

Transfer Pricing

Excessive expenditure incurred under an arrangement between associated persons may be disallowed. When determining gross income, a sale of petroleum is considered to be at arm's length if:

- the price provided in the sale agreement is the only consideration
- the sale is not affected by any relationships other than the relationship created in the sale agreement
- the seller or any associated person to the seller, has no interest in the subsequent resale of the petroleum.

In the absence of an agreement, which is normally used to determine the market value of petroleum produced in a specific licence area, the amount will be determined by the permanent secretary with regard to the amount that would be obtained between a willing buyer and willing seller acting in good faith.

There are no thin capitalisation provisions in the Petroleum Taxation Act.

Royalties

Royalties are calculated as 5% of gross revenue. Royalties are generally payable quarterly, calculated by using the market value of the crude oil. The Minister may prohibit the removal of petroleum from the production area and any other dealings in respect of the

Tax compliance

Income tax returns and tax payments due	
Individuals (Employees)	30 June each year
Companies	Within 7 months after financial year end
Taxpayers (other than companies/salaried employees) wholly/partly carrying on a business/profession/farming	Within 7 months after the tax year end (30 September each year)

Income tax returns	
Individuals	
1st Provisional	Within 6 months from commencement of the respective tax year (on/before 30 August each year) (Not applicable to farmers)

2nd Provisional	On/before the last day of the respective tax year (28 February each year)
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Companies	
Income tax: 1st provisional	Within 6 months from commencement of the company's financial year. 40% of the total actual taxable income to be declared.
Income Tax: 2nd Provisional	On/before the last day of the company's financial year end. At least 80% of the total actual taxable income should be declared
Employers: PAYE Returns	The employer should submit within 20 days following the month during which PAYE is required to be withheld
Employers: PAYE reconciliation return	Annual PAYE reconciliation should be submitted within 30 days from the tax year end (30 March each year)

Withholding Tax	
Royalties	Within 20 days following the month during which the royalty accrued or was paid
Interest	Within 20 days following the month during which the interest accrued or was paid
Services	Within 20 days following the month during which management, technical, administrative or entertainment fees accrued or was paid to non-residents

Value Added Tax	
VAT return	25th of month following end of 2 month tax period
Import VAT return	20th of month following end of previous month
Import VAT on services	30 days from date of import of services
Customs & Excise	Payment at time of clearing per customs assessment notice (excl fuel import levy payment)

Penalties

Tax Area	Reason	Penalty	Interest
Persons/Companies			
1st Provisional tax	Late submission	N\$100 per day	None
	Under-estimation penalty	Up to 100%	None
	Late payment	10% per month	20%
2nd Provisional tax	Late submission	N\$100 per day	None
	Under-estimation penalty	Up to 100%	None
	Late payment	10% per month	20%
Income tax Return	Late submission	None	None
	Late payment	10%	20%
	Omission/incorrect statement	Up to 200%	20%
Companies			
Employees Tax	Late submission	None	None
	Late payment/ failure to withhold PAYE	10% per month	20%
Withholding Tax	Late payment	10% per month	20%
VAT	Late submission	N\$100 per day	20%
	Late payment	10%	20%

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Petroleum Tax Card  
2017



## Petroleum Taxation Act

- Any amounts received or accrued to the license holder prior to the year of production in respect of these items are carried forward to the first year of production.
- Exploration and development expense *deductions deferred* until first year of production.
- Transfer pricing rules: excessive expenditure between associated persons may be disallowed as a deduction;
- Dividend withholding tax does not apply to companies in the petroleum industry.

## Individual & Expatriate Income Tax

Services rendered by expatriates may be/deemed to be rendered from a **Namibian source**. Employees rendering services within **200 nautical miles** off the coast of Namibia will be taxable in Namibia. Employees and employers will be required to register for PAYE. Employers will be required to withhold employee taxes.

Taxable Income N\$	Rates of tax from years of assessment ending 28 February 2016 (N\$)
0 - 50 000	Not taxable
50 001 - 100 000	18% for each N\$ above 50 001
100 001 - 300 000	9 000 + 25% for each N\$ above 100 001
300 001 - 500 000	59 000 + 28% for each N\$ above 300 001
500 001 - 799 999	115 000 + 30% for each N\$ above 500 001
800 000 - 1 500 001	205 000 + 32% for each N\$ above 800 000
Above 1 500 001	429 000 + 37% for each N\$ above 1 500 001

### Employees' fringe benefits

Fringe benefits are subject to income tax in terms of the definition of gross income. The taxable value of fringe benefits is determined in terms of a schedule to the income tax tables, periodically amended by the Directorate of Inland Revenue ('DIR').

### Housing loans and mortgage subsidies

Housing loans provided to employees at a subsidised rate are taxable to the extent that the interest rate payable by the employee is less than 12% per annum (p.a.). The taxable value of housing benefits comprising free or subsidised housing is determined with reference to the location and size of the housing, as indicated in the following table:

	1 room	2 room	3 room	4 room	5 room	6 room	7 room	8 room	8 + room
Windhoek	500	750	1,000	1,400	1,800	2,200	2,800	3,400	4,000
Walvis Bay	350	550	750	1,000	1,300	1,700	2,100	2,550	3,000
Large Towns	250	375	500	700	900	1,100	1,400	1,700	2,000
Small Towns	125	175	250	300	450	550	700	850	1,000

The taxable value of housing benefits granted, in terms of housing schemes approved by the DIR, is reduced by one-third thereof (the reduction increases based on a formula for remuneration below N\$30 000 p.a.).

### Motor vehicles

Taxable amount for the right of private use of employer provided vehicles	
All costs borne by the employer	1.5% p.m. of the cost price of the vehicle
Employee bears all the fuel costs and the employer all other costs	1.4% p.m. of the cost price of the vehicle

## Retirement, death and withdrawal

Contribution to approved pension, provident, retirement annuity (RA) and educational policies	2017/2018 N\$
Deduction allowed	40 000

### Medical Aid

Contributions to medical aid funds and actual medical costs are not deductible by employees for income tax purposes.

### Social Security

Social security is payable on a 50:50 contributions from employers and employees. The contributions are calculated at 0.9% of earnings, with a minimum monthly contribution of N\$2,70 and a maximum monthly contribution of N\$81-00 by each.

## Transfer Duty

Juristic Persons (other than individual)	
Any value	12%

*It was announced that transfer duty on the sale of shares/members' interest in property owning entities will be introduced in future. No legislation has been issued to date.*

## Payments to non-residents

Withholding Tax	
Interest paid to non-residents	10%
Royalties paid to non-residents (eg. rental of support vessels, fixed-wing planes, drilling units, and rental of seismic survey vessels)	10%
Management, technical, admin and consulting fees paid to non-residents	10%
Non-resident directors' fees and fees paid to foreign entertainers	25%

Recipient	WHT (%)				
	Dividends	Interest	Royalties	Management, administrative, technical, and consulting fees	Directors fees (8)
<b>Non-treaty</b>	10/20	10	10	10	25
<b>Treaty:</b>					
Botswana	10	10	10	10	25
France	5/15	10	10	0	25
Germany	10/15	0	10	0	25
India	10	10	10	10	25
Malaysia	5/10	10	5	5	25
Mauritius	5/10	10	5	0	25
Romania	10 to 15	10	5	0	25
Russian Federation	5/10	10	5	0	25
South Africa	5/15	10	10	0	25
Sweden	5/15	10	5	10	25
United Kingdom	5/10/15	10	5	0	25

## Foreign Exchange regulations

All remittances of dividends, interest, royalties etc. to countries outside the ZAR common monetary area need approval from the central bank. To obtain this, foreign denominated loan, trademark/royalty and similar agreements are submitted to the Bank of Namibia for approval when these are entered into. It is advised that all foreign investments are registered with the Bank of Namibia ("BON"). In respect of the repatriation of investment money, the BON requires a formal application, through an authorised dealer, to be submitted. We advise that an authorised dealer should be consulted prior to effecting any forex movements .

## 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	NAD2 for every NAD1,000 or part thereof of the value/consideration, depending on the specific transaction
Authorisation of share capital	NAD5 for every NAD1,000 or any part thereof of the nominal value of the shares.
Registration of a bond over immovable property	NAD5 for every NAD1,000 of debt secured
Stamp Duty payable in respect of the transfer of immovable property: Where the value of the consideration exceeds NAD20,000	NAD100
- and for every NAD1,000 or part thereof of the value or consideration in excess of NAD20,000	NAD 12

## Income tax is levied separately for each license area

The petroleum income tax shall be levied in respect of each licence area separately, even if the taxpayer has been granted the right of exploration in different license areas .

Tax Rates	2017/2018
Petroleum Mining companies (exploration operations, development operations or production operations) plus an <i>Additional profits tax</i> payable on a sliding scale of between 15% and 25% <i>The after tax net cash flows is determined by deducting the exploration and development expenditure as well as the petroleum income tax from gross income.</i>	35%

### Export Levy

Export levies are proposed to be levied and promulgated on 20 June 2016 under the Export Levy Act, Act No. 2 of 2016, but it is not yet effective as ongoing consultations are under way.  
- Gas: 1.5%  
- Crude oil: 1.5%

### Annual License Fees

License holders are required to pay annual charges for the benefit of the State Revenue Fund, calculated by multiplying the number of square kilometres included in the block or blocks by the amounts provided for in Section 67 of the Petroleum Act. In the case of exploration licenses, the charge is calculated as follows:

- During the first four years, NAD60 per square kilometre
- During the next two years, NAD90 per square kilometre
- During the subsequent two years, NAD120 per square kilometre
- Thereafter, NAD150 per square kilometre.

In the case of the production licenses, the fee is NAD1,500 per square kilometre.

### Capital allowances: Machinery and movable assets

Wear and tear claims are deductible in equal instalments over three consecutive tax years for the acquisition of vehicles, aircraft, seagoing craft, machinery, implements, utensils and articles

## Tax on Sale of Assets

### Included in gross income:

- Profit on disposal of petroleum asset/licence area or transfer of such asset/licence area;
- Sale of petroleum information in relation to such license area
- Amounts only subject to tax in year that production starts
- Capital gains arising on sale of assets after production commenced = taxable in hands of licence holder.

## Capital Gains Taxes

### Sale of Petroleum Licenses

Any sale/donation/ expropriation cession, grant or other alienation or transfer of ownership of a licence or right to mine petroleum shall be included in gross income under the Income Tax Act. The sale, donation, expropriation, cession, grant or member's interest in a company that holds a petroleum license or petroleum right, whether directly or indirectly shall also specifically be included in gross income and taxed accordingly.

The acquisition costs and exploration expenditure relating to the license/right as well as costs of improving the value of the petroleum right/license will be deductible against the income. The deduction will be limited to the income.

## Value-Added Tax

Value-added tax is payable on all taxable supplies on a continuous and regular basis at a stand-rate of 15% which is limited to 200 nautical miles off the coast of Namibia. Direct exports of goods and services are zero-rated. A number of other zero-ratings and exemptions are also provided for. A person (company, individual, trust and partnership) carrying on a taxable activity with a turnover for the past or future 12 month period in excess of **N\$500 000**, must register for VAT.

## Customs and Excise

License holders are *exempt* from paying import VAT under Schedule V, paragraph 2(f) of the Value added tax Act 10 of 2000 ("the VAT Act"), and rebated from customs duties (full rebate of duty less ad valorem duties) in terms of rebate item 460.23, Schedule No. 4, Part 2 of the Customs and Excise Act, Act No. 20 of 1998 ("the Customs and Excise Act"). The goods imported by the license holders must be for use solely in operations in connection with the prospecting for or the mining of natural oil or natural gas to qualify for exemption from import VAT, and subject further to the provisions of rebate item 460.23 above for rebate of customs duties, to the extent indicated.

### Tax treaties

Double tax agreements may reduce withholding taxes. Namibia has double tax agreements with Botswana, France, Germany, India, Malaysia, Mauritius, Romania, Russia, South Africa, Sweden and the United Kingdom.