem* rate (based on value). These items are currently subject to an *ad valorem* rate. The new changes are as follows:
  - A specific rate of excise duty of UGX 1,860 per litre on malt beer as an alternative to the *ad valorem* rate of 60%, whichever is higher.
  - A specific rate of excise duty of UGX 650 per litre on beer whose local raw material content, excluding water, is at least 75% by weight of its constituent as an alternative to the *ad valorem* rate of 30%, whichever is higher.
  - A specific rate of excise duty of UGX 950 per litre on beer produced from barley grown and malted in Uganda as an alternative to the *ad valorem* rate of 30%, whichever is higher.
  - A specific rate of excise duty on non-alcoholic beverages (excluding fruit or vegetable juices) of UGX 240 per litre as an alternative to the *ad valorem* rate of 13%, whichever is higher.
- Introduced excise duty on fruit juice and vegetable juice, except juice made from at least 30% of pulp from fruit and vegetables grown in Uganda at 13% or UGX 300 per litre, whichever is higher.
- Revised the excise duty rate on un-denatured spirits from UGX 1,000 per litre or 100%, whichever is higher, to UGX 2,500 per litre or 100%, whichever is higher.

Tax administration

The Tax Procedure Code (Amendment) Act 2017 introduced the following changes:

- Clarification that the due date for filing of provisional returns is the date of payment of tax.

- Introduced a requirement for persons dealing in locally manufactured and imported goods to affix on the goods a tax stamp to be prescribed by the Minister of Finance with a penalty for failure to affix a tax stamp.
- Clarification on the hierarchy of payment of taxes where a taxpayer is liable for penal tax and interest in relation to a tax liability and the taxpayer makes a payment less than the total amount of tax, penal tax, and interest. The amount paid will be used to first offset the principal tax, then the penal tax, and the balance is applied to the interest due.
- Introduced a penal tax of UGX 50 million for failure to provide records requested by the Commissioner in respect of transfer pricing and UGX 20 million in respect of other information (other than transfer pricing) within 30 days after the request.

Taxes on corporate income

A resident company is taxed on its income from all geographical sources. A non-resident company is only subject to Uganda income tax on income derived from sources in Uganda.

The income tax rate applicable to the chargeable income of companies is 30%, with the exception of resident companies whose turnover does not exceed UGX 150 million, to whom presumptive tax applies (*see below*).

Chargeable income is gross income for the year less the total deductions allowed under the Income Tax Act (ITA).

Resident companies with turnover of less than UGX 150 million

A rate of 1.5% of turnover is used to determine income tax payable by a resident taxpayer whose turnover is between UGX 50 million and UGX 150 million, subject to certain thresholds. For taxpayers whose gross turnover is above UGX 10 million but not in excess of UGX 50 million, fixed amounts of tax apply, subject to the location of the business. The amount of tax payable ranges between UGX 100,000 to 550,000 *per annum*.

However, on application to the Commissioner, a resident taxpayer with a turnover of less than UGX 150 million may be taxed at 30% on chargeable income.

This category excludes professionals, public entertainment services, public utility services, or construction services.

Local income taxes

There are no district, municipal, or local corporate income taxes in Uganda.

Corporate residence

A company is resident in Uganda for a year of income if it meets one of the following criteria:

- Is incorporated or formed under the laws of Uganda.
- Has its management and control exercised in Uganda at any time during the year of income.
- Undertakes the majority of its operations in Uganda during a year of income.

Permanent establishment (PE)

A PE (branch) means a place where a person carries on business, and includes:

- A place where a person is carrying on business through an agent, other than a general agent of independent status acting in the ordinary course of business as such.
- A place where a person has, is using, or is installing substantial equipment or substantial machinery.
- A place where a person is engaged in a construction, assembly, or installation project for 90 days or more, including a place where a person is conducting supervisory activities in relation to such a project.
- The furnishing of services, including consultancy services, by an enterprise of a contracting state through employees or other personnel engaged in the other contracting state, provided that such activities continue for the same or a connected project for a period or periods aggregating more than four months within any 12-month period.

Other taxes

Value-added tax (VAT)

VAT is governed by the VAT Act and administered by the Uganda Revenue Authority (URA). VAT is charged at the rate of 18% on the supply of most goods and services in the course of business in Uganda. Specified goods and services, as well as exports outside of Uganda, attract a zero rate of tax.

Some supplies are exempt from VAT, the main categories being government subsidies, some unprocessed foodstuffs, financial services, health and life insurance, agriculture insurance policies, re-insurance services, unimproved land, leases and sale of certain residential properties, betting and gaming, education, medical and health services, social welfare services, pesticides, and petroleum products subject to excise duty.

Zero rating is preferable to exemption because the VAT on costs incurred in making a zero-rated supply can be recovered while those incurred in making an exempt supply cannot be recovered.

The zero-rated supplies include the supply of goods and services exported from Uganda; the supply of drugs and medicines; the supply of seeds, fertilisers, pesticides, and hoes; and the supply of leased aircraft, aircraft engines, spare engines, spare parts for aircraft, and aircraft maintenance equipment.

Besides the exempted and zero-rated supplies, there is a deemed VAT regime that applies to the upstream and midstream operations in the oil and gas sector, mining operations, as well as aid-funded projects. The tax payable on a taxable supply made by a supplier to a contractor executing an aid-funded project and by a contractor to a licensee to undertake mining or petroleum operations is deemed to have been paid by the supplier (in the case of the aid-funded projected) or the contractor (in the case of mining and petroleum operations) provided the supply is for use by the contractor solely and exclusively for the aid-funded project or the petroleum/mining operations.

The annual threshold for VAT registration is UGX 150 million. Persons who make supplies that are VATable and whose turnover exceeds UGX 150 million are required to register for VAT with the URA. VAT-registered persons are required to:

- Charge VAT whenever they make supplies that are VATable.
- File monthly returns before the 15th day of the month following the reporting month.

Credit for input tax

A person making exempt, zero-rated, and standard supplies can recover all the input VAT if the exempt supplies are less than 5% of the total supplies. However, if the exempt supplies are more than 5% but less than 95%, the person is required to recover only a portion of the VAT input tax corresponding to the percentage of the taxable supplies. If the exempt supplies exceed 95%, the person cannot recover any input VAT.

Imported services

The VAT Act defines a supply of service to mean any supply that is not a supply of goods or money, including the performance of services for another person.

There is no definition of imported services in the local legislation. However, the tax authorities generally consider an imported service to be one provided by a person normally resident outside Uganda who is not required to register for VAT in Uganda. According to Regulation 14 of the VAT Regulations 1996, any person who imports a service into the country must account for VAT on such a service. The Regulations require the person importing the service to account for the VAT at the time when performance of the service is completed, when payment for the service is made, or when the invoice is received from the foreign supplier, whichever is earliest.

The tax on such imported services is computed at the rate of 18% of the cost of the service. VAT-registered companies are no longer required to prepare self-billed tax invoices, thus they are unable to claim the VAT paid as input tax; however, a contractor or licensee in the petroleum and mining industry is able to claim an input tax credit for the reverse-charge VAT paid on imported services. Also, persons providing business process outsourcing (BPO) services are allowed to claim credit for input tax for VAT paid on imported services. Further, if the importer of the services is not registered for VAT, the importer is required to calculate and pay the VAT to the URA.

Failure to pay VAT on non-exempt imported services is tantamount to lack of compliance with the law, and a penalty of 2% per month, compounded, may apply.

Interest payable on late payment of VAT is capped to a maximum of the aggregate of the principal tax and penal tax.

VAT representative for non-resident persons

The Tax Procedure Code Act now provides for a role of tax representative for a non-resident person being the individual controlling the person's affairs in Uganda, including a manager of a business of that person or any representative appointed in Uganda.

The VAT Act previously provided for the appointment of a VAT representative by a non-resident person who may have been required by the Commissioner to register for VAT in Uganda but had no fixed place of business. It also provided that if the non-resident person did not appoint the VAT representative within 30 days after being required to register for VAT, the Commissioner could appoint the representative for the non-resident person.

A tax representative under the Tax Procedure Code Act is responsible for performing any duty obligation imposed by a tax law on the taxpayer, including submission of tax returns and payment of tax.

Customs duties

Many goods imported into Uganda are subject to customs duties. However, exemptions are available to various classes of plant and machinery imported into Uganda. The rates of duty are provided by the East African Community common external tariff code. Certain products imported from the East African Community and the Common Market for Eastern and Southern Africa (COMESA) region enjoy special custom duty rates. Imported items are classified according to the nomenclature established under the international convention on the harmonised commodity description and coding system. Duties range from 0% to 60%, depending on the item imported.

Excise duties

Excise duties are imposed on goods considered luxuriant. Examples include locally manufactured soft drinks, cigarettes, alcoholic drinks, and spirits. A schedule of some of the rates is provided below:

Goods	Excise duty
Soft cap cigarettes:	
Locally manufactured	UGX 55,000 per 1,000 sticks
Imported	UGX 75,000 per 1,000 sticks
Hinge lid cigarettes:	
Locally manufactured	UGX 80,000 per 1,000 sticks
Imported	UGX 100,000 per 1,000 sticks
Cigars, cheroots, and cigarillos containing tobacco	200%
Smoking tobacco whether or not containing tobacco substitutes in any proportion	200%
Homogenised or reconstituted tobacco or other tobacco	200%
Beer made from malt	60% or UGX 1,860 per litre, whichever is higher
Beer made from local raw material	30% or UGX 650 per litre, whichever is higher
Beer produced from barley grown and malted in Uganda	30% or UGX 950 per litre, whichever is higher
Spirits produced from local raw materials	60%
Un-denatured spirits	100% or UGX 2,500 per litre, whichever is higher
Other spirits	80%
Non-alcoholic beverages (excluding fruit or vegetable juices)	13% or UGX 240 per litre, whichever is higher
Fruit and vegetable juice (except juice made from at least 30% of pulp from fruit and vegetables grown in Uganda)	13% or UGX 300 per litre, whichever is higher
Wine produced from local raw materials	20%
Other wine	80%
Air time applicable to mobile cellular devices	12%
Air time applicable to landlines and public pay phones	5%

Goods	Excise duty
Fuel and oils	Between UGX 200 and UGX 1,000 per litre, depending on the type of fuel/oil. Nil for gas oil and thermal power generation to the national grid.
Motor spirit (gasoline)	UGX 1,100 per litre
Gas oil (automotive, light, amber for high speed engine)	UGX 780 per litre
Motor vehicle lubricants	10%
Chewing gum, sweets, and chocolates	20%
Other furniture	20%
Specialised hospital furniture	0%

Other goods and services	Excise duty
Banking fees	10% of the fees charged
Money transfers (other than transfers by banks)	10% of the fees charged
Cosmetics and perfumes (except creams used by persons with albinism in the treatment of their skin, which attract no excise duty)	10%
Incoming international calls (other than calls from the Republic of Kenya, the Republic of Rwanda, and the Republic of South Sudan)	USD* 0.09 per minute
Cement	UGX 500 per 50 kg
Cane or beet sugar and chemically pure sucrose in solid form	UGX 100 per kg

* United States dollars

Property taxes

Property taxes are administered by the local authorities annually. They are based on the value of the property as assessed by the local authorities.

Stamp duties

Stamp duty is charged on a number of transactions at varying rates. Stamp duty is charged at 1% of the total value for a number of instruments, including hire purchase agreements, composition deeds, leases, conveyance, transfers, share warrants, gifts, and agreements relating to deposit of title deeds.

Stamp duty of 0.5% is incurred on formation of a company, capital-raising activities (e.g. increase of share capital), debentures, equitable mortgages, and mortgage deeds.

Stamp duty of 1.5% applies on all transfers, including transfer of shares and property.

Stamp duty of 2% applies on exchange of property.

No stamp duty is charged on the increase of share capital where it is in fulfilment of a condition precedent for acquiring loan funds for a development project or where it is made on becoming public through the stock exchange.

Stamp duty of UGX 10,000 is also charged in a number of various other instruments.

Environmental levies

Environmental levies are charged on every person who imports motor vehicles that are eight years old or older. Levies are also imposed on the importation of used household appliances. The levy on motor vehicles is 20% of the value of the vehicle as determined for customs duty purposes. Levies on electrical appliances range from UGX 20,000 to UGX 50,000 per item, depending on the nature of the item.

Payroll taxes

The employer is required to withhold tax on employment income from their employees and pay it to the tax authorities. The tax is normally borne by the employee. Where the employer fails to withhold tax as required, the employer becomes liable for the taxes but may recover the same from the employees.

Local service tax ranging between UGX 5,000 and UGX 100,000 *per annum*, subject to an individual's employment income bracket, is payable to the local municipal councils of the individual's area of residence. The tax is withheld and paid by the employer.

Social security contributions

An employer is obligated to make contributions to the national social security fund for each employee, amounting to 10% of their gross pay.

Branch income

Tax is imposed on the income of a non-resident company derived from running a branch in Uganda. The chargeable income of a branch in Uganda is taxed at the corporation tax rate of 30% after deduction of allowable expenses.

In addition to corporation tax, branches are subject to extra tax at a rate of 15% on any repatriated income for a year of income. The repatriated income is calculated using the A + (B - C) - D approach. Where A is the net assets at the beginning of the year, B is the net profit for the year, C is the tax charge for the year, and D is the net assets at the end of the year.

Income determination

In arriving at chargeable income (taxable income), one has to go through the process of adjusting profits by taking into account deductions allowed and deductions not allowed.

Inventory valuation

A taxpayer is allowed a deduction for the cost of trading stock disposed of during the year, which is determined by adding to the opening value of the trading stock the cost of trading stock acquired during the year and subtracting the closing value of stock. The opening value of the stock is the closing value for the previous year or, where the taxpayer commenced business during the year, the market value at the time of commencement of the business of the trading stock acquired prior to commencement. The closing stock valuation method is the lower of cost or market value. Trading stock is allowed to be valued using either the absorption costing or prime cost method. The stock valuation method chosen may not be changed, except with written permission of the Commissioner.

Capital gains

Capital gains are included in and taxed together with the business income at a rate of 30%. There is no separate capital gains tax. Capital gains arise on disposal of non-depreciable business assets as well as sale of shares.

Dividend income

The general rule is that dividend income is taxable as part of business income at a rate of 30%. Dividend income is also subject to withholding tax (WHT) at the rate of 15%. The WHT paid in respect of the dividend income is creditable where the income is subject to the corporation tax rate of 30%. The WHT rate for dividend payments to resident persons is 15%. For dividends paid out by companies listed on the stock exchange to individuals, the rate is 10%.

Dividend income is exempt from tax if the recipient company directly or indirectly controls the paying company through ownership of 25% or more of the voting power of the paying company.

Interest income

The general rule is that interest income is taxable as part of business income at a rate of 30%. Interest income is also subject to WHT at the rate of 15%. The WHT paid in respect of the interest income is creditable where the income is subject to the corporation tax rate of 30%. Also, interest income earned with respect to government securities is subject to tax at 20% as a final tax.

Royalty income

The general rule is that royalty income is taxable as part of business income at a rate of 30%. Royalty income is also subject to WHT at the rate of 15%. The WHT paid in respect of the royalty income is creditable where the income is subject to the corporation tax rate of 30%.

Rental income

Companies are required to disclose their rental income separately from other business income. Taxable rental income is the net income after allowing for any expenditures and losses in respect of the rental income derived. The rate of tax applicable is 30%.

The Minister of Finance has powers to prescribe estimates of rent based on the rating of the rental property in a specific location in respect of persons who fail to file a return of rental income or whose return is misleading on the face of it and has been contested by the Commissioner. Further, all rental agreements are required to be executed and effected in Ugandan shillings.

Foreign income

Foreign income is taxable on resident recipients, and tax suffered in the country where it is sourced (if any) is creditable, subject to the provisions of any double taxation agreements (DTAs). This credit is limited to the amount of Ugandan tax payable on that income.

There are no provisions for deferring tax on income earned abroad by tax residents.

Deductions

The ITA sets out the following conditions for deductibility of an expense:

- There must be an expenditure or loss.
- The expenditure or loss must be incurred by a person during the year of income.
- The expenditure must be incurred in the production of income included in gross income.

A taxpayer who is accounting for tax purposes on an accrual basis derives income when it is receivable by the taxpayer and incurs expenditure when it is payable by the taxpayer.

An amount is treated as payable by the taxpayer when all the events that determine liability have occurred and the amount of the liability can be determined with reasonable accuracy, but not before economic performance with respect to the amount occurs. Economic performance occurs:

- with respect to the acquisition of services or property, at the time the services or property are provided
- with respect to the use of property, at the time the property is used, or
- in any other case, at the time the taxpayer makes payment in full satisfaction of the liability.

Contingent liabilities are not tax-deductible in Uganda.

Depreciation

A deduction is allowed for the depreciation of the person's depreciable assets, other than minor assets, in accordance with the appropriate applicable rates. The ITA allows a taxpayer a deduction for the depreciation of their depreciable assets on a reducing-balance basis. Depreciable assets are classified in four classes as follows:

Class	Assets included	Rate of tax depreciation (%)
1	Computers and data handling equipment.	40
2	Automobiles, buses, and mini-buses with a seating capacity of less than 30 passengers; goods vehicles with a load capacity of less than 7 tonnes; construction and earth moving equipment (cost of motor vehicle sealed at approximately UGX 60 million for non-commercial vehicles).	35
3	Buses with a seating capacity of 30 or more passengers; goods vehicles designed to carry or pull loads of 7 tonnes or more; specialised trucks, tractors; trailer-mounted containers; plant and machinery used in farming, manufacturing, or mining operations.	30
4	Rail cars, locomotives, and equipment; vessels, barges, tugs, and similar water transportation equipment; aircraft; specialised public utility plant, equipment, and machinery; office furniture, fixtures, and equipment; and any depreciable asset not included in another class.	20

Industrial building allowance

A company is eligible for an industrial building allowance on its industrial and commercial buildings at a tax rate of 5% *per annum* on a straight-line basis. The industrial building allowance will be granted on the actual cost incurred in constructing the buildings.

An industrial building is defined to mean any building that is wholly or partly used, or held ready for use, by a person in manufacturing operations, research and development into improved or new methods of manufacture, mining operations, an approved hotel business, an approved hospital, or approved commercial buildings.

Initial allowance

A person is allowed an initial allowance deduction at 50% of the cost base of plant and machinery wholly used in the production of income included in gross income. The initial allowance deduction is applicable to plant and property placed into service for the first time during a year of income outside a radius of 50 kilometres from Kampala.

Also, initial allowance is allowed on industrial buildings at 20% of the cost base of a new industrial building or extension of an industrial building on which construction was commenced on or after 1 July 2000 and placed into service for the first time during the year of income.

Initial allowances are granted in addition to the tax depreciation and industrial building allowance explained above.

Goodwill

An intangible asset is amortisable over its useful life. To the extent that the useful life of the underlying asset that gives rise to goodwill can be determined, then the goodwill may be deductible over the useful life of the asset.

Start-up expenses

A company setting up business for the first time or engaged in the initial public offer at the stock market will be entitled to a tax deduction for all its start-up costs that are of capital nature that would otherwise not be tax-deductible under the ordinary tax rules. The start-up costs will be allowed as tax-deductible costs over a period of four years on a straight-line basis at the rate of 25% *per annum*.

Interest expenses

Interest is deductible if the interest is incurred in respect of a debt obligation by the company in the production of income included in the company's gross income. Interest arising from non-trade-related debt obligation is not deductible. Deferred interest is deductible when paid.

Interest charged before capital investment is put to use has to be capitalised. Interest incurred after capital investment is put to use is allowed as a deduction.

If the company is foreign controlled, then the interest arising from the loan in excess of one and a half times the company's equity will not be allowed (*see Thin capitalisation in the Group taxation section for more information*).

Bad debt

A deduction is allowed for bad debt only if:

- the amount was included in the person's income in the year of income
- it is in respect of money that was lent in the ordinary course of business by a financial institution in the production of income, or

- the amount of the debt claim was in respect of a loan granted to any person by a financial institution for the purpose of farming, forestry, fish farming, beekeeping, animal and poultry husbandry, or similar operations.

For the bad debt to be deductible, the taxpayer must demonstrate to the URA that reasonable steps to collect the debt were taken and that the taxpayer failed to recover the debt. In relation to a financial institution, it should be a debt in respect of which a loss reserve held against presently identified losses or potential losses, and which is therefore not available to meet losses that subsequently materialise, has been made.

Charitable contributions

Charitable donations are deductible if made to amateur sporting associations; religious, charitable, or educational institutions of public character; trade unions; and other similar associations that have been issued with a written ruling by the Commissioner currently in force stating that it is an exempt organisation. The donations should not exceed 5% of the person's chargeable income.

Meals, refreshments, and entertainment

Expenses for meals, refreshments, and entertainment are deductible only where the value is included in the employment income of the employees or is excluded from employment income owing to the fact that it is provided on equal terms to all workers.

Pension expenses

Employers are allowed a deduction for the contributions made to pension schemes on behalf of their employees. Employees, on the other hand, do not get a deduction for the contributions they make to pension funds.

Payment for directors

Directors are treated as employees, so expenses incurred in respect of directors are deductible expenses.

Bribes, kickbacks, illegal payments

Non-business expenses are not tax-deductible, including those of a private nature.

Fines and penalties

No deduction is allowed for any fine or similar penalty paid to a government or its sub-division for breach of any law.

Taxes

No deduction is allowed for income tax payable in Uganda or in a foreign country.

Other significant items

No deduction is allowed for the following other expenditures:

- Any expenditure or loss of a domestic or private nature.
- Any expenditure or loss of a capital nature.
- Any expenditure or loss recoverable under insurance contract or indemnity.
- Any contribution or similar payment made to a retirement fund by the employee or for the benefit of any other person (e.g. National Social Security Fund [NSSF] contributions).

- Any premium or similar payment made in respect of a life insurance policy for the life of the person paying the premium or on the life of some other person.
- Any income appropriated to a reserve fund or capitalised in any way.
- The amount of pension paid to any person.

Net operating losses

A deduction is allowed for any assessed tax losses carried forward from previous years of income. Such tax losses are carried forward and deducted against future taxable profit of the business in the subsequent years of income. The losses can be carried forward indefinitely. There is no ring-fencing of losses except in the following circumstances:

- Where, during a year of income, there has been a change of 50% or more in the underlying ownership of a company, as compared with its ownership one year previously, the company is not permitted to deduct an assessed loss in the year of income or in subsequent years, unless the company, for a period of two years after the change or until the assessed loss has been exhausted if that occurs within two years after the change,:
  - continues to carry on the same business after the change as it carried on before the change and
  - does not engage in any new business or investment after the change where the primary purpose of the company or the beneficial owners of the company is to utilise the assessed loss so as to reduce the tax payable on the income arising from the new business or investment.
- In cases where losses relate to farming, the assessed farming loss can only be deducted from farming income of the taxpayer in the following year and not from any other income.

There is no provision for carryback of losses in Uganda.

Payments to foreign affiliates

Payments to foreign affiliates are deductible as long as they are charged at an arm's length and incurred in the production of income.

Group taxation

There are no specific provisions in the law covering groups, so companies in a group do not get any special treatment for tax purposes in Uganda.

Transfer pricing

The transfer pricing regulations apply to controlled transactions if a person who is a party to the transactions is located in and is subject to tax in Uganda and the other person who is a party to the transaction is located in or outside Uganda.

The URA Practice Note issued on 14 May 2012 gives details on the transfer pricing documentation to be maintained by the taxpayer. These include company details and transaction details, including agreements and the pricing methodology used in determining the arm's-length price.

In addition, the anti-avoidance provisions contained in Sections 90 and 91 of the ITA require transactions between associates to be at an arm's-length. These are the provisions that are often applied by the URA in instances where they are of the view that a non-resident person may be transferring profits from Uganda.

The Commissioner may also make adjustments to transactions between persons who are in an employment relationship although the Transfer Pricing Regulations do not apply to transactions between employers and employees.

A penal tax of UGX 50 million is due on the taxpayer for failure to provide records requested by the Commissioner in respect of transfer pricing.

Thin capitalisation

Where a company intends to finance some of its Uganda operations by use of foreign debt, the ITA provides for thin capitalisation rules in Uganda, and the safe harbour debt-to-equity ratio is 1.5:1.

The thin capitalisation rules are provided for in Section 89(1) of the ITA. According to this Section, where a foreign-controlled resident company, other than a financial institution, has a debt-to-equity ratio in excess of 1.5:1 at any time during the year of income, a deduction is disallowed for the interest paid by the company during that year on that part of the debt that exceeds the 1.5:1 ratio for the period the ratio was exceeded.

These provisions do not apply if, at all times during the year, the amount of the debt does not exceed the arm's-length debt amount. Arm's-length debt amount is defined as the amount of debt that a financial institution that is not related to the company would be prepared to lend to the company having regard to all the circumstances of the company.

Controlled foreign companies (CFCs)

Uganda does not have a CFC regime.

Tax credits and incentives

Foreign tax credit

A resident taxpayer is entitled to a foreign tax credit for any foreign income tax paid by the taxpayer in respect of foreign-source income included in the gross income of the taxpayer. The foreign tax credit allowed is subject to the income tax rate (i.e. 30%) in Uganda.

Tax holidays for exporters

A tax holiday of ten years is available to exporters who export at least 80% of their produce of finished goods, subject to certain conditions.

Scientific research expenditure, training expenditure, and mineral exploration expenditure

A 100% allowance is available for scientific research expenditure, training expenditure, and mineral exploration expenditure in the year of expenditure.

Incentives for the importation of plant and machinery

Plant and machinery is exempt from customs duty on importation. Additionally, a VAT deferral facility is available where VAT is deferred on importation of plant and machinery and subsequently waived upon approval by the relevant authorities.

Employment incentives

A deduction of 2% of income tax payable is granted to any employer who can prove to the URA that at least 5% of their employees on a full-time basis are people with disabilities.

Other incentives

Certain income and bodies are exempt from tax. These include income derived from agro processing and from exportation of consumer and capital goods (subject to certain conditions), the income of Bujagali Hydro Power Project up to 30 June 2022, the income of a savings and credit co-operative society up to 30 June 2027, and bodies established by law for the purpose of regulating the conduct of professionals, such as Uganda Law Society and Institute of Certified Public Accountants.

Withholding taxes

Payments to non-resident persons

According to Section 83(1) of the ITA, a tax is imposed on every non-resident person who derives any dividend, interest, royalty, rent, natural resource payment, or management charge from sources in Uganda. WHT at a rate 15% therefore applies on gross dividend payments, interest, management fees, and royalty payments in respect of non-treaty countries.

Rent for this purpose means a payment for the use of land and buildings. This means that a tenant paying rent to a non-resident landlord in respect of land and buildings in Uganda is now required to deduct WHT on the gross payments at a rate of 15%.

However, Section 83(5) exempts interest paid by a resident company in respect of debentures that:

- were issued by the company outside Uganda for the purpose of raising a loan outside Uganda
- were widely issued for the purpose of raising funds for use by the company in a business carried on in Uganda or the interest is paid to a bank or a financial institution of a public character, and
- the interest is paid outside Uganda.

A 'debenture' is defined in the ITA as any form of debt, including debenture stock, mortgage stock, loan, loan stock, or any similar instrument acknowledging indebtedness, whether secured or unsecured. The term 'widely issued' is also specifically defined.

Also, the rate of WHT on interest derived by a non-resident person from government securities is 20%.

Payment of re-insurance premiums to non-resident persons is subject to WHT at a rate of 10%. The requirement to withhold tax does not apply to the African Reinsurance Corporation and PTA Reinsurance Company.

Non-resident air transport, shipping, and some telecommunications services

Non-resident ship operators, charterers, and air transport operators who derive income from carriage of passengers who embark, or cargo or mail that is embarked, in Uganda, as well as road transport operators who derive income from carriage of cargo or mail that is embarked in Uganda, are taxed at the rate of 2%.

A non-resident person who carries on the business of transmitting messages by cable, radio, optical fibre, or satellite communication and derives income through transmission of such messages by apparatus established in Uganda, whether or not such messages originated from Uganda, is taxed on one's gross income at a rate of 5%. Similarly, a non-resident person who derives income from providing direct-to-home pay television services to subscribers in Uganda is taxed on one's gross income at a rate of 5%.

Payments to resident persons

The rate of 15% also generally applies to payments of dividends and interest to resident persons, except in the following circumstances, where different rates apply:

- Dividends paid to a company controlling 25% or more of the voting powers: 0%.
- Dividends paid by companies listed on the Ugandan Securities Exchange to individuals: 10%.
- Interest on government securities: 20%.
- Interest paid by a natural person, paid to a financial institution (other than from government securities), paid by a company to an associated company, and interest that is exempt in the hands of the recipient: 0%.

There is no WHT on royalty payments to resident persons unless the payments are made by a government institution, local authority, company controlled by the government, or a 'designated payer'.

Double taxation agreements (DTAs)

A taxpayer may benefit from the provisions of a DTA that Uganda has with another country.

According to Section 88(2) of the ITA, the terms of the international agreement to which Uganda is a party prevails over the provisions of the ITA in case the terms of the international agreement are inconsistent with the provisions of the Act.

According to Section 88(5) of the ITA, where an international agreement provides that income derived from sources in Uganda is exempt from Ugandan tax or the application if the treaty results in a reduction in Uganda tax, the benefit of that exemption or reduction shall not be available to any person who:

- receives the income in a capacity that is other than that of a beneficial owner, within the meaning accorded to that term by the relevant international agreement, and who does not have full and unrestricted ability to enjoy that income and to determine its future uses, and

- does not possess economic substance in the country of residence.

Please find below a table showing the countries with which Uganda has DTAs and the applicable WHT rates on various categories of income.

	WHT (%)					
Recipient	Dividends	Interest	Royalties	Management fees	Taxation of branch profits	Repatriation of branch profits
Non-treaty	15	15	15	15	30	15
Treaty:						
Denmark	10/15 (1)	10	10	10	30	15
India	10	10	10	10	30	15
Italy	15	15	10	10	30	15
Mauritius	10	10	10	10	30	15
Netherlands	0/5/15 (2)	10	10	NA	30	15
Norway	10/15 (3)	10	10	10	30	15
South Africa	10/15 (4)	10	10	10	30	15
United Kingdom	15	15	15	15	30	15

Note

1. With respect to the Uganda/Denmark DTA, the rates applicable on dividends are:
   - 10% if the beneficiary holds at least 25% of the capital of the company paying the dividends.
   - 15% in all other cases.
2. With respect to the Uganda/Netherland DTA, the rate applicable on dividends is 15%, except where the investment is new or is an expansion of the current investment made after the DTA entered into force (10 September 2006).

   For new investments and expansions of current investment, the rates are:
   - 0% if the beneficiary holds at least 50% of the shares in the company paying the dividends.
   - 5% if the beneficiary holds less than 50% of the shares in the company making the payment.
3. With respect to the Uganda/Norway DTA, the rates applicable on dividends are:
   - 10% if the beneficiary is a company that directly holds at least 25% of the capital of the company paying the dividend.
   - 15% in all other cases.
4. With respect to the Uganda/South Africa DTA, the rates applicable on dividends are:
   - 10% if the beneficiary holds at least 25% of the capital of the company paying the dividends.
   - 15% in all other cases.

Tax administration

Taxable period

A normal period of 12 months is known as a year of income. This spans from 1 July to 30 June. On application, a taxpayer may be allowed to use a substituted year of income, which is a 12-month period other than the normal year of income.

Tax returns

The ITA provides for two provisional returns within a 12-month period (financial year). The first provisional return is due within the first six months of the accounting year while the second is due by the end of the 12th month of the accounting year.

The due date for filing of provisional returns is the date of payment of tax.

The self-assessment return is due by the end of the sixth month after the end of the accounting year.

Electronic filing has been introduced for all tax returns.

Payment of tax

For all companies, a system of provisional payments on account, based on estimated profits, is in place. The first payment of 50% is due by the end of the sixth month of the accounting period, and the second payment is due by the end of the 12th month. The balance is expected to be paid together with the final self-assessment return by the end of the sixth month after the accounting period.

A person who fails to pay tax due by the due date is subject to interest on late payment of tax at a rate of 2%. Interest is capped to the aggregate of the principal tax and penal tax.

Tax audit process

In most cases, audits are initiated by the URA, which notifies the taxpayer of the records they need to prepare before commencement of the audit. The URA then reviews the records. This is normally done at the premises of the taxpayer, where the URA can obtain the necessary clarifications from the bookkeepers.

The audit findings are then communicated to the taxpayer subsequent to whom an assessment is raised. If the taxpayer does not agree with the objection decision, they may appeal to the Tax Appeals Tribunal or to the high court.

Statute of limitations

The Tax Procedures Code Act provides for a five year check of records.

Topics of focus for tax authorities

The focus of the URA keeps shifting but is generally based on the risk analysis of the information availed to them. There is continued focus on transfer pricing and the application of reduced tax rates in respect to DTAs.

Zambia

PwC contact

Jyoti Mistry
PricewaterhouseCoopers Limited
PwC Place
Stand No. 2374, Thabo Mbeki Road
Lusaka, Zambia
Tel: +260 211 334000 ext. 4023
Email: jyoti.mistry@pwc.com

Significant developments

Following the 2018 Budget announcements, the following measures have been put in place with effect from 1 January 2018:

- Introduction of 5% Property Transfer Tax (PTT) on intellectual property (IP), such as trademarks, patents, copyrights, and industrial designs, with the tax base being the actual price or realised value.
- The scope of PTT has been widened to include the indirect transfer of holdings in a local entity. Accordingly, where there is a transfer of shares/shareholding of a shareholder that owns at least 10% of the shares in a local company, then the indirect change in ownership will be subject to PTT. PTT will be payable at 5% on the proportion of the realised value that the Zambian entity bears in relation to the total value of the shares transferred of the non-resident shareholding company.
- Companies in Zambia are now required to disclose all parties that become related to them within one month after they become related.
- The definition of management or consultancy fees has been clarified so that the creation, design, development, installation, and maintenance of any information technology solution or system will fall within the definition of management or consultancy fees.
- The base tax was increased from 150 Zambian kwacha (ZMW) *per annum* to ZMW 365 *per annum*. This generally applies to small businesses that are not capable of keeping records to enable effective tax assessment.
- The number of taxes that are to be collected by agents on behalf of the Zambia Revenue Authority (ZRA) have been broadened to include the base tax, presumptive tax, turnover tax, and withholding tax (WHT) on rental income.
- A late submission penalty of ZMW 75 for each month or part of a month that the turnover tax return is late was introduced.
- Introduction of a provisional filing deadline of 90 days from the date of registration for companies/persons that register for income tax after 31 March.
- The ZRA has clarified that donors and persons who are covered by the Diplomatic Immunities and Privileges Act are exempt from paying skills development levy (SDL).
- Effective 1 January 2018, the five-year tax holidays for corporate income tax (CIT) and WHT on dividends that were provided under the Zambia Development Agency Act (ZDA Act) have been discontinued. However, qualifying companies will benefit from accelerated tax depreciation (capital allowances) for capital expenditure incurred on qualifying projects.
- The sale of unprocessed and semi-processed tobacco is exempt from value-added tax (VAT) with effect from 1 January 2018.
- Penalties have been introduced in the VAT Act and the Customs and Excise Act for taxpayers that avail incomplete records, for failure to avail records for inspection, or

for failure to provide relevant information requested by an authorised ZRA officer within the stipulated time.
- Suppliers that fail to issue valid tax invoices from approved computer packages, pre-printed tax invoice books, or fiscal cash registers will be liable upon conviction to a penalty of up to 300,000 penalty units (ZMW 90,000) or imprisonment for a term not exceeding three years or both.
- The filing deadline for monthly VAT returns has changed from the 16th day to the 18th day of the following month, while the filing deadline for withholding VAT agents is the 16th day of the following month.
- Excise duty of 125% was introduced on methylated spirit, denatured alcohol, and undenatured alcohol.
- Income Tax (Transfer Pricing) (Amendment) Regulations, 2018 are now in force. The new regulations are intended to enhance and supplement the transfer pricing legislative provisions that have been in place since 1999.

Taxes on corporate income

Zambia principally operates a source-based system for the taxation of income. Income deemed to be from a Zambian source is generally subject to Zambian income tax. However, residence of a person/entity in Zambia will widen the scope of taxation to include interest and dividend income from abroad. Consequently, Zambian residents will also be subject to income tax on interest and dividends from a source outside Zambia.

A non-Zambian resident enterprise that has a permanent establishment (PE) in Zambia will be subject to CIT on its Zambian-source income. If there is no PE, Zambian-source income of the non-Zambian resident may still be subject to WHT, which is generally deducted at source (*see the Withholding taxes section*).

The standard rate of CIT applicable on taxable income of corporate entities (other than individuals) is 35%.

Small businesses that are not capable of keeping records to enable effective tax assessment are subject to base tax, which is levied at ZMW 365 *per annum*. This typically applies to small market traders.

The following sources of income are subject to different CIT rates:

Source of income	CIT rate (%)
Electronic communications networks or service licensees (income in excess of ZMW 250,000)	40
Farming	10
Agro-processing	10
Export of non-traditional products	15
Production of organic fertiliser and chemical manufacture of fertiliser	15

The rates applicable for mining operations (for both base metals and industrial minerals) are as follows:

Tax on mining operations* (for both base metals and industrial minerals**)	Rate
CIT	30%

Tax on mining operations* (for both base metals and industrial minerals**)	Rate
Additional variable profits	N/A

Income earned solely from mineral processing is subject to CIT at a rate of 35%***.

Notes

* Mining operations means an operation carried out under a mining right, excluding an operation carried out under a mineral processing licence only or an exploration licence.

** Industrial minerals include rocks or minerals other than gemstones, base metals, energy minerals, or precious metals used in their natural state or after physical or chemical transformation, including barites, dolomite, feldspar, fluorspar, graphite, gypsum, ironstone when used as a fluxing agent, kyanite, limestone, phyllite, magnesite, mica, nitrate, phosphate, pyrophyllite, salt, sand, clay, talc, laterite, gravel, potash, potassium minerals, granite, marble, clay, silica, diatomite, kaolin, bentonite, or quartz.

*** Mineral processing means the practice of beneficiating or liberating valuable minerals from their ores, which may combine a number of unit operations, such as crushing, grinding, sizing, screening, classification, washing, froth floatation, gravity concentration, electrostatic separation, magnetic separation, leaching, smelting, refining, calcining, and gasification or any other processes incidental thereto.

Reduced CIT rates apply in some other cases, including for certain companies listed on the Lusaka Stock Exchange.

Mineral royalty tax

The mineral royalty tax regime in Zambia has undergone a number of changes since 2015. However, with effect from 1 June 2016, the following mineral royalty rates apply:

Description	Rate (%)
For a holder of a mining licence:	
On the norm value of the base metals produced or recoverable under the licence, except when the base metal is copper.	5
On the gross value of the energy and industrial minerals produced or recoverable under the licence.	5
On the gross value of the gemstones produced or recoverable under the licence.	6
On the norm value of the precious metals produced or recoverable under the licence.	6
Where the base metal produced or recoverable under the licence is copper:	
On the norm value when the norm price of copper is less than 4,500 United States dollars (USD) per tonne.	4
On the norm value, when the norm price of copper is USD 4,500 per tonne or greater, but less than USD 6,000 per tonne.	5
On the norm value, when the norm price of copper is USD 6,000 per tonne or greater.	6

Local income taxes

There are no income taxes imposed by the provincial or local authorities on businesses.

Corporate residence

A person other than an individual will be resident in Zambia if it is incorporated or formed under the laws of Zambia or if the central management and control is exercised in Zambia.

Permanent establishment (PE)

Broadly, a non-Zambian resident may have a Zambian PE if it has a fixed place of business in Zambia or if it has a dependent agent that has and habitually exercises the authority to conclude contracts in Zambia.

The Zambian definition of a PE is generally similar to the Organisation for Economic Co-operation and Development (OECD) definition and contains a similar list of activities that are included and excluded from the definition of a fixed place of business.

The definition of a PE includes the furnishing of services, including consultancy services, by an enterprise through employees or other personnel present in Zambia for a period or periods exceeding, in aggregate, 90 days in any 12-month period commencing or ending in the fiscal year concerned.

Where a relevant double tax treaty (DTT) is in force, the definition of a PE in the treaty should take precedence over Zambian domestic legislation where the non-Zambian resident enterprise does not have a PE under the treaty definition.

Other taxes

Value-added tax (VAT)

The VAT rate is 16% and is applicable to supplies of standard-rated goods and services.

The export of goods from Zambia is zero-rated. However, the provision of services that are classified as standard-rated supplies from a Zambian place of business is subject to VAT at 16%, irrespective of whether the customer is a Zambian resident or a non-Zambian resident.

Standard-rated goods imported to Zambia are subject to import VAT at 16%.

The supply of standard-rated services to customers in Zambia by a non-Zambian supplier that has not been subject to VAT in the country from which the services are provided will be subject to VAT in Zambia. The non-Zambian supplier can appoint a local tax agent to account for output VAT on their services; this procedure enables the Zambian customer to reclaim the corresponding input VAT. Otherwise, the Zambian VAT-registered customer would be required to account for the output VAT referred to as 'reverse-charge VAT on the services procured from the non-resident supplier'. In this instance, there is no mechanism for the Zambian customer to recover reverse-charge VAT.

Customs duties

Goods imported into Zambia are generally subject to customs duties. In 2017, a surtax of 5% was introduced on selected goods that are imported into, manufactured in, or produced in the country.

Excise taxes

Certain goods and services, such as alcoholic drinks, tobacco, and mobile communications airtime, are subject to excise duty at the following rates:

Item	2018 rate (%)	2017 rate (%)
Alcoholic drinks:		
Less than 80% by volume	60	60
80% or higher by volume	125	125
Tobacco	0	0
Telephone airtime*	17.5	17.5

* Airtime includes minutes of voice calls, short message services (sms), multi-media services (mms), internet band width, and other similar services that a subscriber consumes on a mobile cellular telephone or other electronic communication device.

Property taxes

Zambia does not have a property tax other than Property Transfer Tax (*see below*).

Property Transfer Tax (PTT)

PTT applies on the transfer of land and buildings situated in Zambia and the transfer of shares issued by a company incorporated in Zambia, including on the indirect transfer by a non-resident company that indirectly holds at least 10% of the shareholding of a company incorporated in Zambia.

PTT on the transfer of land and buildings is payable at 5% of the realised value or the open market value.

PTT on the sale of shares is payable at 5% of the open market value or nominal value, whichever is greater.

PTT on the indirect transfer by a non-resident company that indirectly holds at least 10% of the shareholding in a Zambian incorporated company will be levied at 5%. The tax will be levied on the proportion of value that the Zambia entity bears to the total value of the shares transferred in the non-Zambian entity transferring its shares. In this instance, PTT is payable by the Zambian entity whose shareholding is indirectly transferred.

PTT is also payable on the transfer of a mining right at the rate of 10%.

PTT also applies on the transfer of IP at the rate of 5%.

The PTT liability is payable by the vendor.

Stamp taxes

Zambia does not have a stamp tax.

Turnover taxes

Turnover tax includes bands and presumptive amounts with a turnover of not more than ZMW 800,000 *per annum,* as follows:

Monthly turnover category (ZMW)	Tax payable
0 to 4,200.00	3% of monthly turnover above ZMW 3,000
4,200.01 to 8,300.00	ZMW 225 per month + 3% of monthly turnover above ZMW 4,200
8,300.01 to 12,500.00	ZMW 400 per month + 3% of monthly turnover above ZMW 8,300
12,500.01 to 16,500.00	ZMW 575 per month + 3% of monthly turnover above ZMW 12,500

Monthly turnover category (ZMW)	Tax payable
16,500.01 to 20,800.00	ZMW 800 per month + 3% of monthly turnover above ZMW 16,500
Above 20,800.00	ZMW 1,025 per month + 3% of monthly turnover above ZMW 20,800

Income that is subject to turnover tax will not be subject to income tax or VAT.

The definition of 'turnover' for turnover tax purposes excludes interest, rental income, dividends, or royalties. Furthermore, income earned from the provision of consultancy services or from mining operations does not qualify for turnover tax.

Registration taxes

The Patents and Companies Registration Agency (PACRA) applies a registration fee of 2.5% to increases in the authorised share capital of companies incorporated in Zambia.

Payroll taxes

Employers are required to deduct income tax arising on any emoluments under the 'Pay As You Earn' (PAYE) regulations.

Skills development levy (SDL)

Employers are required to pay a monthly levy amounting to 0.5% of the gross emoluments payable to employees.

Social security contributions

Both employers and employees are required to make contributions to the National Pension Scheme Authority (NAPSA). The contribution rate is 5% of the employee's total earnings (a total 10% contribution from both the employer and employee), subject to a limit as prescribed by the authority. The maximum contribution limit for 2018 is ZMW 995 per employee per month (i.e. a total of ZMW 1,991 from both the employer and employee per month).

Provincial/local taxes other than income taxes

Certain levies may be payable to local councils (e.g. Lusaka City Council).

Branch income

There is no specific legislation concerning the calculation of branch income.

In general, both Zambian resident companies and Zambian branches are required to prepare financial statements under International Financial Reporting Standards (IFRS). The accounting profit is adjusted to determine taxable profits for each source of income using the same rules applicable for determining taxable income of Zambian resident companies. The normal CIT rate is 35%. However, business in certain industry sectors may be subject to different CIT rates. The CIT rates applicable are described in the *Taxes on corporate income section.*

WHT applies on profits distributed by branches of foreign companies at the rate of 15%.

Income determination

As noted below, Zambian CIT rules set out a number of sources of income that are subject to CIT. Income from each source is calculated separately, and a CIT liability arises on each source with no ability to offset a loss from one source against income from another source.

Business income

Business gains or profits from a Zambian source are taxable by reference to a charge year. This charge year runs from 1 January to 31 December; however, entities can apply to the ZRA to have their accounts prepared for a different year end.

Inventory valuation

In calculating business income, IFRS should be followed for CIT purposes, including the determination of stock valuation.

Capital gains

Zambia does not have a capital gains tax regime, and, except where provided otherwise in the Income Tax Act or other legislation, capital gains are not subject to tax.

Dividend income

All dividend income from non-Zambian sources of a Zambian resident company is subject to CIT as a separate source.

In the case of dividend income received from another Zambian resident company, the WHT deducted on the payment of the dividend should represent the 'final tax', and the Zambian resident company receiving the dividend is not subject to an additional CIT liability.

Interest income

All interest income (from both Zambian and non-Zambian sources) of a Zambian resident company is subject to CIT as a separate source.

In the case of interest income from a Zambian source, the taxable amount for the recipient company is inclusive of the WHT deducted at source on the payment of the interest. The WHT is available as a credit for offset against the final CIT liability of the recipient Zambian resident company.

Rental income

WHT applies at 10% on rental payments. This is the final tax for a landlord, which will not be subject to a further CIT liability.

Royalty income

Zambian-source royalty income (which is very widely defined for these tax purposes) of a Zambian resident company is subject to CIT as a separate source, together with premiums or any like consideration for the use of any Zambian property.

The taxable amount for the recipient company is inclusive of the WHT deducted at source on the payment of the royalty. The WHT is available as a credit for offset against the CIT liability of the Zambian resident recipient company.

Partnership income

Where a business is carried on in partnership, the income to which each partner is entitled in a period is ascertained under the Zambian income tax rules, and each partner is assessed and charged separately. Accordingly, a partnership is broadly transparent for Zambian income tax purposes.

Unrealised gains/losses

Unrealised gains are not taxable, and, similarly, unrealised losses are not tax deductible.

Foreign currency exchange gains/losses

Foreign exchange gains are only taxable to the extent that they are revenue rather than capital in nature, in which case they are not taxed until they are realised. Foreign exchange losses are only deductible to the extent that they are revenue in nature and realised. By exception, foreign exchange losses of a capital nature incurred on borrowings used for the building and construction of an industrial or commercial building are deductible.

Other significant items

Other sources of income that are taxed under separate source include income from hedging activities.

Foreign income

As noted above, Zambia operates a source-based system of income tax. However, where an individual/corporate entity is resident in Zambia, then they will also be subject to income tax on non-Zambian source dividends and interest income.

There are no specific anti-avoidance rules preventing deferral of non-Zambian source income, although it should be noted that Zambia has a general anti-avoidance rule.

Deductions

Expenses are generally deductible against taxable income from the same source, provided that they are not of a capital nature and are incurred wholly and exclusively for the purposes of a business.

Provisions can only be deducted to the extent that they are specific. Even if a provision complies with IFRS, it will be disallowed (and any reversal of the provision will not be taxed) to the extent it is considered to be general in nature.

Depreciation and amortisation

Accounting depreciation and amortisation are not deductible; instead, a tax deduction referred to as 'capital allowances' is available on capital expenditure for business purposes.

Zambia has a system of capital allowances that provides for deductions in ascertaining business income. These are calculated at annual rates on qualifying capital expenditure, which currently apply as follows:

Category of qualifying expenditure	Rate of allowance (calculated on a straight-line basis)
Industrial buildings	Investment allowance of 10% * Initial allowance of 10% * Annual wear and tear allowance of 5% *
Other commercial buildings	Annual wear and tear allowance of 2%
Implements, machinery, and plant - farming and agro-processing	Annual wear and tear allowance of 100%
Implements, machinery, and plant - manufacturing, tourism, generation of electricity, and leasing	Annual wear and tear allowance of 50%
Implements, machinery and plant - other	Annual wear and tear allowance of 25%
Commercial vehicles	Annual wear and tear allowance of 25%
Non-commercial vehicles	Annual wear and tear allowance of 20%
Patents, designs, trademarks, and copyrights	Premium allowance on straight-line basis over the life of period for which the right is granted
Mining expenditure (only available for assets brought into use)	Mining deductions of 25%
Farm improvements	Farm improvement allowance of 100%
Construction and improvement of commercial and industrial buildings by person approved under the ZDA Act	Improvement allowance of 100%

* For industrial buildings, the investment allowance and the initial allowance can both be claimed in the year in which the building is put into use, together with the wear and tear allowance for that year.

Goodwill

Goodwill is not deductible as it is a capital expense.

Start-up expenses

A deduction is allowed for preliminary business expenses in the charge year in which that business commences, provided that the expenditure was incurred within 18 months before the commencement and provided that the expense would have been deductible if it had been incurred after the commencement.

There are special rules for prospecting expenditure in an area in Zambia over which a mining right has been granted. These enable the shareholders of the company undertaking the prospecting to claim a deduction for the prospecting expenditure, provided certain conditions are met.

Interest expenses

Interest expense is deductible, provided that the loan or advance was obtained for capital employed wholly and exclusively for business purposes (or in the production of another source of income).

Note, however, that incidental costs of obtaining finance, such as commitment and guarantee fees and any other incidental costs of a similar nature, are not deductible.

Bad debt

A specific bad debt is deductible if it can be proved that it is bad or likely to become bad.

No deduction is allowed for impairment provisions/bad debt incurred by banks and financial institutions for debts that are secured against collateral.

Charitable contributions

A payment to a public benefit organisation that is approved by the Zambian government or owned by the Zambian government is deductible.

Pension expenses

Payments made by an employer by way of a contribution to an approved fund established for the benefit of employees are deductible. Note that special rules apply for the deductibility of lump sum payments and payments in arrears. Payments to non-approved pension funds are not deductible.

Payments to directors

Payments to directors are deductible, provided they are incurred wholly and exclusively for the purposes of a business (or other source of income). A payment could, however, be disallowed if it is deemed to be merely a domestic or personal expense.

Research and development (R&D) expenses

All revenue expenditure on experiments or research relating to a business is deductible. A deduction against business income is also allowed for a contribution to a scientific or educational society or institution, which is required to be used solely for industrial research or scientific experimental work connected with the business. While capital expenditure on research is disallowed in the income statement, it may qualify for capital allowances.

Bribes, kickbacks, and illegal payments

Bribes, kickbacks, and illegal payments would normally be disallowed on the basis that they are not wholly and exclusively for the purposes of a business.

Fines and penalties

A penalty arising under the Income Tax Act is specifically disallowed. Other fines and penalties may be disallowed on the basis that they are not wholly and exclusively for the purposes of a business.

Taxes

Zambian CIT is not deductible. Other tax liabilities suffered should be deductible, provided they are revenue expenses and wholly and exclusively incurred for the purposes of the business (or other source of income). *See the Tax credits and incentives section regarding credits for non-Zambian tax suffered on non-Zambian source income*.

Other significant items

Other specific rules concerning expenses considered to be allowable include the following:

- Deductions for costs of an employer to establish and administer an approved share option scheme.
- Deductions for technical education.
- Deductions for mineral royalty tax payments.
- Deductions for SDL payments.
- A fixed deduction of ZMW 1,000 for employing a person with a disability.

Other items specifically disallowed include the following:

- A loss or expense that is recoverable under an insurance contract or indemnity.
- Expenditure on the provision of entertainment, hospitality, or gifts.

Benefits provided that are incapable of being turned into money or money's worth (e.g. the use of cars and accommodation provided by the employer) are taxable to the employer under corporate tax.

Special rules apply for determining the gains or profits of an insurance business.

Net operating losses

Losses can be carried forward to set against profits of the same source. Normally, losses are available to carry forward for a period of five years after the charge year in which the loss was incurred. In the case of a person carrying on a mining operation or hydro, wind, solar, and thermo power generation, the loss carryforward period is ten years.

The set off of a loss incurred by a person in a charge year from mining operations shall be limited to 50% of the taxable income of the person carrying on mining operations.

There is no ability to carry back losses.

Losses arising from one source cannot be set against income arising from another source.

Payments to foreign affiliates

Certain 'loans to effective shareholders' may give rise to CIT liabilities. Note that transfer pricing rules may also apply (*see Transfer pricing in the Group taxation section*).

Group taxation

There are no special CIT rules for groups of companies. Accordingly, CIT returns cannot be prepared on a consolidated basis for group purposes. Losses arising in one group company cannot be set against profits of another group company.

Transfer pricing

Transfer pricing rules apply to transactions between associated persons and require that transactions are undertaken on an arm's-length basis. Otherwise, the associated person benefiting from a reduction in income as a consequence of any non-arm's-length terms will have its CIT computation adjusted as if the transactions had been undertaken on an arm's-length basis.

OECD transfer pricing guidelines are generally accepted as the appropriate basis to determine arm's-length terms.

In addition to maintaining up-to-date transfer pricing documentation, companies should ensure that there is a good audit trail and sufficient documentary evidence to demonstrate that related-party transactions were undertaken in line with the arm's-length principle. Failure to provide transfer pricing documentation is an offence, with defaulters liable to various penalties.

Thin capitalisation

There are specific thin capitalisation rules. These relate to the issue of securities to an associated person, which require that the transaction is undertaken at an arm's-length rate by reference to:

- the appropriate level or extent of the issuing company's overall indebtedness
- whether the amount issued would have been provided as a loan on an arm's-length basis, and
- the rate of interest and other terms that would apply to such an arm's-length loan.

The debt-to-equity ratio of the borrowing party is an important test to determine whether there should be a thin capitalisation restriction. However, there is no defined debt-to-equity ratio in legislation or published guidance. This should be determined by reference to normal practice that would be adopted by two independent parties on the open market with respect to the particular situation. In practice, however, the generally accepted debt-to-equity ratio for non-mining companies is 1:1.

An exception applies to a company carrying on mining operations. In this case, the mining company's interest expense is restricted to the extent that its loans, in aggregate, exceed a 3:1 debt-to-equity ratio. For mining companies only, this thin capitalisation restriction applies to interest payable to both connected and unconnected parties.

Controlled foreign companies (CFCs)

Zambia does not have a CFC regime.

Tax credits and incentives

Foreign tax credit

Domestic legislation provides that, where a DTT is in force and the other territory has taxing rights to a source of foreign income, a tax credit will be available to reduce the Zambian tax liability by the amount of non-Zambian tax suffered.

Where income is received from a source where there is no applicable DTT, unilateral relief should be available to offset foreign tax against Zambian tax arising on the foreign income.

In the case of both treaty relief and unilateral relief, the tax credit cannot exceed the amount of Zambian tax arising on the foreign income before the reduction.

Withholding taxes

Payments of the following items of Zambian-source income may be subject to WHT. The relevant rates under domestic legislation are as follows:

Category of payment	Rate on payment to Zambian resident (%)	Rate on payment to non-Zambian resident (%)
Dividends	15 (1)	15 (1)
Interest	15	15

Category of payment	Rate on payment to Zambian resident (%)	Rate on payment to non-Zambian resident (%)
Interest from a Lusaka Stock Exchange listed Property Loan Stock Company	0	15
Coupon income (interest) on government bonds	15	15
Management or consultancy fee	15	20
Royalties	15	20
Rent from a Zambian source	10 (2)	10
Commissions	15	20
Construction and haulage contractors	0	20
Public entertainment fees to entertainers/sports persons	0	20

Notes

1. 0% if paid by a mining company or a company listed on the Lusaka Stock Exchange to individual shareholders.
2. 10% WHT on rent is a final tax.

The WHT liability arises by reference to the date of payment or, if earlier, the date of accrual (i.e. the date the recipient has a legal right to claim the payment). WHT is due to be paid within 14 days of the end of the month to which the payment or accrual relates.

Zambia has DTTs in force with the following territories, which generally provide reduced rates of WHT as follows:

	WHT (%)		
Recipient	Dividends	Interest	Royalties
Non-treaty	15	15	20
Treaty:			
Canada	15	15	15
China	5	10	5
Denmark	15	10	15
France	The 1950 France - Zambia DTT is accepted to apply (3)		
Finland	5 (1)/15	15	5 (1)/15
Germany	5 (1)/15	10	10
India	5 (1)/15	10	10
Ireland	7.5	10	8 (4)/10
Italy	5 (1)/15	10	10
Japan	0	10	10
Kenya	0	0	0
Mauritius	5 (1)/15	10	5
Netherlands	5 (2)/15	10	7.5
Norway	5 (1)/15	10	10
Seychelles	5 (1)/10	5	10
South Africa	The 1953 Rhodesia & Nyasaland - South Africa DTT is accepted to apply (3)		
Sweden	5 (1)/15	10	10
Switzerland	The 1954 Switzerland - United Kingdom DTT is accepted to apply (3)		
Tanzania	0	0	0
Uganda	0	0	0
United Kingdom	5 (5)/15	10	5

Notes

1. The non-resident recipient must own at least 25% of the share capital of the capital of the Zambian company.
2. The rate of 5% shall apply where the beneficial owner is a company that directly holds at least 10% of the capital of the company paying the dividends, or if the beneficial owner is a pension fund.
3. These old treaties do not follow the OECD model, and, accordingly, their application to particular circumstances must be confirmed.
4. The rate of 8% shall apply in the case of payment of royalties in respect of any copyright of scientific work, patent, trade mark, design or model, plan, secret formula or process, or information concerning industrial, commercial, or scientific experience.
5. This rate applies where the dividends are paid out of income (including gains) derived directly or indirectly from immovable property within the meaning of Article 6 of the treaty.

In all cases, advance clearance must be obtained to obtain the treaty benefit and take advantage of any reduced rate of WHT or tax exemption.

It may be possible to obtain confirmation that management and consultancy fees can be paid without deduction of WHT by reference to the provisions of the relevant treaty. For treaties following the OECD model, the article concerning 'Income Not Expressly Mentioned' is generally taken to be relevant.

Tax administration

Taxable period

CIT is determined by reference to a charge year, being the period of 12 months ending on 31 December.

Tax returns and payment of tax

The CIT rules require taxpayers to submit provisional tax returns in the first quarter of each charge year. Where there is a change in forecast, a revised return may be submitted at the end of either the second, third, or fourth quarters of the charge year. Provisional tax payments are required to be made quarterly. The provisional tax liabilities must be based on the estimated taxable income for the current charge year.

The quarterly returns for the 2018 tax charge year are due as follows:

- 1st quarter return due 31 March 2018 (or 5 March 2018 if submitted manually).
- 2nd quarter return due on 30 June 2018.
- 3rd quarter return due on 30 September 2018.
- 4th quarter return due on 31 December 2018.

By concession, the ZRA allows a 10-day grace period for the payment of taxes. Accordingly, each quarterly payment can be made on the 10th day of the month following the end of each quarter.

With effect from the 2017 tax charge year (i.e. tax charge year beginning on 1 January 2017), the final tax return needs to be submitted by 21 June following the end of the tax year. This must be accompanied by any balance of tax that remains unpaid. For example, the final tax return for the 2017 tax charge year is due for submission by 21 June 2018.

In the case of a manually filed tax return, the tax return needs to be submitted by 5 June following the end of the tax year. For example, the final tax return for the 2017 tax charge year, if submitted manually, is due for submission by 5 June 2018.

Tax audit process

The Commissioner-General of the ZRA has wide powers to require any person to attend to be examined at a time and place specified by notice, where it is determined that person is able to impart information necessary for the purposes of the Income Tax Act.

Furthermore, the Income Tax Act empowers the Commissioner General of the ZRA to access any type of information required for tax purposes held by legal practitioners, accountants, and financial institutions.

Statute of limitations

There is no provision that specifically provides for a statute of limitation. However, in practice, it is accepted that the revenue authorities cannot investigate any cases after six years following the end of the charge year except in cases of fraud or wilful default. This is on the basis that taxpayers are only required to maintain documentation for a period of six years from end of the relevant charge year.

Topics of focus for tax authorities

The ZRA is devoting a significant amount of time to transfer pricing audits, and this is expected to be an increasing focus of scrutiny, especially with the 2018 Regulations that were recently enacted.

In addition to the above, following the tax amnesty program that was available in 2017, the ZRA has placed significant emphasis on enforcement of tax laws and has thus increased audits across all tax types. This includes desktop audits as well as detailed on site audits.

Other issues

Advance income tax

With effect from 1 January 2017, advance income tax may apply at 15% (previously 6%) on the value of commercial imports where the importer is non-compliant. This can be credited against the importer's CIT liability on submission of the annual tax return.

Exchange controls

The exchange monitoring regulations and foreign currency regulations in Zambia were repealed in March 2014.

Choice of business entity

A non-Zambian resident company can establish a business in Zambia, either as a branch of a foreign company or a subsidiary (i.e. a Zambian registered limited liability company).

Adoption of IFRS

Zambia has adopted IFRS, and the accounting profits determined thereby are adjusted for tax purposes (based on tax legislation) to determine the taxable income for purposes of determining the CIT liability.

Zimbabwe

PwC contact

Manuel Lopes
PricewaterhouseCoopers
Arundel Office Park, Building 4
Norfolk Road
Mount Pleasant
Harare
Zimbabwe
Tel: +263 4 338 362/8
Email: manuel.lopes@pwc.com

Significant developments

There have been no significant corporate tax developments in Zimbabwe during the past year.

Taxes on corporate income

The corporate income tax (CIT) rate for companies (other than mining companies with special mining leases, but including branches) continues unchanged at 25.75%. This rate includes a base rate of 25% plus a 3% AIDS levy.

Zimbabwe presently operates on a source-based tax system. This means that income from a source within, or deemed to be within, Zimbabwe will be subject to tax in Zimbabwe unless a specific exemption is available. The specific circumstances of a transaction should always be considered to determine whether the transaction gives rise to taxation in Zimbabwe.

Income earned by foreign companies from a source within, or deemed to be within, Zimbabwe will be subject to tax in Zimbabwe. In such a case, one should determine whether the foreign entity is obligated to register a local entity. A company is required to register a branch if it has established a place of business or is otherwise considered to be trading in Zimbabwe. A local subsidiary company may be registered as an alternative to a branch operation.

Non-residents who do not have a place of business in Zimbabwe may, however, be subject to withholding tax (WHT). *See the Withholding taxes section for additional details*.

Local income taxes

There are no provincial or local income taxes payable in Zimbabwe.

Corporate residence

Currently, the Zimbabwean tax system is based on source and not on residency. Zimbabwe is moving towards a residence-based taxation system, but the details are still to be announced. Income derived, or deemed to be derived, from sources within Zimbabwe is subject to tax. Under the proposed new legislation, the place of effective management concept may be used for a residence-based tax. Note that this new Income Tax Act is still being drafted, and there is no certainty as to when it will become law.

Source is the place where income originates or is earned, not the place of payment. If goods are sold pursuant to a contract entered into within Zimbabwe, the source of income is deemed to arise in Zimbabwe, regardless of the place of delivery or transfer of title.

Certain types of income arising outside Zimbabwe may, in the hands of a domestic company, be deemed to arise in Zimbabwe and be taxed as such. Examples include interest and certain copyright royalties arising outside Zimbabwe. Where the income is deemed to be from Zimbabwe, relief of the foreign tax suffered, up to a maximum of the Zimbabwe tax, may be allowed as a tax credit.

Permanent establishment (PE)

In the event that Zimbabwe has entered into a double taxation agreement (DTA) with the country where the foreign company resides, the entity will only be taxable in Zimbabwe if it operates through a PE, which, in most cases, includes a fixed place of business. The establishment of a local entity or branch will usually create a PE, although the provisions of the related tax treaty should be considered. If a PE exists, only the portion of the income attributable to the PE will be subject to tax in Zimbabwe.

The concept of a 'permanent establishment' was introduced into the Zimbabwe Income Tax Act effective from 1 January 2017. The wording is based on the base erosion and profit shifting (BEPS) guidelines that have been adopted by many countries.

Other taxes

Value-added tax (VAT)

VAT is a transaction tax, and the implications will vary for different transactions. Some transactions are taxed at a rate of 15% or 0%, while other transactions are exempt from VAT. Input tax deductions may be claimed, subject to certain provisions. Advice on VAT implications of specific transactions related to corporate operations should be obtained prior to execution of transactions.

VAT is levied on every taxable supply by a registered person. A taxable supply means any supply of goods or services in the course or furtherance of a taxable activity. A taxable activity means any activity that is carried on continuously or regularly in Zimbabwe that involves the supply of goods or services for consideration.

VAT is payable on all imports for local consumption into Zimbabwe, subject to certain exemptions (e.g. in terms of a technical assistance agreement, donations to the state, goods of which the local supply is zero-rated). Import VAT is payable on the import value plus the applicable customs duty.

A company/branch is required to register for VAT if it supplies goods or services on a regular basis for consideration and if its taxable supplies (standard-rated and zero-rated supplies) exceed 60,000 United States dollars (USD) in any 12-month period.

A registered VAT vendor is entitled to deduct input tax credits paid in the course of taxable supplies made to such person, provided that a tax invoice is available to support the input tax deduction. It is also important to take note of deemed input tax deductions and prohibited input deductions. Import VAT paid may only be deducted as input tax if the import was in furtherance of a taxable activity and the required documentation (e.g. stamped customs entries) is held by the importer.

VAT returns are due by the 25th day following the month to which the VAT relates.

It is mandatory for all registered taxpayers (i.e. everyone that has a tax Business Partner Number) to use electronic fiscal registers (EFRs) that can be linked to the Zimbabwe Revenue Authority (ZIMRA). Penalties of up to USD 25 per day per point of sale may be imposed.

The concept of appointing VAT agents was adopted in April 2017. Several large mining companies were designated as agents, and the legislation demands that they deduct 10% of a gross invoice as a VAT WHT. The agents must then issue the payees with a certificate showing that the VAT WHT has been deducted in order to enable the payee to claim this against the following month's VAT liability.

Customs duties

Zimbabwe is a member of the Southern African Development Community (SADC) as well as the Common Market for Eastern and Southern Africa (COMESA). Customs duties are payable according to the general customs tariffs that are legislated for in Zimbabwe. Preferential duty rates apply on imports from SADC or COMESA countries, while goods may be imported free of customs duties from Namibia in terms of the Zimbabwe-Namibia Free Trade Agreement.

25% surtaxes have been imposed on a number of imported goods (including footwear, clothing, and certain foodstuffs) in order to protect the local manufacturing sector.

A security deposit is required by Customs on all temporary importations of equipment to cover import VAT and customs duties (if applicable).

It is possible to import goods that are subject to customs duties into registered Customs' bonded warehouses, where goods are kept for later use. In this case, the payment of duties may be deferred until the goods are taken out of the bonded warehouse for home consumption or acquitted if the goods are subsequently exported.

Excise duties

Excise duties are levied on local production of excisable products and are included on most excisable products imported from other countries. Examples of the excise products and applicable rates include the following:

- Cigarettes: 40% + USD 7 per 1,000 sticks.
- Spirits: USD 2 per litre.
- Wine: USD 0.50 per litre.

Excise and fuel levies are also levied on petrol, diesel, and illuminating kerosene.

Property taxes

Property taxes are levied by cities, towns, and rural councils. Each of these bodies conducts periodic valuations of the properties in their area and annually set out a 'rates schedule' based on a percentage of the valuations. These may alter each year depending upon the entities' budgetary requirements for funds. Valuations of the properties are usually based on estimates, as there are very few qualified property valuators operating in Zimbabwe at present.

Transfer duty

Transfer duty is payable on the acquisition value of property purchased at the following rates:

Value of the property (USD)	Rate of transfer duty
0 to 5,000	USD 400
5,001 to 20,000	2% of the value above USD 5,000
20,001 to 50,000	3% of the value above USD 20,000
50,001 and above	4% of the value above USD 50,000

Transfer duty is normally payable by the buyer, but the agreement for the sale of the property will determine the person liable to pay these costs. In addition, conveyance costs of up to 4% (plus 15% VAT) must be added on.

Stamp duty

Certain transactions may attract stamp duty. The amount of stamp duty payable will differ and will be based on the nature of every individual transaction.

The basic transactions can be summarised as follows:

Transaction	Stamp duty
Bonds	0.4% (USD 0.40 for every USD 100 or part thereof)
Brokers notes - purchase of securities	0.25% (USD 0.25 per every USD 100 or part thereof)
Brokers notes - purchase/sale of any movable property other than a security	0.10% (USD 0.10 per every USD 100 or part thereof)
Brokers notes - purchase/sale of any immovable property	1% (USD 1.00 per every USD 100 or part thereof)
Off market share transfer instruments	2% or USD 2
Cheques	0.05% (USD 0.05)

Tax advice should be obtained for major transactions in respect of the transactions mentioned above in order to ensure that the correct stamp duty implications are considered.

Capital gains tax

It should be noted that capital gains tax is payable in Zimbabwe on the disposal of immovable property or shares that are held in listed (on the Zimbabwean Stock Exchange) or unlisted companies at the following rates:

Acquired pre-February 2009

- Listed securities: 1% of proceeds.
- Property: 5% of proceeds.
- Unlisted securities: 5% of proceeds.

Acquired post-February 2009

- Listed securities: 1% of proceeds.
- Property: 20% of capital gain.
- Unlisted securities: 20% of capital gain.

Payroll taxes

Zimbabwe operates a pay-as-you-earn (PAYE) system that is called the 'Final Deduction System' (FDS). This is based on the presumption that all employers must register for PAYE (both local and foreign-based employers), and that they are responsible for calculating, collecting, and paying the correct amount of PAYE every month to ZIMRA. Tax audits are carried out periodically (every year or two) to test the payroll systems.

The full burden of collecting the correct tax is placed on the employer, and, because of this, there is no requirement for employees to file annual tax returns in respect of employment income.

Social security contributions

Zimbabwe has a limited social security system. The National Social Security Scheme (NSSS) contributions are payable at the same rate of 3.5% of basic salary by the employer and employee, with a salary cap set at USD 700 per month.

Manpower training levy

Subject to some exceptions, employers are required to pay a 1% monthly training levy (on the gross wage bill) to the Zimbabwe Manpower Development Authority.

Workmen's compensation

Under the Workmen's Compensation Act, employers are required to contribute to a fund that provides cash benefits for industrial injury, disability, and death. Contribution rates are supposed to vary according to inherent occupational risk, from less than 2% in most low-risk commercial/administrative occupations to 11% for high-risk sectors.

Standards Development Fund

With a few exceptions, employers are required to pay 0.5% of their quarterly gross wage bill to the Standards Development Fund. The amount is payable on all payments made by the employer on behalf of the employee, including medical aid and pension contributions.

Branch income

Branch income that is received or has accrued from a source within, or deemed to be within, Zimbabwe is taxable in Zimbabwe in terms of the normal corporate tax rules.

A branch is regarded as an extension of its foreign head office. A branch may therefore not deduct fees paid to its foreign head office (unless a tax treaty makes provision for such deduction) as it is argued that a branch cannot transact with itself. Reimbursement of actual expenses may, however, be deducted, subject to the normal deduction rules.

A 15% WHT is imposed on any payments made in respect of head office charges.

The amount of fees charged by the head office to the Zimbabwe branch is also subject to a limitation, usually based on a maximum of 1% of total expenditure (excluding the charge itself and any capital allowances). Exchange control regulations also limit the remittability of administration and management fees to 2% of turnover.

Note that the move from a source-based system to a residence-based system may affect the level of profits that are attributed to Zimbabwe. These laws are still pending, and no date of implementation has been given.

Income determination

The Act tax base for CIT is taxable income rather than profits. The source and nature of the income determines whether the amount is taxable or not. In addition to amounts received or accrued from actual Zimbabwean sources, there are deeming provisions that bring income from foreign sources into Zimbabwean taxable income.

In general, all receipts from a Zimbabwe source are taxed, excluding amounts that are proven by the taxpayer as being capital receipts. Most expenditure items and some specified exemptions are deductible against income. Capital expenditure is generally not deductible, with amounts on specific items being deductible by way of annual allowances spread over a period.

Inventory valuation

The legislation permits three methods of inventory valuation: historic cost, cost of replacement, or net realisable value. Standard cost based on first in first out (FIFO) is normally used for accounts valuations and is an accepted basis for tax purposes. Last in first out (LIFO) is not permitted for tax or for accounting purposes. The tax valuation may differ from the accounting valuation; this is a rare occurrence in Zimbabwe but is acceptable.

Capital gains

See Capital gains tax in the Other taxes section.

Dividend income

Dividends received from Zimbabwe incorporated companies are tax exempt. When received from non-Zimbabwe companies, they are taxed at a flat rate of 20%; however, relief is granted by allowing any foreign tax suffered as a tax credit (up to a maximum of the 20% local rate of tax).

Interest income

Interest accruing to Zimbabwe resident companies from ‘financial institutions’ is subject to a 15% WHT and thereafter is exempt from CIT (the WHT becomes a final tax). Interest from other local or foreign sources is included in gross income and is taxed at the normal CIT rate. Relief will be granted for any foreign tax paid, up to the maximum Zimbabwe tax rate.

Partnership income

The partnership itself is not taxed directly; however, the taxable income of the partnership is calculated in the same way as corporate income and is then allocated amongst the partners in accordance to their agreed profit sharing ratios. This income is taxed in their hands at the basic CIT rate.

Rent/royalties income

Rents and royalties are generally treated as normal taxable income and are taxed at the basic CIT rate. Rent arising in respect of land and buildings situated outside of Zimbabwe, however, is exempt from local tax.

Foreign income

Where income (including business profits) is deemed to be from a Zimbabwe source, it will form a part of the local company's taxable income and will be subject to tax at the basic CIT rate. Relief in respect of foreign taxes suffered will be granted unless it is clear that the true source of the income is, in fact, Zimbabwe.

Deductions

The Act makes provisions for specific deductions. Some of the deductions (e.g. the deduction of foreign exchange losses, development and exploration costs, hire purchase allowances, and manufacturing allowances) can be more complex.

Capital allowances

The cost (including finance charges) of machinery, implements, and other articles used by the taxpayer in the production of income is deductible in four equal annual allowances. No apportionment is required where the asset was held for less than 12 months.

Industrial buildings (including hotels) constructed and used by the taxpayer in the production of income qualify for an initial allowance of 25% of construction cost in the year they enter service. Thereafter, an annual allowance of 25% is deductible for each year following the year of construction. Additions to existing buildings (not alterations or repairs) qualify for the same deductions. It is important to note that the allowance is calculated on the cost of construction and not the cost of acquisition. In the latter case, the allowances are set at 5% of the cost.

A mining exploration expenditure incurred before commencement of production is deductible in full in the first year of production against income derived from the mine. Subsequent development expenditure is presently written off in the year expended.

Capital allowances may also be deducted with respect to leasehold improvements.

A recovery or recoupment of allowances previously claimed should be included in the gross income of a taxpayer in the event that the allowance is recovered or recouped by way of disposal. The recoupment is calculated on the capital allowances previously granted.

Goodwill

Goodwill is currently not deductible for tax purposes in Zimbabwe.

Start-up expenses

Start-up expenses may be deducted if incurred within 18 months of commencement of business and not considered to be capital in nature.

Interest expenses

Zimbabwe has thin capitalisation rules based on a 3:1 debt-to-equity ratio. A portion of the overall interest may be disallowed if this ratio is exceeded. In addition, any disallowed interest will be treated as a deemed dividend and subjected to a 15% WHT.

Bad debt

Bad debts written off may be claimed, but not a provision for bad debts.

Charitable contributions

Donations (with varying maximum limits) made to specified charities and educational bodies may be claimed.

Entertainment expenses

Entertainment expenses are not deductible for tax purposes.

Fines and penalties

Fines and penalties are not deductible for tax purposes.

Taxes

Taxes are generally not allowed as a deduction against income unless they form a part of a cost of an allowable expense (e.g. VAT incurred on an expense line that may not be claimed as input tax).

Net operating losses

Assessed tax losses may be carried forward (but not backwards) for up to six years, provided the company continues to trade. This restriction does not apply to mining companies. Tax laws do not allow for losses to be transferred to other group companies, and anti-avoidance provisions may be triggered by transactions designed to transfer or exploit assessed losses.

Assessed losses are reduced in the event of a compromise agreement with creditors.

Payments to foreign affiliates

The law prohibits the deduction of amounts incurred in excess of specified limits in respect of management and general administration expenses, as well as interest. This applies to branches or subsidiaries of both local and foreign companies.

The limit on management and general administration expenses is based on such expenses exceeding 1% and 0.75%, respectively, for a company already in production and prior to production, of total tax-deductible expenses.

Group taxation

No taxation of combined operations is allowed in Zimbabwe, including where operations are conducted by more than one company.

Transfer pricing

Effective 1 January 2014, transfer pricing legislation was introduced under a provision titled 'tax avoidance'. This legislation does not detail any parameters or requirements that corporations should follow, nor has ZIMRA issued any practice notes.

This legislation was enhanced with effect from 1 January 2016 to enable the use of the Organisation for Economic Co-operation and Development (OECD) and United Nations (UN) guidelines in respect of cross-border transactions.

It is important to note that, in addition to cross-border transactions between connected persons being examined, the law also covers internal (domestic) transactions between connected persons.

Thin capitalisation

The limit on the deductibility of interest is based on a company incurring interest charged by a subsidiary, a fellow subsidiary, or a holding company when the debt-to-equity ratio exceeds 3:1.

Controlled foreign companies (CFCs)

Zimbabwe currently has no CFC rules.

Tax credits and incentives

Foreign tax credit

Where foreign income is taxed in Zimbabwe, a tax credit (limited to the amount of local tax suffered) will be set off against the local tax liability.

Special Economic Zones (SEZs)

Tax incentives have been announced for investors locating their business in SEZs. The businesses in these SEZs will be exempt from duty on goods and equipment that are consumed in establishing the business, will be tax exempt for the first five years, and will have a 15% tax rate thereafter.

Other incentives

Note that this is a high-level summary, and certain conditions should be met in order to utilise these incentives.

Person for whom incentive is available and duration of incentive	Tax incentive	Tax treatment for normal taxpayers
Taxpayers operating at designated growth point areas.	The capital allowance is calculated as 25% of the cost of construction of a commercial or industrial building in growth point areas in the year when the building enters service and 25% during the three years that follow the year of construction.	Capital allowances are calculated as 25% of the cost of construction of industrial building in the year when the building enters service and 25% during the three years that follow the year of construction.
Taxpayers operating at designated growth point areas.	Deduction of an investment allowance at 15% on cost of specified assets.	No investment allowance granted.
For all taxpayers in build, own, operate, and transfer (BOOT) or build, operate, and transfer (BOT) arrangements.	First five years: Taxed at 0%. Second five years: Taxed at 15%. Thereafter: Taxed at normal rate.	Taxed at 25%.

Person for whom incentive is available and duration of incentive	Tax incentive	Tax treatment for normal taxpayers
Exporting taxpayers.	An additional allowance of 100% of cost incurred in an export country in order to export Zimbabwean goods to such country may be deducted.	Export expenditure incurred is deductible for tax purposes.
For all manufacturing taxpayers exporting 50% or more of output (by volume).	Taxed at a reduced rate of 20%.	Taxed at 25%.
Mining company holding a special mining lease.	Taxed at a reduced rate of 15%.	Taxed at 25%.
Operator of a tourist facility in a tourist development zone.	First five years: Taxed at 0%. Thereafter: Taxed at normal rate.	Taxed at 25%.
Industrial park developer.	First five years: Taxed at 0%. Thereafter: Taxed at normal rate.	Taxed at 25%.

Withholding taxes

WHTs are applicable where dividends and royalties or similar payments are declared or distributed to non-Zimbabwean residents (and Zimbabwean residents in some instances).

Dividends

Dividends declared by a Zimbabwean company to a non-resident holding company will be subject to non-resident shareholders tax (NRST), a WHT. NRST is payable at a rate of 15% unless treaty relief is available. Dividends from companies listed on the Zimbabwe Stock Exchange have a rate of 10%. NRST is payable within ten days after declaration of the dividend.

Interest

WHT of 15%, calculated on the gross amount of interest, is payable on interest accruing to any person resident in Zimbabwe. This applies to interest arising from a registered banking institution or unit trust scheme. The tax withheld is a final tax, and the financial institution is responsible to withhold the tax.

Non-resident investors, however, are currently exempt from any WHT on interest.

Royalties or similar payments

WHT on royalties are payable once a Zimbabwean company pays a royalty to a non-Zimbabwean resident. WHT is levied at a rate of 15% and is payable within ten days of the date of payment. The WHT falls due upon accrual (i.e. when payable), and actual payment is not a factor.

A royalty includes payment for the use or right to use any patent or design, trademark, copyright, model, pattern, plan, formula or process, or any other property or right of a similar nature. It also includes the imparting of any scientific, technical, industrial, or commercial knowledge or information for use in Zimbabwe. The nature of the amount payable should therefore be carefully considered in order to determine whether the relevant amount represents a royalty.

Fees

Fees are defined to include amounts that are technical, managerial, administrative, or consultative in nature; costs are paid externally. There are some exceptions, but the definition is broad and brings in most costs that may be charged to a Zimbabwean person.

WHT is levied at a rate of 15% and is payable within ten days of the date of payment.

Summary of WHT payable

The non-residents WHT rates and treaty relief for Zimbabwean DTAs can be summarised as follows. It should be noted that the tax treaties contain certain requirements that should be met before the reduced tax rate may be applied.

The definitions of dividends, interest, and royalties in the various treaties should also be considered.

	WHT (%)			
Recipient	**Dividends**	**Interest**	**Royalties**	**Fees**
Non-resident	15 (1)	0	15	15
Treaty:				
Bulgaria	10	N/A	10	10
Canada	10	N/A	10	10
China	2.5/7.5 (2)	N/A	7.5	15
France	10	N/A	10	10
Germany	10	N/A	7.5	7.5
Malaysia	10	N/A	10	10
Mauritius	10	N/A	15	15
Netherlands	10	N/A	10	10
Norway	15	N/A	10	10
Poland	10	N/A	10	15
South Africa	5/10 (3)	N/A	10	5
Sweden	15	N/A	10	10
United Kingdom	5	N/A	10	10

Notes

1. Applies to unlisted companies. The rate for companies listed on the Zimbabwe Stock Exchange is reduced to 10%.
2. 2.5% where more than 25% of shares are held; 7.5% in all other cases.
3. 5% where 25% of shares are held; 10% in all other cases.

'N/A' means that the provisions of the tax treaty limit the rate to a rate that is higher than the local Zimbabwean rate. It should be noted that a treaty can only provide tax relief and cannot impose a higher tax rate.

WHT is payable within ten days of the date of distribution or accrual.

Zimbabwe has either negotiated, or is currently negotiating, tax treaties with the following countries:

Zimbabwe

- Botswana
- Democratic Republic of the Congo
- Indonesia
- Iran
- Jamaica
- Namibia
- Serbia and Montenegro
- Seychelles
- Tanzania
- Tunisia
- Zambia

Tax administration

Taxable period

The tax year-end is 31 December each year. Applications may be made for a different year-end if good reasons are given (e.g. to comply with the international group year-end). In the first year of trade, a longer or shorter period than 12 months may be accepted to tie in with a future year-end.

Tax returns

The CIT return is due by 30 April in the following tax year.

Payment of tax

Zimbabwe regulates the payment of CIT on four dates during the course of the current tax year; these are referred to as Quarterly Payment Dates (QPDs). The first payment of 10% is due by 25 March of the respective tax year. The second payment of 25% is due by 25 June of the respective tax year. The third payment of 30% is due by 25 September of the respective tax year. The fourth payment of 35% is due by 20 December of the respective tax year.

All taxes are expected to have been paid by the 25th day of December. If there is an adjustment after the year-end accounts have been finalised, a top-up payment must be made. There is no set date for this. However, in practice, this payment should not be more than 10% of the annual tax liability. ZIMRA often imposes a 10% *per annum* interest charge on any underpayments of QPDs.

WHT payments are due within ten days from the date of distribution or accrual.

Tax audit process

Tax audits do not, at present, have a set cycle; however, the aim is to establish a three-year cycle in the future.

Statute of limitations

The statute of limitations is generally three years unless ZIMRA considers that there is fraud or misrepresentation involved. In those circumstances, there is no set limit on how far back ZIMRA can go, but they usually do not go beyond six years in practice.

Topics of focus for tax authorities

ZIMRA is focused on ensuring that all compliance issues are in order and that VAT and payroll taxes have been correctly calculated.

Anti-avoidance

Current Zimbabwe legislation contains basic anti-avoidance sections that empower the Commissioner General to disregard the implications of a transaction or scheme if it can be proven that:

- such a transaction or scheme had been entered into to avoid or postpone the payment of any duty or levy imposed by the Act
- it was entered into or carried out by means or in a manner that would not normally be employed in the entering into or carrying out of a transaction, operation, or scheme of the nature of the transaction, operation, or scheme in question, or
- it has created rights or obligations that would not normally be created between persons dealing at arm's length under a transaction, operation, or scheme of the nature of the transaction, operation, or scheme in question.

The Commissioner General may, at the Commissioner General's sole discretion, impose this legislation on any transaction or scheme, which will place the burden of proof on the taxpayer to prove that any/all of the requirements noted above will not be applicable to the transaction or scheme.

Note that the anti-avoidance sections have been amended to include transfer pricing legislation (*see Transfer pricing in the Group taxation section*).

Other issues

Exchange control

Zimbabwe has been operating a multi-currency system since February 2009. The Zimbabwe dollar (ZWD) was demonetarised effective April 2009. This has had a significant impact on the country's exchange control regulations.

The Exchange Control Handbook in Zimbabwe is not available to the public; only banking institutions have access to these regulations.

Transactions that involve the transfer of funds to countries outside Zimbabwe are generally subject to bank approval.

There are shortages of foreign currency on the local market, and a priority list has been issued that gives preference to essential imports of goods and services. The non-essential offshore payments (i.e. profit distributions, etc.) have to join a queue at the commercial banks before they are remitted.

The issue of shares in a Zimbabwe platinum or diamond mining company to persons residing outside of Zimbabwe requires specific exchange control approvals. A limit of 49% is available for non-residents. A 51% local shareholding by indigenous persons is a requirement. Applications may be made for increased levels; each case will be decided on its own merits.

Worldwide Tax Summaries Editorial Team

Worldwide Tax Summaries Operations Director and Executive Editor
Chris Wooley
PwC US
+1 813 222 7097
christopher.j.wooley@pwc.com

Director, Global Tax Knowledge Management
Jim Calderon
PwC US
+1 202 414 1612
james.d.calderon@pwc.com

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