

# Africa Tax Guide

## 2015/2016



*Tax rules covering*  
**26 AFRICAN COUNTRIES**

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## **AFRICA**

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Africa is the world's second largest and second most populous continent with a population of 1.1 billion people. The total land area of Africa covers 30.2 million square kilometres which is approximately 20.4% of the total land area of the world.

Africa is surrounded by the Indian Ocean, Atlantic Ocean, Mediterranean Sea, Suez Canal, the Red Sea and Sinai Peninsula. Africa has a total of 54 countries, including Madagascar and various island groups.

The African economy is diverse and due to the presence of natural resources and the world's youngest population, it has the potential to grow at a fast pace. South Africa and Egypt are the two richest countries in Africa.

In relation to the rest of the world, Africa is largely responsible for the mining of rare metals and precious stones, the supply of oil, agricultural products, livestock and coffee.

## **IMPORTANT DISCLAIMER**

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**ANGOLA****CURRENCY:** Kwanza (AOA)**POPULATION:** 22.22 million**GDP GROWTH:** 5.9%**GDP:** US\$ 141.8 billion**KEY TAX POINTS**

- Companies carrying out industrial and commercial activities in Angola are subject to corporate tax on all Angolan source income. Taxpayers are divided into two groups, each group having different tax payment deadlines.
- Angolan resident companies are taxed on their worldwide income.
- Non-resident companies are liable to corporate tax if they carry on a trade in Angola through a permanent establishment.
- Double taxation relief is not available in Angola.
- Angola has not concluded double tax agreements with any jurisdiction.
- The Large Taxpayers Statute regulates the criteria for large taxpayers classification, their rights and obligations. This regime allows for tax group taxation (tax consolidation) and introduces Transfer Pricing Regulations, including the obligation to prepare the transfer pricing documentation for taxpayers with a turnover exceeding AOA 7,000,000,000.00,
- Consumption tax is levied on the production and on the import of goods as well on the provision of services, at rates comprised between 2% and 30%.
- Special tax regimes exist for oil and mining companies.
- Personal income tax is payable by all Angolan residents and non-residents earning income in Angola at rates based on a sliding scale from 0% to 17%.

**A. TAXES PAYABLE****NATIONAL TAXES AND LEVIES****COMPANY TAX**

Angolan resident companies are liable to corporate tax on all its sources of income and capital gains. A non-resident company carrying on a trade in Angola through a permanent establishment located in Angola is liable to corporate tax on all income and gains attributed to that establishment.

Resident companies are subject to taxation on their worldwide income.

Income from Angolan companies is taxed under Industrial Tax ("Imposto Industrial"). Taxpayers liable for Industrial Tax are divided into two groups: A and B.

Taxpayers included in Group A as well as Group B taxpayers that opt for keeping organized accounts, are subject to Industrial Tax on the income effectively obtained and determined in accordance with the accounting records. Group B taxpayers that do not keep organized accounts are subject to tax on the basis of their turnover.

In general, commercial companies, as well as permanent establishments of non-resident companies, are mandatorily included in Group A. Group B is applicable to the companies with a share capital of less than AOA 2,000,000.00 and with a turnover not exceeding AOA 500,000,000.00.

## **CORPORATE INCOME TAX RATE AND TAX RETURNS**

Corporate taxable income, determined on the basis of accounting profits, is taxable at a rate of 30%.

For Group A taxpayers an annual corporate income tax return ("Modelo 1") must be submitted by 31 May of the following year, together with a documentation set that forms part of the technical report.

For Group B taxpayers that voluntarily prepare accounting records, an annual corporate income tax return ("Modelo 1") must be submitted by 30 April of the following year, together with a documentation set that forms part of the technical report. For Group B taxpayers that do not prepare accounting records, an annual corporate income tax return ("Modelo 2") must be submitted by 30 April of the following year, signed by an accountant and with the description of the sales and services provided.

## **WITHHOLDING TAX ON SERVICES**

Most types of services are subject to withholding tax at rate of 6.5%. The types of services provided by resident companies that are not subject to withholding tax are the following:

- Educational Services
- Medical Services
- Hospitality Services
- Transportation Services, including passengers
- Rental of Equipment subject to Capital Application Tax
- Telecommunications Services
- Financial Broker and Insurance Services
- Recharges with no mark-up, conducted between related companies, defined under the Statute of the Large Taxpayers

This withholding tax should be withheld by the payer of the service, and may be deducted on the corporate income tax return ("Modelo 1") as an advance payment, up to the amount of the tax assessed. The excess of the amount of tax withheld over the amount of tax assessed, it may be carried forward and set-off against the corporate tax liability of the following 5 years.

Likewise the payment of services to non-resident companies is subject to a withholding tax rate of 6.5%, except for the following services:

- Educational Services
- Medical Services
- Transportation Services, including passengers
- Rental of Equipment subject to Capital Application Tax

The provision of services up to a total of AOA 20,000 is exempt from withholding tax.

## **PERMANENT ESTABLISHMENT**

In accordance with the Angolan General Tax Code (CGT), a fixed place of business from which the company exercises the whole or a part of its activity, namely an office, a branch, a factory is deemed as a permanent establishment.

The continued provision of services for periods longer than 90 days within any 12 months period may also be deemed as a permanent establishment.

## **BRANCH PROFITS TAX**

Foreign companies with a permanent establishment in Angola are subject to Industrial Tax in respect of:

- (a) Profits imputable to a permanent establishment located in Angola, and
- (b) Profits of business activities carried out by the head office in Angola, with the same nature of the activities carried out by a permanent establishment of the head office in that territory

An Angolan branch of a non-resident company is taxed on its profits and capital gains in the same way as a resident Angolan company.

The repatriation of Angolan branch profits to foreign companies is subject to Industrial Tax at rate of 10%.

## **CAPITAL GAINS TAX**

Capital gains obtained by resident companies are included in their taxable income and taxed under the Industrial Tax at the standard flat rate of 30%. Capital gains on shares or other instruments not subject to Industrial Tax are taxed under Capital Application Tax at a rate of 10%.

## **CONSUMPTION TAX**

There is no value-added tax (VAT) or sales tax in Angola. However, a consumption tax exists, which is levied on the production and import of goods as well as on the provision of services listed in the Consumption Tax Code. The tax rates vary between 2% (basic products) to 30% (luxury products) for the products.

As far as services are concerned, a standard tax rate of 5% applies (e.g. water and energy consumption, communication services, car rental, consultancy services, namely legal, tax, financial, accounting, IT, engineering, architecture, economics, real estate, audit services, and legal services) except for the hospitality business services which are taxed at a 10% rate.

The tax payment should be made by:

- The manufacturer of the goods, if the goods are produced in Angola
- The customs office at the importation of goods
- The company providing the services

The consumption tax is to be borne by the acquirer of the goods or services. Services charged by non-resident taxpayers will be taxed by reverse charge by the acquirer of the service.



## **STAMP DUTY**

Stamp Duty is levied in a wide range of operations and contracts. Both the operations on which the tax is levied and the applicable rate are listed in the table annex to the Stamp Duty Code. Tax rates vary from 0.1% to 1%. Certain items are taxed at a determined fixed amount.

Some examples are:

Loans: 0.1% to 0.5% on the principal amount of the loan depending on the loan contracted period.

Notary acts: AOA 2,000.

Amounts collected by a company from its customers: 1%.

In the particular case of loans granted by foreign companies as well as in the case interest charged by a foreign bank, the tax must be self-assessed (by reverse charge) and paid by the borrower.

## **CAPITAL APPLICATION TAX**

Capital Application Tax applies to investment income, such as interest, dividends and royalties and capital gains. The tax rates vary from 5% (e.g. dividends and loan interest with maturity over 3 years, dividends from listed companies) 10% (e.g. dividends, royalties, capital gains, bank deposits interest) or 15% (e.g. gambling and lotteries prizes, loan agreements interest). In the case of loan contracts, the tax authorities may deem that the principal is remunerated at a 6% interest rate.

Dividends paid between Angolan resident companies are exempt from tax if a participation of 25% has been held for a 1 year period prior to the dividend distribution, otherwise a tax of 10% must be withheld.

## **URBAN REAL ESTATE INCOME TAX (IPU)**

This tax is levied on rented as well as non-rented urban real estate.

In the case of rented real estate, the tenant is required to withhold 15% tax on the rents paid to the landlord.

In non-rented urban real estate the owner of the real estate is subject to tax at rate of 0,5% of the asset tax value and exempt if the tax value is below AOA 5,000,000.

## **REAL ESTATE TRANSFER TAX (SISA)**

This tax is levied on all acts that involve the sale of real estate at a rate of 2% and payable by the acquirer.

## **SPECIAL TAX REGIMES:**

### **PETROLEUM INDUSTRY TAX REGIME**

Income from oil industry is subject to a specific tax regime. This tax regime is applied to all companies that perform activities of search, development, production, storage, treatment and sales of oil and its components.

Oil Corporate Income Tax Rates:

- Production or sharing agreement – 50%
- Other types of joint-ventures – 65,75%
- Angolan companies members of the national concessionaire – 30%

## **MINING INDUSTRY TAXATION**

Mining companies are subject to a specific tax regime. The general rate applied in this tax regime is 25%.

## **B. DETERMINATION OF TAXABLE INCOME**

### **GENERAL REGIME**

Taxable income is calculated by adjusting the accounting profits from non-taxable income and non-deductible expenses. As a general principle, costs are only deductible when necessarily incurred for the purpose of producing income.

### **DEPRECIATION OF FIXED ASSETS**

Fixed assets can be depreciated for tax purposes. The depreciation rates are set by specific legislation. The normal method of calculation is the straight-line method.

### **STOCK / INVENTORY**

Inventory must normally be valued at the effective cost of acquisition or production (historic cost).

### **DIVIDENDS**

Dividends when subject to Capital Application Tax are excluded from the tax basis for CIT purposes. The same applies for other income subject to Capital Application Tax.

### **INTEREST DEDUCTION**

Interest charges related to shareholder loans are not tax deductible for corporate income tax purposes. Interest on loans contracted with other parties are eligible as tax deductible.

### **LOSSES**

Operating losses incurred by resident companies or by a branch of a non-resident company, may be carried forward and set off against taxable profits for the following three years.

### **FOREIGN SOURCED INCOME**

Angolan companies are taxed on their worldwide income, including any foreign branch income.

### **INCENTIVES**

Foreign private investment in Angola requires a minimum capital of 1 million USD.

Depending on the investment project area of implementation, it may be possible to contract with the Angola Government certain tax benefits namely:

- (a) Customs Duty (except Stamp Duty, emoluments and statistical fees) – exemption or rate reduction for up to six years.

- (b) Corporate Tax – Temporary exemption or rate reduction (up to 50%), for up to ten years.
- (c) Withholding tax on dividends – Temporary exemption or rate reduction for up to 9 years.
- (d) Real Estate transfer tax – exemption or rate reduction.

Additionally Micro, small and medium-sized companies may benefit from a reduced corporate income tax rate, a consumption tax exemption on raw materials and from a Stamp Duty exemption.

## **C. FOREIGN TAX RELIEF**

There is no tax relief on foreign taxes paid by Angolan companies.

## **D. CORPORATE GROUPS**

A group special regime has been recently introduced by Angolan tax law. Companies which are classified as Large Taxpayers may opt to be taxed by the sum of the taxable profits and losses of the group.

## **E. RELATED PARTY TRANSACTIONS**

There is a general provision that allows the tax authorities to adjust the taxable income of any taxpayer as a result of non-arm's length transfer pricing practices.

The recently published Statute of Large Taxpayers introduced new transfer pricing rules. A company listed as a Large Taxpayer with an annual turnover above AOA 7 billion (approximately 70 million USD) is required to prepare transfer pricing documentation.

## **F. WITHHOLDING TAX**

Under domestic law, dividends paid to non-resident companies are subject to a 10% withholding tax. Dividends paid between Angolan resident companies may be exempt from withholding tax if a participation of at least 25% is held for a period longer than 1 year prior to the dividend distribution. Dividends paid to resident or non-resident companies with stocks traded on a recognized stock exchange market are subject to a reduced withholding tax rate of 5%, in respect of the 2015 to 2019 years.

All royalties paid to resident or non-resident companies are subject to a 10% withholding tax.

Interest paid to resident or non-resident companies are subject to withholding tax usually at a rate of 15%. However, certain interest, such as interest on shareholders loans, corporate bonds, bank deposits, treasury bills, treasury bonds and securities issued by the Angolan Central Bank (BNA), are subject to a 10% rate. Interest on treasury bonds and securities issued by the BNA is subject to a reduced rate of 5% if the maturity is of no less than three years.

Service fees are usually subject to a 6,5% withholding tax regardless of whether it is paid to a resident or non-resident company. Some exemptions may apply depending on the type of service.

## G. EXCHANGE CONTROL

There are exchange controls in Angola.

## H. PERSONAL INCOME TAX

Individuals receiving employment income for work performed in Angola are subject to personal income tax. The individuals' tax payers are divided in three groups: Group A – Employment Income; Group B – independent professionals (appeared in the list annex to the Personal Income Tax Code); Group C – Industrial and Commercial Activities.

### EMPLOYMENT INCOME (GROUP A)

Employment income is taxed by withholding tax (final tax) levied on the monthly remuneration paid, at the following progressive rates:

Taxable Income Exceeding AOA	Taxable Income Not Exceeding AOA	Tax On Lower Amount AOA	Rate On Excess %
0	34,450	0	0
34,451	35,000	Amount 34.451	exceeding
35,001	40,000	550	7
40,001	45,000	900	8
45,001	50,000	1,300	9
50,001	70,000	1,750	10
70,001	90,000	3,750	11
90,001	110,000	5,950	12
110,001	140,000	8,350	13
140,001	170,000	12,250	14
170,001	200,000	16,450	15
200,001	230,000	20,950	16
230,000	-	25,750	17

### INDEPENDENT PROFESSIONALS (GROUP B)

Fees paid to independent professionals are subject to withholding tax at a flat rate of 15% on 70% of their total income (being the effective tax rate of 10.5%).

### INDUSTRIALS AND COMMERCIALS ACTIVITIES (GROUP C)

Income derived from industrial and commercial activities is subject to a rate of 30% determined according to the Minimum Profits table or a rate of 6.5% in other

situations.

### **MINIMUM WAGE**

In Angola, the minimum wage is determined according to the economic sector where the employee works:

Commerce and extractive industry : 22,504.50 AOA

Transports, services and processing industry: 18,754.00 AOA

Agriculture: 15,003.00 AOA

### **SOCIAL SECURITY CONTRIBUTIONS**

Remunerations paid by employer are subject to social security contributions at the following rates:

- 8% for the employer, and
- 3% for the employee (to be withheld by the employer).

## **I. TREATY AND NON-TREATY WITHHOLDING TAX RATES**

Angola has not concluded a tax treaty with any jurisdiction.

**BOTSWANA****CURRENCY:** Botswana Pula (BWP)**POPULATION:** 2.11 million**GDP GROWTH:** 4.1%**GDP:** US\$ 17.7 billion**A. TAXES PAYABLE****FEDERAL TAXES AND LEVIES****COMPANY TAX**

Approved manufacturing taxable income 15%

Capital gains 22%

Foreign dividends 15%

Mining taxable income (excluding diamonds) 22%-55%

Other taxable income 22%

Accredited Innovation Hub business taxable income 15%

IFSC company – approved services income 15%

IFSC – other taxable income 22%

Corporate tax rate - non-resident company Standard rate 30%

Income tax returns are due 4 months after a company's financial year end.

Companies with a final tax liability greater than BWP50 000 must pay quarterly self assessment tax payments. Your total quarterly SAT payments but exceed 80% of your final tax liability.

**CAPITAL GAINS TAX**

Applies to companies and individuals

CGT rate for companies is the same as their income tax rates

Individuals pay tax on chargeable gains as follows:

18000 – BWP 0

18 001 - 72 000 – BWP 0 + 5% of excess over 18 000

72 001 - 108 000 - BWP 2700 12.5.7% of excess over P72 000

108 000 - 144 000 - BWP7 200 + 18. 7 5 % of excess over P108 000

Over 144 000 and above BWP 13 950 + 25% of excess over 144 000

Capital gain on moveable properties is calculated on the proceeds less the indexed cost and any costs relating to the disposal.

If a company or individual sells shares they pay CGT on 75% of the gain.

**SALES TAX / VALUE ADDED TAX**

VAT is imposed comprehensively on an end-user basis at the rate of 12% on standard rated supplies. Certain specified supplies are either zero rated or exempt from VAT.

Registration is mandatory where 12 months turnover is expected to be P 500 000 or more.

VAT is payable by the importer of services not utilised in the making of taxable supplies

Input tax includes: – Transfer duty payable under the Transfer Duty Act – Any tax deemed to have been paid in respect of supplies of second hand goods.

Input tax claims should be made within the following time limits: – For those who file monthly returns, within a period of four months – For those who file returns every two months, within two tax periods – For tax paid in respect of imports, within two tax periods.

Late VAT returns penalty - the greater of P 50 per day or 10% per month or part thereof of the tax due.

Late payment of VAT - compound interest at 1.5% per month or part thereof on both outstanding tax, penalties and interest charged.

VAT refunds - Interest at 1% per month or part of a month is payable if the refund is not made within two calendar months of the due date of the return (1 month for IFSC companies, approved manufacturers and exporters).

## **ZERO-RATED SUPPLIES**

Exports of goods and services

International transport services

Supplies of going concerns

Sorghum, maize meal, millet, wheat, sugar and flour for human consumption

Fertilizers for farming purposes, some pesticides and farming tractors

Supplies to the Head of State

First 5,000ltrs of water per month supplied to a residential dwelling by the Water Utilities Corporation (with exceptions)

## **EXEMPT SUPPLIES**

Prescription drugs and condoms

Residential accommodation

Education at approved institutions

Public medical services

Non-fee based financial services

Passenger transport (excluding the transportation of tourists)

Farm implements

## **FILING DEADLINE**

The VAT Tax returns must be filed on or before the 25th of the month following the end of the tax period.

## **B. DETERMINATION OF TAXABLE INCOME**

### **CAPITAL ALLOWANCES**

Capital Allowances Straight Line

(The rates of straight line annual allowances on plant or machinery range between 10% and 25% as fixed by the Commissioner General)

Heavy plant or machinery used in construction 25%

Motor vehicles and aircraft (for passenger motor vehicles, limited to expenditure of P 175 000) 25%

Plant or machinery used directly in manufacturing or production 25%

Other plant or machinery including farming equipment 15%

Computer hardware 25%

Computer software - off the shelf 100%  
 Furniture and fittings including soft furnishings 10%

Statutory Straight Line Allowances:

Industrial buildings - initial allowance, annual allowances 25% 2.5%

Commercial buildings - annual allowances 2.5%

Farm buildings, improvements, water supplies and other farm capital works 100%

## **LOSSES**

Company tax losses fall away after five years.

Farm losses never fall away.

## **FOREIGN SOURCED INCOME**

Botswana citizens are taxed on their world wide income.

Non citizens are only taxed on income generated in Botswana.

## **F. EXCHANGE CONTROL**

There are no exchange control restrictions.

## **G. PERSONAL INCOME TAX**

### **EMPLOYMENT INCOME**

Includes salaries, wages, terminal payments, directors and other fees, bonuses, commissions, allowances and the value of benefits.

Employment income from, or deemed to be from a source within Botswana is taxable in Botswana. All employment income, including benefits in kind, is subject to monthly withholding tax (PAYE).

### **EXEMPTION AND TAX FREE BENEFITS FOR INDIVIDUALS**

The value of contractual travel benefits for employees and their families.

Medical fund contributions and medical attention paid for by the employer.

Contractual terminal gratuities payable to expatriate employees are exempt to the extent of one-third. Bank and building society interest of P7,800 per annum, for resident individuals.

Severance pay and certain gratuities payable to citizen employees are exempt to the extent of one third.

Investment of such payments directly into an approved pension or retirement annuity fund results in 100% exemption.

Retrenchment package: one third or P36,000 whichever is greater is exempt.

### **BENEFITS VALUATION**

#### **Housing**

- 10% of municipal valuation or
- 8% of current capital valuation, ( $P\ 250 \times \text{floor area}$ ).



### **Use of employer's furniture**

10% of the excess over P 15 000 of the cost to the employer

### **Loans**

The difference between the interest at concessionary rate and prime lending rate announced by Bank of Botswana on 1 July of the tax year.

### **Other benefits**

Such as school fees and utilities

Cost to the employer or market value, whichever is the greater.

## **BUSINESS AND EMPLOYMENT INCOME RATES**

<b>Earnings</b>	<b>Rate</b>
0 - 36 000	0
36 001 - 72 000	0 + 5% over 36 000
72 001 - 108 000	1 800 + 12.5% over 72 000
108 001 - 144 000	6 300 + 18.75% over 108 000
144 001 and over	13 050 + 25% over 144 000

**BURUNDI****CURRENCY:** Burundi Franc (BIF)**POPULATION:** 10.99 million**GDP GROWTH:** 4.8%**GDP:** US\$ 3.3 billion**A. FISCAL YEAR END****Residents**

Calendar year end

**Non-residents**

Calendar year end

**B. TAXES PAYABLE****COMPANY TAX**

	<b>Residents</b>		<b>Non-residents</b>
Income tax	30%	35%	
Tax on capital gain tax	30% (taxed as ordinary profit)		30%
Value added tax (VAT)	18%, 10%, 0% and Exempt		18%, 10%, 0% and Exempt

**INDIVIDUAL TAXATION****Residents**

Progressive tax rate up to 30%

Capital income taxed at a proportional rate of 15%

Basis of taxation is worldwide

**Non-residents**

Progressive tax rate up to 30%

Capital income taxed at a proportional rate of 15%

Basis of taxation is at source

**STATUTORY DEDUCTIONS**

- Social security contributions of 6 % of gross salaries
- Accident risks fund of 3% of gross salaries

**WITHHOLDING TAX**

The relevant rates are as follows:	<b>Resident</b>	<b>Non-Resident</b>
Dividends	15%	15%
Interest	15%	15%
Royalties	15%	15%
Rent	N/A	N/A
Management service fee	30%	30%
Contractors fees	30%	30%
Importation of goods	18-10%	

## **STAMP AND TRANSFER DUTY**

There is no stamp duty.

## **DOUBLE TAX TREATIES**

Burundi has not yet signed a treaty against double taxation.

## **INVESTMENT INFORMATION**

Burundi has put in place API (Agence de Promotion pour l'Investissement) the national body responsible for development and investment promotion in Burundi in order to assist and support investors in obtaining required documents and formalities required by law.

## **TRANSFER PRICING AND THIN CAPITALISATION RULES**

Transactions between related parties must be at arm's length. Guidelines for transfer pricing are still under development.

Interest expenses paid to related entities are non-deductible for tax purposes if the debt-to-equity ratio exceeds 30%. This excludes reserves and retained earnings.

## **EXCHANGE CONTROLS**

Some restrictions are imposed on the import and export of capital. Both residents and non-residents can hold bank accounts in any currency but restrictions are imposed on export of foreign currencies by the Burundi Reserve Bank (BRB).

**CAPE VERDE****CURRENCY:** Cape Verdean Escudo (CVE)**POPULATION:** 0.5 million**GDP GROWTH:** 3.02%**GDP:** US\$ 2.1 billion**KEY TAX POINTS**

- Resident corporations are subject to Cape Verde corporate income tax (IUR) on their worldwide income.
- The standard rate of VAT is 15%.
- Payments between resident companies are generally subject to withholding tax.
- Income tax is payable by individuals on employment income. Resident individuals are subject to income tax on their worldwide income whilst non-residents are liable to income tax only on income sourced in Cape Verde.

**A. TAXES PAYABLE****COMPANY TAX: GENERAL REGIME**

Resident corporations are subject to Cape Verde corporate income tax (CIT) on their worldwide income. Resident companies are those which have their head office, or place of effective management, in Cape Verde.

Companies, not having their head office or place of effective management in Cape Verde territory, are subject to IUR only on income obtained in Cape Verde.

The IUR is charged on the profits of companies or other similar entities, and individuals treated as companies, and individual enterprises, engaged in a commercial, industrial, agricultural, fishing or service benefits, profit attributable to a permanent establishment located in Cape Verdean territory in comparison to non-resident individuals, the income received by entities that do not have a permanent establishment in Cape Verdean territory, or that, having it, not attributable to him and capital income.

Taxable profit is taxed at 25%.

The tax year usually coincides with the calendar year (1 January to 31 December).

Tax is payable as follows:

<b>Taxable Persons</b>	<b>Tax Payment</b>
Resident entities whose main activity is commercial, industrial or agricultural and non-residents with a permanent establishment in Cape Verde	Payments on account in January. The balance is due by the date when the tax return is filed – generally 31 May.
Non-profitable entities.	Tax is payable by the end of the fifth month following the end of the tax year – generally 31 May.
Non-resident entities without a permanent establishment.	Tax is payable by the end of the fifth month following the end of the tax year – generally 31 May.

## **VALUE ADDED TAX (VAT)**

Cape Verde has adopted VAT which is a sales tax levied on the supply of goods and services as well as on the import of goods into Cape Verde. The standard rate is 15.5%, with the exception for water and electricity – 15% VAT tax rate.

VAT exemptions are laid down in particular to medical services, services related to education and social support and vocational training, banking and financial transactions, insurance and reinsurance operations, as well as exemptions for the importation of certain goods.

## **OTHER TAXES**

### **MUNICIPAL TAX ON REAL ESTATE (IUP)**

The IUP is a municipal tax levied on the value of properties in the territory of each municipality, dividing, in accordance with the classification of buildings in rustic and urban, the value of free transmissions or expensive real estate, the value of corporate transactions subject to public deed, such as social pacts changes, transfer of shares and other like nature, value in use or enjoyment of motor vehicles subject to registration and, finally, capital gains arising from the valuation of land for building, broadcasts of buildings or other real estate.

The IUP is payable by the owner of the building at 31 December of the year in the same respect.

The standard rate is 1.5%.

### **STAMP DUTY**

The Stamp Duty (IS) focuses on different tax events, and in particular on financial transactions, corporate transactions, capital transfers and documented legal acts.

Applied different tax rates, depending on the applicable amount, with the up to 15%.

## **B. DETERMINATION OF TAXABLE INCOME (IRC)**

### **General regime:**

Net income, or taxable income, is arrived at by adjusting the accounting profits for non-taxed income and non-deductible expenses. As a general principle, costs are only deductible when necessarily incurred for the purpose of producing income.

### **DEPRECIATION**

Fixed and intangible assets can be depreciated for tax purposes. The depreciation rates are set by specific legislation and include 4% for buildings. No depreciation is allowed on land. The normal method of calculation is the straight-line basis but declining-balance method may be used except for items such as buildings, cars and office furniture. Intangible assets with a limited period of exclusive use may be depreciated for that period, otherwise for 20 years.

### **STOCKS / INVENTORY**

Inventory must normally be valued at the effective cost of acquisition or production (historic cost). Other methods which may be adopted include:

- The standard cost method, which must be calculated in accordance with the appropriate technical and accounting principles;
- The sale price method, based on the market value less a normal profit margin.

**LOSSES**

Operating losses incurred by resident companies, may be carried forward to be set off against taxable profits for three years.

**FOREIGN SOURCED INCOME**

Resident companies are taxed on their worldwide income.

**C. WITHHOLDING TAX**

Payments between resident companies are generally subject to withholding tax. The rates vary between 10% and 20%.

**D. PERSONAL TAX**

Personnel Income Tax will be due by natural persons residing in Cape Verdean territory and, also, by those that do not reside in Cape Verde, but obtain income in Cape Verde. Non-resident taxpayers in Cape Verdean territory are subject to IUR solely by income earned in Cape Verde.

The income of an individual is taxed by different categories. Regulation of the Personnel Income Tax provides for the following categories: property income, commercial and industrial income, including capital gains and the provision of services, and income agricultural, livestock and fishing, capital income and other income, such as from the game, lottery and betting, and finally, income from work, dependent and independent, including pensions and annuities or temporary.

Taxable income results from the aggregation of the various categories of income, although exempt, earned each year, after the deductions and rebates defined in Regulation IUR.

Realized capital gains and net realised losses on the transfer of shares and other securities are subject to a withholding tax. In determining the tax base, the gains must be subject to aggregation and are considered in relation to 50% of their value.

There are specific deductions for each category of income, using as criteria the costs or charges necessary to attain them.

Thus, spending on health and education, pensions, housing rents permanent, the housing debt interest, construction and improvement of real estate, the premiums of illness or personal accident insurance, as well as some life insurance, and the amounts invested annually in government bonds and contributions to social security or single social tax for the taxable person or their dependents may be deducted from the taxable income. Donations of public interest can also be deducted from the total income, net of deductions.

The workers, are subject to the payment a tax of 8% - contribution to Social Security. The self-employed are, in turn, subject to the payment of fees by 11% in restricted scheme, and in the order of 19.5% in extended scheme. The payment of contributions shall take place by the 15th of the month following that to which they relate.

Tax returns submitted in paper form are due until 31 March of the subsequent tax year

The following progressive tax rates apply in tax year 2015 to the aggregate net results of employment income, business income, investment income (except interest on bonds and deposits), income from land, capital gains and income from pensions:

Level	Levels	Amounts	Taxes	
			normal	Average
1	Until	408.843\$	11,67%	11,67%
2	From 408.843\$ until	860.163\$	15,56%	13,71%
3	From 860.163\$ until	1.720.327\$	21,39%	17,55%
4	From 1.720.327\$ until	2.580.490\$	27,22%	20,77%
5	From 2.580.490\$		35,00%	

## **E. TREATY AND NON-TREATY WITHHOLDING TAX RATES**

Cape Verde signed agreements to avoid double taxation with Portugal and Macau. Cape Verde is currently negotiating a double tax agreement with Spain.

**EGYPT****CURRENCY:** Egyptian Pound (EGP)**POPULATION:** 85.97 million**GDP GROWTH:** 3.5%**GDP:** US\$ 324.2 billion**KEY TAX POINTS**

- Egyptian resident companies are taxable on their worldwide income, except for profits derived from permanent establishments abroad. Non-residents are only taxed on Egyptian sourced income.
- Dividends paid to residents and non-residents are not subject to withholding tax. Companies and individuals are not taxed on dividends received from resident companies but are taxed on dividends and other payments from non-residents.
- A credit system is available to relieve double taxation on foreign source income. The credit is subject to a maximum of the Egyptian tax paid on the overseas income concerned.
- There are provisions which limit the tax deductibility of interest based on the rate of interest charged and the debt to equity ratio of the company concerned.
- Transfer pricing rules are based on arm's length principles. An advance pricing arrangement is available.
- Domestic tax law provides for a 20% withholding tax applicable to the payment of interest and royalties to non-residents. Treaties with various countries reduce the rate of withholding tax applying.
- General sales tax is payable on the supply of goods and services and imports. The standard rate of tax is 10% although rates vary from 0% to 30%.
- Resident individuals are subject to income tax on their worldwide income whereas non-residents are taxed on Egyptian sourced income.

**A. TAXES PAYABLE****CORPORATE INCOME AND GAINS TAX**

Egyptian corporations are subject to corporate profits tax on their profits derived from Egypt, as well as on profits derived from abroad, unless the foreign activities are performed through a permanent establishment located abroad. Foreign companies resident in Egypt are subject to tax only on their profits derived from Egypt.

Oil prospecting and production companies are subject to tax on their profits at a rate of 40.55%. The Suez Canal Company, Egyptian General Petroleum Company (EGPC) and Central Bank of Egypt are subject to tax on their profits at a rate of 40%.

**ADMINISTRATION**

Companies must file their annual tax returns, together with all supporting schedules and the original financial statements, before 1 May each year or four months from the financial year end. The tax return should be signed by the taxpayer. Taxpayers can file a request to extend the due date of filing the tax return provided they pay an



estimated amount of tax. The request must be filed at least 15 days before the due date and the estimated tax due must also be paid before the due date. The extended period can be up to 60 days.

An amended tax return can be filed within 30 days from the due date. Any tax due must be paid when the tax return is filed. A late penalty is applied at the rate of 2% plus the credit and discount rate issued by the Central Bank of Egypt as of January each year.

The law has set up appeals committees at two levels - the Internal Committee and the Appeal Committee. The Appeal Committee's decision is final and binding on the taxpayer and the tax department unless a case is appealed to the court within 30 days of receiving the decision, which is usually in the form of an assessment.

### DIVIDENDS

Dividends distributed by an Egyptian company are not subject to withholding tax because they are paid out of corporate profits that are taxed under the normal rules. Dividends received by residents from foreign sources are not taxed in Egypt. Dividends are exempt from tax. Interest on bonds listed on the Egyptian stock exchange is exempt from tax if certain conditions are satisfied. Certain exemptions may be provided in some cases.

### CORPORATE TAX RATES

Nature of Tax	Rate
Corporate income tax	25%
Capital gains tax	20%
Branch tax	20%
Withholding tax:	
Dividends	0%
Interest	20% <sup>1</sup>
Royalties from patents, know-how, etc.	20% <sup>1</sup>
Certain services provided from non-resident entities	20% <sup>1</sup>
Branch remittance tax	0%
Net operating losses (years)	
Carry back	3 years
Losses incurred in long-term projects can be carried back within the same project with no limits.	
Carry forward	5 years

### NOTES:

Final tax imposed on gross payments. The rate may be reduced under a tax treaty.

## OTHER TAXES

The table below summarises other significant taxes.

Nature of Tax	Rate
General sales tax	0% to 30%
Customs Duties:	
General, ad valorem	Various
On value of machinery needed for investments by companies	5%
Stamp duties on bills, promissory notes and letters of guarantee as well as most types of documents, contracts, checks and receipts (shares and bonds listed on the Egyptian Stock Exchange are exempt)	Various

The amounts paid become credits available for income tax purposes at the end of the period.

## SOCIAL INSURANCE

On monthly base salary, up to EGP 987.5 paid by:

Employer	26%
Employee	14%

On amount in excess of EGP 987.5 of the base salary, with a maximum excess amount of EGP 1,520 a month, paid by:

Employer	24%
Employee	11%

## B. DETERMINATION OF TAXABLE INCOME

Corporate income tax is based on taxable profits computed in accordance with generally accepted accounting and commercial principles, modified for tax purposes by certain statutory provisions primarily concerning depreciation, provisions, inventory valuation, inter-company transactions and expenses. Start-up and formation expenses may be capitalised and amortised in the first year.

The deductibility of a branch's share of head office overhead expenses is limited to approximately 3% to 5% (according to practice) of turnover. Head office expenses other than overhead and general administration expenses are subject to negotiation with the tax authorities. They are fully deductible if they are directly incurred by the branch and are necessary for the performance of the branch's activity in Egypt.

Such expenses must be supported by original documents and approved by the head office auditors.

## DEBIT INTEREST

Debit interest of loans/overdraft used in the company's activity is a deductible item after offsetting the interest income. Interest expense paid to individuals who are not subject to tax or exempted from tax is not deductible.

Interest expense is limited to the interest rate which will not exceed twice the discount rate determined by the central bank of Egypt.

## DEBT-TO-EQUITY RULES

The tax law has determined the maximum debt to equity ratio to be 4:1. In the event the debt exceeds such ratio, the excess interest is not considered by the Tax Authority to be a deductible expense.

## INVENTORIES

Inventories are normally valued for tax purposes at the lower cost or market value. Cost is defined as purchase price plus direct and indirect production costs. Inventory reserves are not permissible deductions for tax purposes. For accounting purposes, companies may elect to use any acceptable method of inventory valuation such as first-in, first-out (FIFO) or average cost. The method should be applied consistently and the reasons for such change should be stated if the method is changed.

## PROVISIONS

Provisions are not considered as deductible costs except for the following:

- 80% of loan provisions made by banks (required by the Central Bank of Egypt);
- Insurance companies provision determined by Law No 10 of 1981.

## BAD DEBTS

Bad debts are a deductible cost if the company provides a report from an external auditor certifying the following:

- The company is maintaining regular accounting records;
- The debt is related to the company's activity;
- The debt appears in the company's records; and,
- The company has taken the necessary actions to collect the debt.

## DEPRECIATION AND AMORTISATION ALLOWANCES

Depreciation is deductible for tax purposes and may be calculated using either the straight-line or declining-balance method. Depreciation rates are as follows:

Type of Asset	Rate	Method of Depreciation
Buildings	5%	Straight-line
Intangible assets	10%	Straight-line
Computers	50%	Declining-balance
Heavy machinery and equipment	25%	Declining-balance
Small machinery and equipment	25%	Declining-balance
Vehicles	25%	Declining-balance
Furniture	25%	Declining-balance
Other tangible assets	25%	Declining-balance

Accelerated depreciation is allowable only once at a rate of 30% on new machines and equipment in the year they are placed into service.

Normal depreciation is calculated after considering the accelerated 30% depreciation on the net value of new assets, provided that proper books of account are maintained. Tax losses may be carried forward for five years. Losses incurred in long-term projects

can be also carried back within the same project.

## **REAL ESTATE TAX**

Egypt introduced a new tax law No 196 of 2008 with effect from 23 June 2008 to be applied with effect from 1 January 2009.

Tax Rate: 10% of the annual rental value after excluding the following representing an assumed maintenance expenses:

- 30% of the rental value for properties used for living accommodation;
- 32% of the rental for properties used for other purposes.

## **C. FOREIGN TAX RELIEF**

Foreign tax paid by a resident entity outside Egypt can be deducted provided there is supporting documentation. Losses generated outside Egypt cannot be offset against the taxable amount in Egypt. Treaties concluded between Egypt and other countries regulate the credit for taxes paid abroad on income subject to corporate income tax in Egypt.

## **D. CORPORATE GROUPS**

Associated or related companies in a group are taxed separately for corporate income tax purposes. Egyptian law does not contain a concept of group assessment under which group losses may be offset against profits within a group of companies.

## **E. RELATED PARTY TRANSACTIONS**

The Egyptian tax law contains provisions for transfer pricing. The transfer pricing provisions are based on the arm's length principle. Under these provisions, the tax authorities may adjust the income of an enterprise if its taxable income in Egypt is reduced as a result of contractual provisions that differ from those that would be agreed to by unrelated parties.

However, it is now possible to enter into arrangements with the tax department to agree a transfer pricing policy in advance (Advance Pricing Arrangement). This provides assurances that transfer prices will not be challenged after the tax return is submitted, with the consequent exposure to penalties and interest on late paid taxes.

## **F. WITHHOLDING TAX**

No withholding tax is levied on dividends distributed by resident companies, regardless of the residence status of the recipient. Interest derived by non-resident legal persons is subject to a final withholding tax at the rate of 20% on the gross amount, unless a lower treaty rate applies. Royalties derived by non-resident legal persons are subject to a final withholding tax at the rate of 20% on the gross amount, unless a lower treaty rate applies.

## **G. EXCHANGE CONTROL**

Egypt has a free market exchange system. Exchange rates are determined by supply and demand without interference from the central bank or the Ministry of the Economy.

## **H. PERSONAL TAX**

Income tax is imposed on the worldwide income of Egyptian residents. Non-residents are subject to tax on income earned or realised in Egypt.

An individual is deemed to be a resident of Egypt if:

- The individual is present in Egypt for more than 183 days in a fiscal year;
- The individual's principal place of residence is Egypt. Article 2 of the Executive Regulations states that an individual is considered to have a permanent residence in Egypt if:
  - (a) The taxpayer stays in Egypt for the majority of the year, either in his own property, in a rented property or in any other place;
  - (b) The taxpayer has a local commercial presence, professional office, industrial site or any other place where he carries on his activities in Egypt;
  - (c) The individual is an employee who performs his duties abroad and receives a salary from an Egyptian public or private source.

Income tax is assessed each year on the aggregate of the net amounts from each category of income realised during the preceding year. There are four recognised categories of income, namely:

- (1) Employment income;
- (2) Business income (which includes income from commercial and industrial activities);
- (3) Non-commercial income;
- (4) Income from real estate assets.

Graduated rates apply with effect from 1 July 2005 to the aggregate of the four categories of income, as follows:

<b>Income (EGP)</b>	<b>Rate</b>
Up to 5,000	0%
5,001 to 30,000	10%
30,001 to 45,000	15%
45,001 to 25,000,000	20%
Over 25,000,000	25%

Individuals are not subject to a tax on capital gains except in the case of the disposal of real estate or building sites within the boundaries of Egyptian cities. Such gains are not subject to income tax but are taxed at the rate of 2.5% on the value of the property.

## I. TREATY WITHHOLDING TAX RATES

Dividends paid to non-residents are not subject to withholding tax under Egyptian domestic law. Consequently, the following table sets forth maximum withholding rates provided in Egypt's tax treaties for interest and royalties only.

Egypt has signed double tax treaties with Armenia, Bangladesh, Greece, Ireland, Kazakhstan, Mongolia, Norway, Oman, Senegal, Seychelles, the Slovak Republic, Spain, Sri Lanka, Tanzania, Thailand, Uganda and Vietnam but these treaties have not yet been ratified.

Tax treaty negotiations are underway with Congo, Macedonia and North Korea.

	<b>Interest (%)</b>	<b>Royalties (%)</b>
Non-treaty countries	20	20
Treaty countries:		
Albania	10	10
Algeria	5	10
Austria	15	0
Bahrain	— <sup>1</sup>	— <sup>1</sup>
Belarus	10	15
Belgium	15	15/20
Bulgaria	12.5	12.5
Canada	15	15
China	10	8
Cyprus	15	10
Czech Republic	0	10
Denmark	15	20
Finland <sup>1</sup>		
- From Finland	0	20
- From Egypt	20	20
France	20	15/20 <sup>3</sup>
Germany	15	15/20 <sup>3</sup>
Hungary	15	15
India	20	— <sup>1</sup>
Indonesia	15	15
Iraq:		
- From Iraq	10	15
- From Egypt	20	15
Italy	20	15
Japan	20	15
Jordan	15	20
Korea (South)	10/15	15
Kuwait	10	10
Lebanon	10	5

Libya	20	20
Malaysia	15	15
Malta	10	12
Morocco	20	10
Netherlands	12	12
Norway:		
- From Norway	0	0
- From Egypt	20	15
Pakistan	15	15
Palestine	15	15
Poland	12	12
Romania <sup>4</sup>	15	15
Russia	15	15
Singapore	15	15
South Africa	12	15
Sudan	20	10/3 <sup>5</sup>
Sweden	15	14
Switzerland	15	12.5
Syria	15	20
Tunisia	10	15
Turkey	10	10
Ukraine	12	12
United Arab Emirates	10	10
United Kingdom	15	15
United States	15	15
Yemen	10	10
Yugoslavia <sup>6</sup>	15	15

**NOTES:**

- 1 According to domestic law in each country.
- 2 A final draft of a new tax treaty with Finland was initialled on 17 September 1997, but the new treaty has not yet been ratified.
- 3 The higher rate applies to trademarks.
- 4 The treaty with Romania is being renegotiated.
- 5 Films, otherwise 10%.
- 6 The treaty with Yugoslavia applies to the republics that formerly comprised Yugoslavia.

## THE GAMBIA

**CURRENCY:** Gambian Dalasi (GMD)

**POPULATION:** 1.93 million

**GDP GROWTH:** 7%

**GDP:** US\$ 1 billion



### A. TAX PAYABLE

#### COMPANY TAX

Corporation tax is payable based on the higher of 31% of chargeable profit or 1.5% of total revenue for the tax year. This implies that even if a company has an adjusted tax loss figure for any particular year, it will still be liable to tax. Note that if for any reason a company is not audited, tax on its total revenue will be 2.5% and not 1.5%.

Income tax is payable in quarterly instalments i.e. the three months period ending on the last day of the third, sixth, ninth and twelfth months of the tax year. This instalment is based on 1.5% of total revenue for a company with audited accounts or 2.5% for a company without audited accounts and is due by the 15<sup>th</sup> of the following month, failing which a penalty equal to 5% of the unpaid tax per month can be applied. Advance payments during the tax year are credited against income tax assessed.

Corporate Income Tax Return form is mandatory for all taxable entities and is expected to be submitted by 31 March of the year following that to which it relates. The form is used to determine annual tax liability.

#### CAPITAL GAINS TAX (CGT)

CGT is payable on the disposal of a capital asset.

In the case of a partnership, company or trustee, tax is paid on the greater of:

- (i) 25% of the capital gain arising on disposal or
- (ii) 10% of the consideration received for the disposal.

In the case of an individual, body of persons or trustee of a deceased estate:

- (i) 15% of the capital gain arising on percentage of the disposal or
- (ii) 5% of the consideration received on disposal.

Capital gains tax is exempt on the disposal of agricultural land, private residence and if the gain does not exceed GMD 7,500.

#### BRANCH PROFITS TAX

A branch's profit is taxed at the higher of the two 31% on profit or 1.5% of total revenue as the branch is considered as a permanent establishment meaning a resident company.



## VALUE ADDED TAX

Value Added Tax (VAT) is payable on:

- (a) a taxable supply made in The Gambia
- (b) a taxable import of goods
- (c) a taxable supply of imported services.

## REGISTRATION REQUIREMENTS

- A person is required to register for VAT at the end of any 12 month or shorter period if, during the period, the total value of supplies of goods or services made by the person equals or exceeds one million dalasis (GMD).
- A person is required to register for VAT at the beginning of any 12-month period if there are reasonable grounds to expect that the total value of supplies of goods or services to be made by the person during that period will equal or exceed one million dalasis (GMD).
- A person who is not required to register for VAT is permitted to register within six months of the end of a 12-month or shorter period in which the total value of supplies made by the person exceeded five hundred thousand dalasis (GMD).

VAT is payable on a taxable supply of goods made in the Gambia. In the case of certain taxable supplies of goods the rate is 0% and in any other case, the rate is 15%.

A registered person shall provide a VAT return for each tax period within 15 days after the end of the period, whether or not tax is payable for the tax period.

## AIR TRANSPORT TAX

Air Transport Tax is applicable to all Airlines and Travel Agencies and came into effect on the 1<sup>st</sup> January 2014. All air ticket sales for flights originating from The Gambia attract a 15% Air Transport Tax.

The tax is due on or before the 15<sup>th</sup> of the following month. A standard form for submission is prescribed by GRA.

## FRINGE BENEFITS TAX

Fringe benefits are specific and direct payments of expenditure for and on behalf of an employee, in addition to his /her salary. The tax levied is at a rate of 35% on the grossed-up taxable value of each benefit provided and is payable by the organisation that provides the benefit to the employee. The total amount of fringe benefit plus tax thereon is an allowable deduction for the purposes of corporate tax calculation

## LOCAL TAXES

**National Educational Levy:** If the total income of a taxable entity exceeds GMD 5 million per annum the levy applied is GMD 50,000 and if below GMD 5 million, a rate of GMD 30,000 is applied.

**Expatriate Tax:** An annual payment of GMD 40,000 is payable for each employee with citizenship from any country outside the West African region but for employees from West Africa, the rate is GMD 10,000.

**Business Registration:** An annual payment of GMD 1,000 should be made by all businesses at the start of the year.

**Stamp Duty:** The duty is levied on juristic acts resulting in a flow of wealth between the parties involved. Thus, stamp tax is applicable inter alia to acts whereby transactions on Real Estate or financial obligations are documented. Rates vary according to the type of transaction involved.

**Customs & Excise Duties:** This is applied on the importation or exportation of certain goods.

## **OTHER TAXES**

**Residential Rent Tax:** Tax is imposed for each tax year on a person who has a taxable rental amount at a rate of 10% per annum.

## **B. DETERMINATION OF TAXABLE INCOME**

The calculation of taxable income is arrived at by adjusting the accounting profits/losses for non-taxed income and disallowed expenses.

## **CAPITAL ALLOWANCES**

The following annual rates are applied against the written down value of assets:

### **ANNUAL ALLOWANCE:**

Building	5%
Motor Vehicle	40%
Plant and machinery	20%
Plant and machinery used in manufacturing, mining	30%
Office furniture and equipment	20%

### **INITIAL ALLOWANCE**

Initial allowance is applied at 20% of the cost of the asset or 10% for buildings, structures or works of permanent nature.

Initial and annual allowance cannot be granted on the same asset in the same year. Therefore, annual allowance is not granted in the year a fixed asset is first put to use only initial allowance is granted.

## **INTANGIBLE ASSETS**

An amortization deduction is allowed. The deduction is computed by using the cost of the asset divided by the useful life of the intangible asset in whole years.

## **DEPRECIATION**

No deduction is allowed in the tax computation but rather capital allowances are allowed.

## **STOCK/ INVENTORY**

A deduction is allowed for the cost of stock in trade disposed of in a tax year in

deriving the chargeable income.

### **CAPITAL GAINS AND LOSSES**

If the consideration received exceeds the written down value of the asset, the excess is business income which has to be included in the person's income for that year and, if less, the difference is allowed as a deduction when computing the chargeable income for the year.

### **DIVIDEND**

Withholding tax on dividend is at a rate of 15%.

### **INTEREST DEDUCTION**

A deduction is allowed for any interest incurred in a tax year if the company used the proceeds or benefit of the debt on which the interest is payable. The interest not deducted can be carried forward for a period of six years.

### **LOSSES**

If a company has a business loss for the year, that amount is carried forward to the following year and allowed as a deduction in computing the chargeable income for that year. Losses can only be carried forward for six years after the tax year in which the loss is incurred.

### **FOREIGN SOURCED INCOME**

A foreign sourced income received by a resident company is exempt from income tax. If foreign income tax has been paid, a tax credit is allowed.

### **INCENTIVES**

Expenditure on certain pre-commencement expenditure qualifies for accelerated deductions. A deduction is allowed in the tax year which the expenditure is incurred and in the following three years at a rate of 25% each year.

### **OTHER**

#### **BAD DEBTS**

A deduction is allowed for a debt written off if certain conditions are satisfied.

### **LOSS RESERVE OF BANKS**

A bank is allowed a deduction for the addition to its provision for doubtful debts in a tax year provided the addition has been determined in accordance with the prudential requirements specified by the Central Bank of The Gambia. The amount allowed as a deduction for a tax year shall not exceed a half of one percent of the total outstanding debt claims of the bank as at the end of the tax year.

Granting of investment incentives and tax exemptions can only be obtained from the Gambia Investment and Export Promotion Agency (GIEPA).

## **C. FOREIGN TAX RELIEF**

The Government of The Gambia has a double taxation treaty with Norway, Sweden, Switzerland, Taiwan, the United Kingdom, Republic of China and Qatar.

If a resident person has a foreign tax loss for a tax year, the amount of the loss can be carried forward to the following tax year and allowed as a deduction against the person's foreign sourced business income. The loss can be carried forward for a period of six years.

## **D. CORPORATE GROUPS**

Tax on certain payments to non-resident persons does not apply if the conditions below are met:

- (i) If the holding giving rise to the dividend is connected with a permanent establishment in The Gambia of a non-resident company
- (ii) Any interest if the debt claim giving rise to the interest is connected with a permanent establishment in The Gambia of a non-resident company
- (iii) Any royalty if the property or right giving rise to the royalty is effectively connected with a permanent establishment in The Gambia of a non-resident company
- (iv) Any technical service fee if the services giving rise to the fee are rendered through a permanent establishment in The Gambia of a non-resident company.

## **F. WITHHOLDING TAX**

A person who retains the services of a contractor or subcontractor to carry out work or supply labour or materials for the carrying out of work shall withhold tax at the rate of 10% of the gross fees.

A company or partnership paying dividend to a resident individual shall withhold tax at the rate of 15%.

A 15% withholding tax shall be withheld on interest paid to resident companies but it does not apply to interest paid to financial institutions.

## **G. EXCHANGE CONTROL**

There are no exchange controls in place.

## **H. PERSONAL TAX**

Tax is payable on the gross employment income of an employee monthly. Tax is computed using the following rates;

<b>Income range per annum</b>	<b>Tax rate</b>
0 to GMD18,000	0%
GMD 18,001 to GMD 28,000	5%
GMD 28,001 to GMD 38,000	10%
GMD 38,001 to GMD 48,000	15%
GMD 48,001 to GMD 58,000	20%
Above GMD 58,000	30%

**GHANA****CURRENCY:** Ghanaian Cedi (GHS)**POPULATION:** 26.90 million**GDP GROWTH:** 4.7%**GDP:** US\$ 32.6 billion**A. TAXES PAYABLE**

National taxes and levies apply in all ten regions of the country.

In Ghana direct taxes are administered through the Internal Revenue Act 2000 (Act 592) and the Internal Revenue Regulations, 2001 (L. I. 1675). Indirect taxes are administered through the Value Added Tax Act, 2013 (Act 870), the Value Added Tax Regulations 1998 (L.I.1646) and Customs Excise and Preventive Service (Management) Law, 1993 (Law No. 330).

The only notable national levies in the country are:

**a. The National Health Insurance Levy** of 2.5% imposed on certain goods and services. The National Health Insurance Levy is administered on the lines of Value Added Tax.

**b. NATIONAL FISCAL STABILISATION LEVY (NFSL)**

The NFSL was introduced in 2009 but was abolished in January 2012. It has been reintroduced by ACT 862, effective 30<sup>TH</sup> September 2013. The rate of levy is 5% on the profits before tax, payable on quarterly basis and covers the following entities:

- i. Banks (excluding Rural and Community banks)
- ii. Non-Bank Financial Institutions
- iii. Insurance Companies
- iv. Telecommunication companies liable to collect and pay Communication Service Tax under Act 754 of 2008
- v. Breweries
- vi. Inspection and Valuation Companies
- vii. Shipping lines, Maritime and Airport Terminals
- viii. The levy is collected upfront by the Ghana Revenue Authority.

It is not an allowable deduction for the purpose of ascertaining the chargeable income of an entity under the Internal Revenue Act, 2000, ACT 592 as amended

**c. A Special Import Levy** of 1.2% was extended in 2015 to end in 2017

Taxes consist of income taxes, sales and service taxes administered by the Domestic Tax Revenue Division (DTRD) of the Ghana Revenue Authority (GRA) and customs and excise duties administered by the Customs Division (CD) of the GRA.

**COMPANY TAX**

Unless specifically exempted in the law, resident companies resident are required to pay tax on income relating to business and investment derived from, accrued in,

brought into or received in Ghana after the necessary adjustment are made. The rate of tax is generally 25%.

Non-resident companies are liable to tax on income relating to business and investments derived from or accruing in Ghana during any basis period ending within the year of assessment.

There are different rates applicable to certain companies (see 'Incentives' below).

From 2012, mining companies are to pay corporate tax at a rate of 35%.

The corporate entity is taxed separately from its shareholders.

All companies have to file returns four months after their accounting year. It is also required that they make quarterly tax payments on the current year's income based on the provisional assessment made by the DTRD or the company itself (where the DTRD has granted that permission).

## **CAPITAL GAINS TAX**

Businesses are required to pay tax on gains made on realization of chargeable assets. Chargeable assets include land (which is not for agriculture in Ghana), buildings, shares, goodwill and business assets, among others.

Chargeable assets do not include trading stock, securities of a company listed on the Ghana Stock Exchange during the first 15 years of the establishment of the Stock Exchange or Classes 1, 2, 3 and 4 assets (e.g. vehicles, plant and machinery, air and sea transport, computers, etc).

## **EXEMPTIONS**

The following exemptions apply:

- (1) Gains derived from mergers, amalgamations or re-organization of the company where there is continuity of underlying ownership in the asset of at least 25%
- (2) Capital gains of up to Gh¢ 50.00
- (3) Where the person uses up the amount received to acquire a replacement asset within one year
- (4) Transfer of ownership of an asset to a former spouse in divorce settlement or genuine separation
- (5) Transfer of asset to spouse or certain relatives.

The capital gain is calculated as the excess of consideration received from the realization over the cost base of the asset at the time of realization. The tax is imposed at the rate of 15%.

Attention is now devoted to appreciation in owner capital arising from changes in ownership structure through takeover and acquisition.

## **BRANCH PROFIT TAX**

A branch of any foreign company doing business in Ghana is taxed at 10% on repatriated funds.

## **SALES TAX/ VALUE ADDED TAX (VAT)**

These are indirect taxes paid by consumers on some goods and services to the state through registered individuals or businesses. The rate is 15% for businesses and individuals whose turnover for a 12 month period is Gh¢120,000 or above on the value of goods and services. This excludes the National Health Insurance Levy of 2.5%.

A new law Act 870 has replaced the Value Added Tax Act, 546 bringing into effect the following:

### **VAT RATE**

All persons registered for the Value Added Tax (VAT) and are currently operating the standard rate scheme are required to charge and account for VAT and the National Health Insurance Levy (NHIL) simultaneously at the rates of 15% and 2.5% respectively of the taxable value of their supplies. This in effect amounts to a total charge of 17.5% of the taxable value of the supply.

### **CREDIT FOR DEDUCTIBLE INPUT TAX**

By the provisions of the VAT Act 2013, (Act 870), allowable period for deducting input tax has been reduced from three (3) years to six (6) months.

Accordingly all registered persons who are in possession of valid VAT/NHIL invoices for input tax claims which are more than six (6) months (i.e. before 31<sup>st</sup> July 2013) are to claim them on the December 2013 returns. This must be submitted not later than the last working day of January 2014 (i.e. 31<sup>st</sup> January 2014).

### **SCOPE AND COVERAGE OF THE VALUE ADDED TAX**

The Value Added Tax 2013, (Act 870) extends the coverage of the tax to some business activities which were hitherto outside the tax net. These include the following business activities;

- i) The sale of immovable property by an estate developer at a flat rate of 5%.  
("Estate developer" means a commercial establishment engaged in the business of the construction and sale of immovable property)
- ii) The supply of financial services that are rendered for a fee, commission or a similar charge.

"Financial services" means provision of insurance; issue, transfer, receipt of, or dealing with money whether in domestic or foreign currency or any note or order of payment of money; provision of credit; or operation of a bank account or an account of a similar institution.

Life insurance and reinsurance services are however exempt from the tax whether or not such services are rendered for a fee, commission or a similar charge

- iii) A supply of domestic transportation of passengers by air; and the supply of haulage as well as the rental or hiring of passenger and other vehicles.
- iv) The business activities of auctioneers and promoters of public entertainment
- v) The business of gymnasium and spa
- vi) The manufacture or supply of pharmaceuticals listed under Chapter 30 of the Harmonized Systems Commodities Classification Code, 1999 other than supplies at the retail stage.

### **THRESHOLD**

The current threshold for registration of VAT is GH¢120,000 for a 12 month period or GH¢30,000 for a period of 3 months.

However the following entities are not bound by the threshold and are required to apply for registration upon operation:

- promoters of public entertainment

- an auctioneer
- a national, regional, local or other authority or body

## **TAXPAYERS REGISTERED UNDER THE VAT FLAT RATE SCHEME**

All persons registered for VAT/NHIL and are authorized to operate under the VAT Flat Rate Scheme (VFRS) are required to continue to charge and account for the tax at the rate of 3% of the taxable value of their supplies until otherwise advised by the Commissioner-General in writing. Such registered persons are to issue the VFRS VAT/ NHIL invoices.

Exempt supplies include postal services, transportation, machinery, electricity, water and transfer of going concern.

The following changes were made in 2015

- a Special Petroleum Tax (VAT) of 17.5%
- a reversal of excise tax on petroleum from Ad Valorem to Specific

Businesses and individuals whose turnover for a 12 month period falls below GH¢120,000 are to pay a presumptive tax of 6% of their turnover. (No input or output VAT is computed.) There are exemptions specified in the VAT law. Exempt supplies include agricultural products and inputs, printed matter, approved medical and pharmaceutical supplies, transport, financial services, land, building and construction.

Imports are taxable. Exports are zero rated.

Under Excise Duty, the rate for Environmental Tax has been reduced from 20% to 15%.

Also excise duty rates are to be reduced on a sliding scale to companies using local raw materials as substitutes in the production of excisable goods.

## **FRINGE BENEFIT TAX**

With the exception of dental, medical, and health insurance expenses, all fringe benefits derived from employment are taxable. Benefits relating to accommodation and cars have their own treatment specified in the Tax Law. For all other benefits, the open market value or a reasonable value is added to taxable income and subject to tax. For some services provided to its employees (e.g. food offered in a canteen, office outings, transportation of employees, accident insurances and payments to retirement funds), the employer has the option to pay the income tax on account for the employee.

## **LOCAL TAXES**

Taxes are collected by the District, Municipal and Metropolitan Assemblies (authorities) from persons doing business within their localities. They also are responsible for the collection of property taxes.

## **OTHER TAXES**

### **GIFT TAX**

Subject to certain exemptions, gift tax is payable by every person on the total value of taxable gifts received by the person by way of gifts within a year of assessment. The rate is 15%.



## **STAMP DUTY**

Stamp duty is paid at various rates by a person who undertakes certain transactions including the following:

- (a) Conveyance or transfer on the sale of any property
- (b) Appointment of a new trustee
- (c) Natural resource lease or license (e.g. mining and timber)
- (d) Agreement or memorandum of agreement
- (e) Award of cost in a matter of dispute
- (f) Bill of exchange (e.g. issue of cheques)
- (g) Bill of lading
- (h) Insurance policy.

## **MINERAL ROYALTIES**

Holders of mining leases are required to pay royalties at specified rates to the Government on a monthly basis.

## **COMMUNICATION SERVICE TAX**

Tax on communication service providers is based on turnover. The coverage of this tax has been extended to include the following:

Public/corporate data operators  
Providers of radio(FM) broadcasting services  
Providers of free-to-air television services.

## **TAX STAMP**

This a tax imposed on operators in the informal sector. The amount paid is based on turnover and nature of product but not on profit.

## **VEHICLE INCOME TAX**

This is a tax imposed on commercial vehicles which is paid quarterly.

## **AIRPORT TAX**

This is imposed on both domestic and international travels. It varies depending on the passenger class and the place of destination.

The current rates are:

Domestic travel \$5

Regional travel within West Africa \$60

International travel

a) Economy class travel outside West Africa \$100

b) Business class travel outside West Africa \$150

c) First class travel outside West Africa \$200

## **WINDFALL TAX**

Windfall Profit Tax Bill at 10% was to be re-introduced after a committee had reviewed all Stability Agreements, incentives and the Windfall Profit Tax that could not be passed by Parliament in 2012.

The Windfall Profit Tax intends to apply a tax at the rate of 10% on windfall gains of mining entities in Ghana.

Indications as at 25<sup>th</sup> January 2014 are that the Government intends to abandon the bill due to concerns from the mining companies to lay off workers if the bill is passed as law.

## B. DETERMINATION OF TAXABLE INCOME

Chargeable income of a person is defined in the Internal Revenue Act 2000 (Act 592) as:

"the total of a person's assessable income, from each business, employment, and investment, less the total amount of deductions allowed to that person for the year under sections 13 to 22 (relating to general and specific deductions), s 39 (relating to reliefs), s 57 (relating to life insurance), and s 60 (relating to contributions to retirement funds).

### CAPITAL ALLOWANCES

Capital allowances are granted in respect of fixed assets (depreciable assets), both tangible and intangible, acquired by persons in businesses for each year of assessment. To qualify for these allowances, however, the following conditions must be met:

- the assets should be capital in nature
- the asset should be owned by the business
- the asset should be in the business up to the end of the year
- the asset should be used in carrying on business during the period
- the Commissioner General of GRA should be informed of any new asset acquired one month after its usage in the business.

Depreciable assets are categorized into six classes.

Classes (Pools) 1–4 assets are put in different pools and depreciated at various rates ranging from 20% to 40% on reducing- balance method.

Class 5 (buildings) attract a rate of 10% on cost and Class 6 (intellectual or industrial property) is depreciated over its estimated useful life.

### CLASS ASSETS RATE

1	Computers and data handling equipment	40%
2	Automobiles, plant and machinery used in manufacturing	30%
3	Assets in respect of long term crop planting costs	30%
4	Assets relating to minerals and petroleum Industry	20%
5	Rail, water and air transport, plant and machinery, fixtures, furniture and equipment, and any other asset not included in any other class.	20%
6	Buildings, structures and works of permanent nature other than those in Class 3	10% (straight line)
7	Intangible assets other than those in Class 3	Estimated use life

## **DISPOSAL**

When an asset belonging to Classes 1 to 4 is disposed, the realized value is taken out of the class it came from before the rate of capital allowance is applied on the residue. Where the sale of an asset leads to the wiping off of the written-down value of the pool but there is still an excess of the disposal proceeds, the excess is included in the income of the year and taxed. Where all assets in a pool are disposed of but there are not enough proceeds to take care of the written down value, capital allowance is granted on the outstanding written down value to reduce the pool to zero at the end of the year.

In case of Classes 5 and 6 assets, a different method is adopted. This method ensures that businesses recover cost in the case of a loss on disposal and are also not overly taxed in the case of gains.

## **CAPITAL ALLOWANCE ON LEASED ASSETS**

The lessee of an asset, whether under finance or operating lease, is not entitled to any capital allowance on the asset. The rental payments made to the lessor are treated as allowable expense for tax purposes.

In the case of the lessor, capital allowance is claimed under an operating lease. The full amount of rent received is included in the lessor's income for the year. Where the arrangement is a finance lease, the lessor does not qualify for capital allowance. The amount of rent payment included in taxable income for the year is reduced by capital amounts determined by the Commissioner.

## **DEPRECIATION**

Depreciation of any fixed asset is not an allowable deduction in arriving at the assessable income. This is compensated for by the granting of capital allowance.

## **STOCK/INVENTORY**

For the purpose of tax, stock and work in progress is valued at the lower of cost or market value. However, any method of stock valuation accepted by an accounting principle that is consistently applied is acceptable.

## **CAPITAL GAINS AND LOSSES**

Gains or Losses on disposal of assets, as reported in the financial statements, are not taxable or allowable respectively. Gains are deducted from profits and losses added to profits. This is in line with the Internal Revenue Act, 2000 (Act 592) law that does not recognize depreciation policies set out by businesses. The pool system adopted by the Ghana Revenue Authority (GRA) for capital allowance purposes makes it almost impossible to ascertain whether a loss or gain was made on the disposal of a particular asset.

However, there are adequate provisions for recovery of full cost of fixed assets disposed of (refer to disposal of fixed assets under 'Capital allowance'). Classes 1 to 4 assets do not attract capital gains tax on disposal. Assets disposed of are subject to VAT.

## **DIVIDENDS**

A tax is paid by a resident or non-resident person or partnership who or which is paid a dividend by a resident company, other than exempt dividends, at 8%. A capitalization of profit is treated as dividend paid to each of the company's shareholders in proportion to their respective interest in the company and is taxed at 8%.

Where a company (controlled by not more than five persons) records profit over a reasonable period but does not declare dividends, the Commissioner has the authority to treat part of the company income as distributed and demand tax on dividends.

## **EXEMPTION**

Dividends paid by a resident company to another resident company where the recipient company controls directly or indirectly 25% of the voting power of the company paying the dividend are exempt. This exemption does not apply if the dividend paid is intended as a profit or dividend stripping arrangement.

## **INTEREST DEDUCTIONS**

Interest incurred in respect of a borrowing employed by a business entity in the production of income is a deduction allowed for the purpose of ascertaining the assessable income of the person.

## **LOSSES**

Tax losses are arrived at after adjusting losses reported in financial statements in line with tax principles. Manufacturing industries which export their products and farming and mining concerns are allowed to deduct the losses over a five-year period subsequent to the year in which the loss was incurred.

## **FOREIGN CURRENCY EXCHANGE LOSSES**

Any foreign currency exchange loss, other than a loss of capital nature, in respect of any debt claim, debt obligation, or foreign currency holding, incurred for the purpose of producing an income is an allowable deduction but subject to the fulfillment of certain conditions.

## **FOREIGN SOURCED INCOME**

Foreign sourced income brought into or received in Ghana by resident persons is included in that person's income for the year and taxed. However, the person is allowed the deduction of foreign tax credits or entitled to some reliefs where there is a double taxation agreement.

## **INCENTIVES**

There are a number of incentives provided in the Act 592 and other laws and enactments geared towards the development of certain sectors of industry and of certain parts of the country. These incentives include reduced rate of taxes, exemption from the payment of duties and other taxes for specified periods, higher rate of capital allowance, among others. These cannot be exhaustively dealt with but below are a few of such concessions granted.

### **1. CARRY OVER LOSSES**

This applies to businesses engaged in farming, manufacturing or mining (refer

to 'Losses' above), venture capital investment on losses incurred on the disposal of shares, agro-processing, tourism and ICT industries.

## 2. LOCATIONAL INCENTIVES FOR MANUFACTURING BUSINESS

Location within Accra and Tema	25%
Location in regional capitals of Ghana	18.75%
Location in free zone enclave	0%
Location elsewhere in Ghana	12.5%

## 3. LOCATIONAL INCENTIVES FOR AGRO-PROCESSING BUSINESS

Tax rates for manufacturing concerns vary depending upon the location of the business and are as follows:

Location within Accra and Tema	20%
Location in regional capitals of Ghana:	
- except the three northern regions	10%
- the three northern regions	0%
Outside Regional Capitals	0%

## 4. SECTORIAL INCENTIVES (REDUCED TAX RATES)

Tax rates vary depending upon the area (sector or industry) from which the income is derived from as shown below:

Hotel industry	20%
Export of non-traditional production	8%
Loans granted to a farming enterprise	20%
Loans granted to a leasing company	20%
Companies listed on the Ghana Stock Exchange	25%
Companies listed on the Ghana Stock Exchange after 1 January 2004 (for first three years)	22%

## 5. INDUSTRIAL CONCESSIONS (EXEMPTION PERIOD)

The income of a person from the following industry or sector of the economy is exempt from tax for the years stated against them:

Farming tree crops	10 years
Livestock	5 years
Farming cattle	10 years
Processing business	3 years
Rural banking	10 years
Construction for sale or letting of residential premises (on condition that the company partners the Ministry for Works and Housing)	5 years
Cocoa farming indefinitely	
Processing of cocoa by-products	5 years
Processing of waste materials	7 years

Agro-processing	5 years
Venture capital investments (effective 2006).	5 years

## C. FOREIGN TAX RELIEF

Foreign tax credits are available to relieve double taxation on overseas income. Credits are calculated separately for each source of business, employment and investment income and may not exceed the average rate of Ghanaian income tax of that person for the year of assessment applied to that person's taxable foreign income for the year.

## D. CORPORATE GROUPS

Corporate groups, irrespective of their affiliations, prepare accounts separately and are taxed separately. Capital allowances are not transferable.

## E. RELATED PARTY TRANSACTIONS

Although nothing in the law disallows related party transactions, the Commissioner has authority to disregard or reverse any transaction that is geared towards tax avoidance.

## F. WITHHOLDING TAX

Tax is withheld at various rates for the following transactions:

Income (Residents)	Rate
Payment of employees	graduated
Directors' fees	20%
Payment of interest (excluding individuals)	8%
Fees to part-time lecturers, teachers, examiners, etc	10%
Payment of dividend to shareholders	8%
Commission to insurance and sales agents	10%
Commission to lottery agents and receivers	5%
Payment for goods and services supplied	5%
Rent (Residential)	8%
Rent (commercial)	15%

Income (Non-Residents)	Rate
Management and technical service fees	20%
Royalties, natural resource payments and rents	10%
Endorsement fees	15%
Dividends	8%
Repatriated branch after tax profits	8%
Interest	8%
Short-term insurance premium	5%

## **G. EXCHANGE CONTROL**

Ghana has an Exchange Control Act that regulates, among other things, the following:

- Use of foreign exchange among residents
- Trading in gold ( coins and/or bullion)
- Exports and import on bank notes
- Exports and export proceeds
- Capital and money market instruments.

The Bank of Ghana Regulations set a formula for calculating the amount of profits that a foreign company may repatriate to its home country at every point in time.

There are restrictions to the amount allowed to be repatriated determined by the Bank of Ghana under Act 723.

The restrictions relate to Sections 15,16,18,19 and 20 of Act 723 which among others require that each payment in foreign currency to or from Ghana between a resident and a non resident, or between non residents, shall be made through a bank. Where the Bank of Ghana has reason to believe that an offence in contravention of Act 723 is likely to be committed or has been committed, the Bank of Ghana may require a bank to obtain its permission prior to the execution of any payment in foreign currency. Sections of the Act are as follows.

Subject to the Foreign Exchange Act, 2006(Act 723) and the Regulations and Notices issued under the Foreign Exchange Act, an entity shall, through an authorized dealer bank be guaranteed unconditional transfer in freely convertible currency of the following:

- dividends or net profits attributable to the investment made in the entity
- payments in respect of loan servicing where a foreign loan has been obtained
- fees and charges in respect of a technology transfer agreement registered under the Ghana Investment Promotion Centre Act, 2013 (Act 865)
- the remittance of proceeds, net of all taxes and other obligations, in respect of sale or liquidation of the entity or any interest attributable to the investment in the entity.

## **H. PERSONAL TAX**

Individuals are required to pay tax on gains or profit from employment, business or investment. For a resident person, he or she is to pay tax on income accruing in, derived from, brought into, or received in Ghana. A non-resident person pays tax on income accruing in, and derived from Ghana regardless of whether the income is received in Ghana. An individual is considered resident if he or she has stayed in Ghana for an aggregate period of 183 days or more in any 12 month period. All income is aggregated and taxed after the various adjustments relating to the type of income earned are made. The aggregated income excludes capital gains, gifts and rent income.

The tax rates are graduated with rates ranging from 0% to 25%. Annual income up to Ghana Cedis 1,584 is taxed at 0%. Any income in excess of Ghana Cedis 31,680 is taxed at 25%.

Details of the annual rates are

Chargeable Income	Rate	Tax	Cumulative Income	Cumulative Tax
First GH¢ 1,584	0%	0.00	1,584	0.00
Next 792	5%	39.60	2,376	39.60
Next 1,104	10%	110.40	3,480	150
Next 28,200	17.5%	4,935	31,680	5,085
Next 31,680	25%			

The Monthly rates are

Chargeable Income	Rate	Tax	Cumulative Income	Cumulative Tax
First GH¢ 132	0%	0.00	132	0.00
Next 66	5%	3.30	198	3.30
Next 92	10%	9.2	290	12.50
Next 2,350	17.5%	411.25	2,640	423.75
Next 2,640	25%			

## I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

In the absence of any treaty with the Government of Ghana, the provisions of the income tax law applies for the treatment of all tax matters. Thus, tax rates applicable on various incomes apply. Where there is a treaty with the Government of Ghana, the terms of the treaty prevail over all provisions of the income tax law. However, where the rates of taxes set out in a treaty are higher than those of the laws of Ghana, the lower rates are used. Currently, notable double taxation treaties Ghana has are with the United Kingdom, France, Italy, South Africa, Belgium and Germany.

Tax Rates in percentages are as follows:

Income	Germany	South Africa	Belgium	Italy	Netherlands	United Kingdom	France	Switzerland
Technical/Management fees	8	10	10	10	8	10	10	8
Interest	8	10	10	10	8	12.5	10	10
Royalties	8	10	10	0	8	12.5	10	8
Dividends: at least 10% shares	5	5	5	5	5	7.5	7.5	5
Dividends: other cases	15	15	15	15	10	15	15	15



## **PENALTIES**

### **FILING OF RETURN OF INCOME**

Any company or a self-employed person who fails to provide a return of income to the DTRD within the time required is liable to pay a penalty as follows:

Company	Two (2) Currency Points for each day of default.
Self-employed	One (1) Currency Point for each day of default.

The penalties for failure to pay tax on due date are as follows.

- (a) up to three months – 10% of the unpaid tax
- (b) exceeding three months – 20% of the unpaid tax.

A further penalty 5% of the tax and penalty shall be imposed if the total amount remains unpaid.

The penalties for failure to withhold tax and/or failure to pay withheld tax are as follows:

- (a) Up to three months – 20% of the unpaid amount
- (b) Exceeding three months – 30% of the unpaid amount.

A further penalty of 5% of the tax plus penalty shall be imposed if the total amount remains unpaid.

### **PAYMENT OF TAX**

Income taxes are paid up front on a quarterly basis based on self assessment and assessments from the Commissioner General of the Ghana Revenue Authority.

**KENYA****CURRENCY:** Kenyan Shilling (KES)**POPULATION:** 46.72 million**GDP GROWTH:** 6.2%**GDP:** US\$ 70 billion**A. TAXES PAYABLE****COMPANY TAX**

Company tax is based on computed tax profits as follows:

Turnover tax:	3% of turnover (with effect from 1 January 2007 for turnover of up to KES 5,000,000)
Resident companies:	30%
Non-resident companies:	37.5%

**CAPITAL GAINS TAX**

Capital Gains Tax (CGT) was re-introduced effective 1<sup>st</sup> January 2015. The rate of tax is 5% of the net gain on the transfer of property. It is a final tax and cannot be offset against other income taxes.

**BRANCH PROFITS TAX**

Branch of a foreign entity pays tax at the rate of 37.5%.

**SALES TAXES/VALUE ADDED TAX (VAT)**

The VAT rates are 16% and 0%. Exports are zero rated. Some goods and services such as unprocessed agricultural products and financial services are exempt.

**FRINGE AND EMPLOYMENT BENEFITS TAX**

Generally, non-cash benefits are taxable on the higher of the cost incurred by the employer or the fair market value. The taxable value is added to the emoluments for tax purposes. Exempt if aggregate total does not exceed KES 36,000 per annum.

**MOTOR VEHICLES**

The benefit is the higher of 2% per month of the initial cost of the vehicle or the prescribed rates. For leased vehicles the benefit is the cost of leasing.

**HOUSING**

For non-executive directors the benefit is the higher of 15% of total income (emoluments - for a whole time service director), fair market rental value and rent paid. For agricultural employees it is 10% of emoluments. For other employees it is the higher of rent paid and 15% of emoluments.

**LOANS TO EMPLOYEES**

Loans to employees are taxed at a corporate tax rate on the difference between the

interest rate prescribed by the Commissioner and the actual interest rate paid by the employee.

### **OTHER BENEFITS**

The taxable benefit of furniture is 1% of cost per month, telephone is 30% of the cost per month, and employee share ownership plans (ESOPs) is the difference between the market price of shares and the offer price at the date the option is granted.

### **LOCAL TAXES**

Employment income is taxed on a withholding tax (WHT) basis known as Pay As You Earn (PAYE) at a graduating scale of 10% - 30%.

### **OTHER TAXES**

#### **LAND RATES**

Land rates are based on the percentage of the site value.

### **NATIONAL SOCIAL SECURITY FUND (NSSF)**

Contributions are set at the rate of a combined minimum of 12% of the pensionable earnings made up of equal contributions of 6% by the employee and employer. The contributions for the year 2014 have been set to an upper limit of KES 2,160 per employee earning above KES 18,000 per month. However, an employee earning below the Lower earnings limit of KES 6,000 will contribute up to a maximum of KES 720. Effective date for the new NSSF Act is yet to be set due to impending court case. The old NSSF contributions set at 10% of monthly income up to a maximum of KES 400 per month, half paid by the employer and the balance by the employee are currently being applied.

### **NATIONAL HOSPITAL INSURANCE FUND (NHIF)**

Payments are set at graduated scale rates starting at KES 30 per month to a maximum of KES 320 per month.

However, new rates are set to take effect as from 1<sup>st</sup> April 2015 where contributions will be subject to a minimum of KShs 150 and a maximum of KShs 1,700.

### **SINGLE BUSINESS PERMIT**

Depending on the type of business, this permit costs a minimum of KES 5, 000 to a maximum of KES 10,000.

## **B. DETERMINATION OF TAXABLE INCOME**

### **CAPITAL ALLOWANCES**

The rates for capital allowances are as follows:

<b>Wear and tear:</b>	<b>Rate</b>
Tractors/heavy vehicles	37.5%
Computers hardware, copiers, scanners	30%
Other motor vehicles, aircrafts	25%
Ships, plant, machinery, furniture and equipment	12.5%
Telecommunication equipment	20%

<b>Wear and tear:</b>	<b>Rate</b>
Computer software	20%
Loose tools and implements (straight-line)	33.3%
<b>Industrial building allowances:</b>	
Factories (2.5% up to 2009)	10% from 1 January 2010
Prescribed hotels-(up to 2006 was 4%)	10% from 1 January 2010
Prescribed low-cost residential housing developments	5%
Hostels or approved educational building-(from 2007 was 10%)	50% from 1 January 2010
Commercial Buildings	10% up to 31 December 2012
Commercial Buildings with services	25% from 1 January 2010
Residential Buildings with services	25% up to 31 December 2012
<b>Farm works</b>	100% from 1 January 2010
Investment deductions eligible for building and machinery for manufacture (from 2008)	100%
Investment deductions eligible for construction of a building or purchase and installation of machinery of 200m or over outside Nairobi, Mombasa & Kisumu	150%
Manufacturing under Bond – combined investment deduction	100%
Shipping investment deduction	40% of cost of ship
Purchase of filming equipment by licensed film producers	100%
<b>Mining allowance (on capital expenditure or mining)</b>	
Year 1	40%
Years 2–7	10%

## DEPRECIATION

This is an accounting expense which is not allowable for tax purposes but wear and tear allowances as shown above, are provided for in law.

## STOCK/INVENTORY

The cost of sales is deducted as allowable expenditure before arriving at the accounting profits. General provisions on slow moving stock and stock write offs may be allowable in arriving at the taxable profit based on certain established criterion.

## CAPITAL GAINS AND LOSSES

CGT has been reintroduced and is now taxable at a rate of 5% which is a final tax, effective 1<sup>st</sup> January 2015.

## **DIVIDENDS**

Dividends are taxed on a WHT basis which is final tax. Expenses are therefore not allowable on the dividends' income or any other income of the taxable person.

Dividends are tax-exempt for resident companies controlling more than 12.5% shareholding. Dividends received by financial institutions shall be deemed to be income chargeable to tax.

However, compensating tax (corporation tax) may arise if non-taxed income is distributed, e.g. capital gain or profits on capital allowances. This is arrived at through an annual Dividends Tax Account which captures the movement of dividends received and paid and takes into consideration taxes paid by the entity.

## **INTEREST DEDUCTIONS**

Interest incurred wholly and exclusively in the production of income is tax allowable. However, where a company is controlled by a non-resident person together with four or fewer resident persons, the interest deductibility is restricted only to the extent that the total indebtedness of the company does not exceed three times the paid-up share capital and revenue reserves or an amount of deemed interest (thinly capitalised).

The Commissioner of Income Tax is empowered to prescribe the form and manner in which deemed interest is to be computed. Realised foreign exchange losses are deferred as long as the company is thinly capitalised.

## **LOSSES**

Tax losses can be carried forward to be offset against future taxable income. However this is subject to a five year limit effective 1 January 2010.

The tax loss is only allowable on taxable income derived from the same specific source. These sources are:

- (a) income from renting or occupation of immovable property
- (b) income from employment
- (c) income from agriculture, horticulture, forestry, etc
- (d) income from withdrawals from a registered pension/provident fund by employer
- (e) business activities

Losses are, however, not transferable from one entity to another.

## **FOREIGN SOURCED INCOME**

Income that is not income accrued or derived from Kenya is not assessable in Kenya except:

- (a) employment income for an employee who at the time of employment was a resident person in respect of any employment by him outside or inside Kenya.
- (b) business activities carried out across borders; and
- (c) foreign bank branches' income on investments or trading abroad using locally generated income.

## **INCENTIVES**

Capital deductions are allowable and provided for on assets based on the asset classification.

A ten year tax holiday is available to certain designated enterprises that undertake activities consisting of the manufacture of goods for exports only (under the Export

Processing Zones). At the end of the tax holiday, a reduced rate of tax of 25% is available.

A lower rate of corporation tax at 27%, 25% and 20%, for the first 3-5 years for companies newly listed on a securities exchange, with at least 20%, 30% and 40% respectively, of the issued share capital listed.

Tax exemptions apply for organisations undertaking charitable, medical, alleviation of poverty, and religious activities.

## **C. FOREIGN TAX RELIEF**

Foreign tax relief is limited only to countries which have a Double Taxation Agreement with Kenya.

Kenya has Double Tax Agreements with the following countries:

UK,	Mauritius
India,	France
Germany,	East African Community
Zambia,	South Africa
Norway,	Denmark and Canada.
Sweden,	

## **D. CORPORATE GROUPS**

Generally for tax purposes, a corporation tax rate of 30% applies to all incorporated companies irrespective of groups in Kenya. The rate is 37.5% for non-resident companies.

## **E. RELATED PARTY TRANSACTIONS**

Related party transactions are allowable expenses if incurred wholly and exclusively in the production of income and taxed as income if earned or accrued in Kenya as business activities.

Companies which have related party transactions are required to prepare and document Transfer pricing Documentation, as per the Kenyan Transfer Pricing Rules effective 1 July 2006.

## F. WITHHOLDING TAX

The relevant rates are as follows:

	Resident	Non-Resident
Artists and entertainers	—	20%
Management fees	5%	20%
Professional fees	5%	20%
Training fees (inclusive of incidental costs)	5%	20%
Winnings from betting and gaming (w.e.f. 1 Jan 2014)	20%	20%
Royalties	5%	20%
Dividends (nil for resident shareholders with >12.5%)	5%	10%
Equipment (movable) Leasing	N/A	5%
Interest (bank)	15%	15%
Interest (Housing bond-HBI)	10%	15%
Interest Two-year government bearer bonds	15%	15%
Other bearer bonds interest	25%	25%
Rents - buildings (immovable)	N/A	30%
Rents- others (except aircraft)	N/A	15%
Pensions/provident schemes (withdrawal)	10-30%	5%
Insurance commissions	10%	20%
Consultancy and agency (from 1 July 2003)	5%	20%
Contractual (from 1 July 2003)	3%	20%
Telecommunication services/ Message transmission	—	5%
Natural Resource Income (w.e.f. 01/01/2015)	5%	20%

## G. EXCHANGE CONTROL

There are no foreign exchange controls applicable in Kenya at present, and foreign currency is freely transferable in Kenya.

The Proceeds of Crime and Anti-Money Laundering Act provides that any transaction which involves the movement of US\$10,000 or more must be supported by documentary proof of the reason of such a transfer.

## H. PERSONAL TAX

The tax rates are as follows:

Yearly income (KES)	Rate
0 to 121,968	10%
121,969 to 236,880	15%
236,881 to 351,792	20%
351,793 to 446,704	25%
Over 446,704	30%

## I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

The withholding tax rates are as follows:

	United Kingdom	Germany & Canada	Denmark, Norway, Sweden & Zambia	India
	(%)	(%)	(%)	(%)
Management and professional fees	12.5	15	20	17.5
Royalties	15	15	20	20
Dividends	10	10	10 (i)	10
Interest	15	15	15	15
Pension and retirement annuities	5	5	5	5
Entertainment and sporting events	20	20	20	20
Promoting entertainment or sporting events	20	20	20	20
Rent - immovable property	30	30	30	30
Rent - Other than immovable property	15	15	15	15
0% if dividend subject to tax in Zambia				



## LESOTHO

**CURRENCY:** Lesotho Loti (LSL)

**POPULATION:** 2.07 million

**GDP GROWTH:** 4.7%

**GDP:** US\$ 2.7 billion



### KEY TAX POINTS

- A company is liable to tax separately from its members, and dividends are only taxable if they are from unqualified income. A manufacturing Company is taxed at a special rate of 10% on profits whilst a non-manufacturing Company is taxed at a standard rate of 25% on profits.
- Capital gains and losses: A taxable gain or loss on disposal of an asset is the difference between its adjusted cost base and proceeds. No tax implication arises from the disposal of assets, such as a private residence or motor vehicle, provided they are not used in the production of income subject to tax.
- A branch of a non-resident company in Lesotho is subject to tax at the standard rate of tax of 25% on repatriated income in addition to income tax on the chargeable income of the branch.
- VAT is a broad based tax levied on the supply or consumption of goods or services including supplies to Government. It is also levied on imported goods and services. Only registered persons can operate VAT and registration may be on a compulsory, mandatory or voluntary basis. The VAT registration threshold is M 850,000. There are four rates of VAT; 0%, 5%, 14% and 15%.
- Fringe Benefits Tax (FBT) is imposed on employers who provide their employees with fringe benefits. The Income Tax Act specifically identifies certain fringe benefits, all other benefits fall under the definition of employment income hence taxable to employees.
- Lesotho is a member of the Southern African Customs Union (SACU) which links all members by a single tariff and no Customs Duty applies between them i.e. the SACU is treated as a single Customs territory.
- Taxable business income is determined after the off-set of allowable deductions such as capital allowances and business expenses and available tax losses.
- Personal tax is based on residency. An individual is a resident if they have a place of abode in Lesotho, are present in Lesotho for more than 182 days in any consecutive period of twelve months (which includes all or part of the year of assessment), are an official of the Lesotho Government posted overseas during the year of assessment or have a resident lifestyle.
- For a country with which Lesotho has concluded a double taxation agreement, dividend, interest, royalty and natural resource payments are subject to 25% withholding tax (a royalty on technology is subject to 15% withholding tax. Statutory withholding (non-treaty) tax rates range from 5% to 30%

### A. TAXES PAYABLE

The National government administers taxes through the Lesotho Revenue Authority

(LRA) and levies may be charged by both the National government and district councils.

## **COMPANY TAX**

A company is defined as a body corporate or unincorporated, whether created or recognized under the law in force in Lesotho or elsewhere, but does not include partnership or trust. A company is liable to tax separately from its members, and dividends are only taxable if they are from unqualified income.

A manufacturing Company is taxed at a special rate of 10% on profits whilst a non-manufacturing Company is taxed at a standard rate of 25% on profits.

## **CAPITAL GAINS TAX**

A taxable gain or loss on disposal of an asset is the difference between its adjusted cost base and proceeds (see below under 'capital gains and losses').

## **PERSONAL ASSETS**

No tax implication arises from the disposal of assets, such as a private residence or motor vehicle, provided they are not used in the production of income subject to tax.

## **SPECIAL SITUATIONS**

A number of special situations are identified in the Act in respect of which special rules apply.

### **1. Loss on Disposal to an Associate**

Where an asset is disposed of at a loss to an associate, the loss is not recognized for tax purposes. In such a situation, the asset is deemed to have been sold by the disposer and acquired by the buyer for its adjusted cost base at the date of disposal.

### **2. Asset Depreciation under the Pooling Method**

Gains and losses do not normally arise where assets are depreciated using the pooling method. However, there is a required treatment for three particular situations.

- Where, after disposal, there is a credit balance on the pool, then that credit balance is treated as a gain and forms part of Business Income.
- Where, after all the assets in a pool have been disposed of, a debit balance remains, then that debit balance is treated as a loss and is an allowable deduction against Business Income.
- Where the balance in a pool is less than M500 and there have been no additions to the pool during the year, then that balance is an allowable deduction against Business Income.

### **3. Transfer between Spouses and Former Spouses**

Where an asset is transferred between spouses or between former spouses as part of a divorce settlement, a taxable disposal has not arisen. In such cases the (former) spouse is deemed to have acquired the asset at its adjusted cost base to the other (former) spouse as at the date of transfer. Correspondingly, the (former) spouse transferring the asset is deemed to have

disposed of it for its adjusted cost base at the date of transfer.

#### **4. Involuntary Conversion and Re-investment**

Special treatment is available for situations when an asset is involuntarily disposed of and a similar asset is acquired. Such situations cover, for example, compensation under an insurance policy for the destruction of an asset or a payment for the compulsory acquisition of an asset.

If the proceeds are less than the adjusted cost base, then the loss is allowable. The new asset is deemed to have been acquired at its actual cost. Please note:

- If the full amount of the proceeds is re-invested in a new asset, no chargeable gain arises and the new asset is deemed to have been acquired for the adjusted cost base of the asset disposed of.
- If the full amount of the proceeds is not re-invested in a similar asset then the un-invested proceeds to the extent that they form part of any gain are taxable. The newly acquired asset is deemed to have been acquired at the adjusted cost base of the asset disposed of.

#### **5. Transfer of Assets on Death**

Where an asset is transferred to a personal representative or beneficiary on the death of a taxpayer a disposal for tax purposes is not deemed to have arisen. In such a situation, the personal representative or beneficiary is deemed to have acquired the asset for its market value at the date of death or its adjusted cost at the date of death if that is higher.

#### **6. Contribution of Asset to Partnership**

Where a taxpayer transfers an asset to a partnership a part of the contribution of capital to the partnership and the taxpayer's interest in the partnership exceeds 50% after the contribution of the asset then no gain or loss is deemed to have arisen on the disposal of the asset. The taxpayer is deemed to have disposed of the asset for its adjusted cost base at the date of transfer and the partnership is deemed to have acquired it for that amount.

### **BRANCH PROFITS TAX**

A branch of a non-resident company in Lesotho is subject to tax at the standard rate of tax of 25% on repatriated income in addition to income tax on the chargeable income of the branch.

Repatriated income is the chargeable income of the branch minus:

Lesotho income tax paid on that chargeable income;

Any profits reinvested in the branch; and,

And every repatriation of moneys by the branch is treated for tax purposes as having been made first out of the branch income, notwithstanding that it may be treated otherwise in the records of the branch.

### **VALUE ADDED TAX (VAT)**

Prior to July 2003, a Sales Tax was in operation and this contributed to the Government Budget until 30 June 2003. From 1 July 2003 the Sales Tax ceased and

was replaced by Value Added Tax (VAT) in accordance with the VAT Act (passed by Parliament in 2001).

VAT is a broad based tax levied on the supply or consumption of goods or services including supplies to Government. It is also levied on imported goods and services and referred to as a 'destination based tax' because it is levied at the place where the consumption of service occurs.

Supplies subject to VAT must be made by a registered vendor and they must not be an exempt supply i.e. a small businesses not registered for VAT cannot levy VAT on supplies to the final consumer.

Only VAT registered persons can operate VAT i.e. charge VAT on their sales invoices. Registration for VAT purposes can either be on a compulsory, mandatory or voluntary basis. The VAT registration threshold is M 850,000.

- (1) Compulsory VAT registration is required within 14 days where a person conducts business in Lesotho and it is clear that within a 12 month period their turnover of taxable supplies will exceed M 850,000. In saying this however, the following persons are required to register for VAT purposes, regardless of the threshold:
  - a) National, regional or public authorities who carry on enterprises;
  - b) Auctioneers; and,
  - c) Persons carrying on an enterprise outside Lesotho whose goods or services are consumed in Lesotho.
- (2) Mandatory Registration: The Commissioner of VAT can direct a person to register for VAT when their turnover exceeds the registration threshold i.e. it is mandatory for them to register because the annual turnover is the determining factor.
- (3) Voluntary Registration: VAT registration can be applied for where the turnover is less than the registration threshold. The Commissioner of VAT can approve such a registration at his discretion. Entrepreneurs often opt to voluntarily register for VAT purposes in order to recover input VAT paid on purchases.

Suppliers of exempt services such as banking services, educational services, etc. cannot register for VAT even if the annual turnover exceeds the threshold. If the supplier provides both the exempt and taxable services, the Commissioner will consider the taxable supplies.

The VAT tax period is one month. VAT is payable or claimable on or within twenty days after the end of the month.

There are four VAT rates in Lesotho:

- a) 0% for exports of goods and services and on maize meal, maize (grain), bread, milk, beans, peas, agricultural inputs (fertilizers, seeds and livestock feed, unmalted sorghum), hens eggs and paraffin intended for use as fuel for cooking, illuminating or heating;
- b) 5%: utilities e.g. telephone and electricity services;

- c) 14%: other supplies of goods and services e.g. groceries; and,
- d) 15%: alcohol and tobacco products.

VAT may be accounted for on either an accrual (or invoice) basis or a cash (payment) basis.

Restrictions to claim input VAT apply to:

- a) Expenses for private use;
- b) Expenses incurred prior to two months before registering for VAT;
- c) Vendor on cash basis but who has not paid the expense;
- d) Entertainment of customers and clients in restaurants, theatres and night clubs;
- e) Staff refreshments such as coffee, tea and other snacks;
- f) Catering services acquired for staff canteens and dining room;
- g) Subscription fees for sporting or recreational clubs;
- h) Christmas lunches and parties, including hire of venues;
- i) Beverages, meals and other hospitality and entertainment supplied to customers and clients at product launches and other promotional events and etc.

By way of exception to the above, the input tax incurred in relation to vendors who are in the business of supplying entertainment and meals and refreshments for organizers of seminars and similar events may however be claimed.

### Penalties for non-compliance and fraud:

There are two types of additional tax or fines for failing to a return or to pay by due date as well as acts of fraud. There are fines which are imposed by Commissioner of Vat and those imposed by courts. Some penalties for non-compliance and fraud are shown below:

Infringement	Penalty / Additional tax
1. Late submission of a return	Additional tax of 3% per month or part thereof of the VAT payable
2. Late payment of VAT	Additional tax of 3% per month or part thereof of the outstanding VAT amount
3. Failure to file a return or pay	An offence which is liable on conviction to a fine
4. Incorrect or false return or other declaration	Criminal offence which is liable on conviction to a fine or up to 2 years in prison
5. Fraudulent evasion	Criminal offence which is liable on conviction to a heavy fine or up to six years in prison

### FRINGE BENEFITS TAX

Fringe Benefits Tax (FBT) is imposed on employers who provide their employees with fringe benefits. The Income Tax Act specifically identifies fringe benefits as; car, housing, utilities, domestic assistance, meal or refreshment, medical, loan, debt waiver and excessive superannuation contributions. All other benefits will then fall under the definition of employment income hence taxable to employees.

Certain benefits provided by an employer are however exempt, such as:

- a) Meals or refreshments provided in a canteen, cafeteria, or dining room operated by or on behalf of the employer solely for the benefit of the employees and which is available to all non-casual employees on equal terms.
- b) Medical fringe benefit available to all non-casual employees on equal terms.
- c) A fringe benefit relating to exempt employment income.
- d) A fringe benefit, the value of which is so small as to make accounting for it unreasonable or administratively impractical.
- e) Provision of a security guard
- f) Housing fringe benefit to the extent it is in excess of 20% of an employee's remuneration for the year of assessment in which the benefit is provided.
- g) Fringe benefits provided to a domestic assistant.

For the purpose of meals and refreshments and medical fringe benefits, a non-casual employee is defined as an employee who does not meet any of the following two conditions:

- a) An employee who is employed under a single contract, arrangement or understanding which is for a fixed period of less than one month. However, if the contract is subsequently renewed, such that one has been employed for more than one month from the commencement of the original contract, that person is a non-casual employee; or,
- b) An employee who works for less than 15 hours per week over the course of a month.

The total of all taxable values provided to an employee in the year of assessment is divided by 65% to gross it up to a taxable amount. FBT is 35% of the taxable amount and is an allowable deduction to the employer.

Employers are required to make returns and payments of FBT within 14 days after every quarter.

## **LOCAL TAXES**

Local taxes In Lesotho are sometimes referred to as domestic taxes. These include VAT already mentioned above, Pay-As-You-Earn (PAYE) and Corporate tax (CIT). PAYE is charged on employment income and CIT is charged on company profits

## **OTHER TAXES – CUSTOMS DUTY**

The Southern African Customs Union (SACU) consists of Botswana, Lesotho, Namibia, South Africa, and Swaziland. The SACU Secretariat is located in Windhoek, Namibia. SACU was established in 1910, making it the world's oldest Customs Union. Negotiations to reform the 1969 Agreement started in 1994, and a new agreement was signed in 2002. The new arrangement was ratified by SACU Heads of State.

The Economic structure of the Union links the Member states by a single tariff and no Customs Duties between them. The Member States form a single Customs territory in which tariffs and other barriers are eliminated on substantially all the trade between the Member States for products originating in these countries; and there is a common external tariff that applies to non-members of SACU.

This is shared according to the revenue sharing ratio.

## INTEREST RECEIVABLE

Interest payable to a resident of Lesotho by a resident of Lesotho, other than an individual, is subject to a withholding tax of 10%.

## B. DETERMINATION OF TAXABLE INCOME

### CAPITAL ALLOWANCES

Tax depreciation can be claimed on the capital cost of premises (normally limited to industrial premises) and equipment including those for non-subsistence farming. The two methods of claiming tax depreciation (capital allowances) are the Single Asset Method or the Pooling Method.

Declining Balance Depreciation Rates:

Group	Assets	Rate
1	Automobiles; Taxis; Light General Purpose Trucks; Tractors for use Over-the-road; Special Tools and Devices	25%
2	Office furniture; Fixtures, and Equipment Computers and Peripheral Equipment and Data Handling Equipment; Buses; Heavy General Purpose Trucks; Trailers and Trailer Mounted Containers; Construction Equipment	20%
3	Any depreciable asset not included in another Group	10%
4	Railroad Cars and Locomotives and Railroad equipment; Vessels, Barges, Tugs and Similar Water Transportation Equipment; Industrial Buildings; Engines and Turbines; Public Utility Plant	5%

### SINGLE ASSET DEPRECIATION

The Single Asset Method is similar to the Reducing Balance Method of accounting and applies where a taxpayer has not elected for pooling to apply.

No matter whether a pooling election has been made, single asset depreciation will apply to depreciable assets that are only partly used in the production of income that is subject to tax, and to assets in group 4.

### POOLING OF ASSETS

Where pooling of assets applies, the depreciation allowance is calculated separately for each pool by applying the rate of depreciation for the pool against the balance of the pool at the end of year of assessment.

Where consideration is received on the disposal of assets during a year of assessment and the amount exceeds the closing balance of the pool, the excess consideration is treated as a gain from the disposal of fixed assets and included in gross taxable income i.e. it is treated as business income.

If no assets have been added to the pool during the year of assessment, and the closing balance of the pool is less than M500, the taxpayer is permitted to write off the pool balance as a deduction.

Single Asset Method	Pooling Method
Depreciation allowance is granted for the period during the year that the asset is in use i.e. dates when the fixed assets were purchased and disposed of must be kept.	The assets are depreciated on the basis that they were acquired exactly half way through the year.
This method is always applicable to Group 4 assets and to all other assets when pooling has not been elected for.	It only applies when it is elected for. Once elected for, the election is irrevocable. It cannot be applied to Group 4 assets.
When the asset is disposed, a gain or loss may occur which will form part of the business income or a deduction against the business income respectively.	Gains and losses do not arise on disposal as the proceeds are deductible from the pool. However where all the assets are disposed and a balance remains, the balance is an allowable deduction. If the balance of the pool is a credit, then it forms part of the business income in the year in which it arises.
It requires the maintenance of detailed asset registers. It can be applied to assets both fully and partially used in the production of income, subject to an apportionment of the amount attributable to the production of income.	It does not require the maintenance of detailed asset registers. It cannot be applied to assets partially used in the production of income.

## FARMING ASSETS

Tax depreciation can be claimed on assets of non-exempt farming activities. The method depends on when the asset was acquired and whether an election has been made by the taxpayer, although farm buildings may be treated separately.

## STOCK / INVENTORY

A cash-basis taxpayer may calculate the cost base of trading stock on the prime-cost or absorption-cost method, and an accrual-basis taxpayer must calculate the cost base of trading stock on the absorption-cost method.

The value of trading stock on hand at the end of the year of assessment is the lower of its cost base or market value at that date. Where particular items of trading stock are not readily identifiable, a taxpayer may account for the trading stock on the first-in-first-out method or the average-cost method.

## CAPITAL GAINS AND LOSSES

### Depreciable Business Assets

The adjusted cost base of depreciable business assets is the tax written down value on the date of disposal. Where the proceeds are less than the tax written down value, the loss is an allowable deduction against Business Income.



## **Non-Depreciable Business Assets**

Non-depreciable business assets, which may include office buildings, fall into two categories.

### **a) Non- depreciable Business Assets Held at 1st April 1993:**

The adjusted cost base of the asset is deducted from the proceeds. In the case of such assets, the adjusted cost base is the higher of original cost or market value as at 1st April 1993.

Where the proceeds exceed the adjusted cost base, then the gain forms part of Business Income. Where the proceeds are less than the adjusted cost base, the loss is an allowable deduction. However, the loss is only allowable to the extent that there is an actual loss. Thus, if the proceeds exceed the original cost but not the value as at 1st April 1993, the loss is not allowable deduction. This is a no gain, no loss situation.

### **b) Non- depreciable Assets Acquired After 1st April 1993:**

The adjusted cost base of the asset is deducted from the proceeds. The only adjustments to cost base are capital improvements. Where the proceeds exceed adjusted cost base, then that gain forms part of business income. Where the proceeds are less than the adjusted cost base, then that loss is an allowable deduction against Business Income.

## **Farming assets – depreciable and non-depreciable**

The tax legislation now distinguishes between commercial farming (not exempt from income tax) and subsistence farming (exempt from income tax). The tax treatment of such disposals would be similar to other asset disposals except for the following transitional provisions:

- The cost base of any farming asset disposed which was purchased before 31st March 1996 is equal to its market value on 31<sup>st</sup> March 1996. This applies to trading stock and other assets. This is to ensure that the individual is only taxed in respect of the gain or loss accruing after the removal of the exemption i.e. from 31 March 1996.

It is important to note that while the market value as at 31<sup>st</sup> March 1996 is taken as the cost base for disposals of commercial farming assets, the adjusted cost base as at 31<sup>st</sup> March 1996, arrived at by assuming that the single asset method of depreciation has been applied since acquisition of the asset, is taken for depreciation purposes.

Now, for the purposed of disposal, the cost base would again depend on whether the asset is depreciable or not:

- For depreciation assets, gains are calculated as the proceeds less the tax written down value taking account of notional allowances for pre 1<sup>st</sup> April 1996 assets.
- For non-depreciable assets, the higher of the market value as at 1<sup>st</sup> April 1996 and original cost is used as the cost base for disposal purposes.

The tax treatment of these assets is similar to business assets except that the 1<sup>st</sup> April

1993 date is substituted for the 1<sup>st</sup> April 1996.

### **Investment assets – immovable property**

Such investment assets fall into two categories:

- a) Land and buildings giving rise to rental income; and,
- b) Shares in companies whose primary assets consist of investments in immovable properties.

Determining whether land or buildings are investment assets or business assets depend on whether rental income is being derived from the asset.

These assets are grouped into two categories; those held at 1<sup>st</sup> April 1993 and those acquired after 1<sup>st</sup> April 1993. For assets held at 1<sup>st</sup> April 1993 there is a different calculation method to establish the cost base. If the asset has been held for more than twelve months, then the adjusted cost of the asset can be increased for the effects of inflation between 1<sup>st</sup> April 1993 and the date of disposal.

Where the proceeds exceed the adjusted cost base, there is an allowable loss which can be off-set against any gains arising from the disposal of any investment asset (movable or immovable). Any unutilised loss can be carried forward for set-off against future gains. However, the amount of the loss that is allowed is restricted to the extent that the loss is an actual loss. It is therefore necessary to make a comparison between the proceeds and the original cost. If, on this basis, there is a profit, then the loss is not allowable. If there is a loss, only the actual will be allowable.

### **Investment assets – not immovable property**

For purposes of calculating the tax implications on the disposal of these assets, they are divided into two categories:

- a) Investment Assets held at 1 April 1993

The adjusted cost base (higher of original cost or market value as at 1<sup>st</sup> April 1993) of the asset is deducted from the proceeds. Where the proceeds exceed the adjusted cost base, the gain forms part of Property Income. Where the proceeds are less than the adjusted cost base, then there is an allowable loss. Such loss can be off-set against any gains arising from the disposal of any investment asset (movable or immovable). Any unutilized loss can be carried forward for set-off against future gains. However, the amount of the loss that is allowed is restricted to the extent that the loss is an actual loss. It is therefore necessary to make a comparison between the proceeds and the original cost. If on this basis there is a profit, then the loss is not allowable.

- b) Investment Assets acquired after 1 April 1993

The treatment of such disposals is straight-forward. Where the proceeds are less than the original cost then the loss is an allowable loss. Such loss can be off-set against any gains arising from the disposal of any investment asset (movable or immovable). Any unutilized loss can be carried forward for set-off

against future gains.

## **DIVIDENDS**

A resident company which pays a dividend is liable to pay advance corporation tax at the rate of 25/75 of the dividend payment except to the extent that the distribution is made out of qualified income (manufacturing Income subject to the 10% special rate and dividends received from another resident company). ACT is an advance payment of the company's income tax liability on its distributed profits and is not an additional tax. A company may credit ACT against its income tax liability, including instalments of income tax.

A resident company must, within seven days of paying dividends, file a return of ACT stating:

- a) The amount of dividends paid;
- b) ACT payable; and,
- c) The amount of ACT which has been satisfied by way of set-off in accordance with Section 87(4).

Where there has been no set-off of ACT it must be paid within seven days of the dividend payment. This payment can be carried forward indefinitely for set-off against future tax liability.

A dividend paid by a resident company is not included in the gross income of a resident individual. This in effect means that the maximum rate of tax on a manufacturing dividend is 10% and on a non-manufacturing dividend is 25%. It also permits passage of dividends between resident companies without any further liability to taxation.

## **Redemption of shares**

On redemption of shares, a company may purchase a certain proportion of shares from each shareholder or from certain number of shareholders. If the former approach is adopted then the redemption is on pro-rata basis otherwise not on pro-rata basis. Where the redemption is on pro-rata basis, the gains or losses are treated normally. However, where the redemption is not on pro-rata basis, the gain is treated as distribution to the shareholders and therefore the company has to account for ACT like on ordinary dividends.

## **Disguised dividends**

There may be a number of transactions between a company and a member of the company or an associate of a member, which are, in substance, a distribution and as such will be treated as a dividend for the purpose of ACT. Where the transaction is with an associate of a member, the dividend is treated as having been paid to the member and not the associate.

## **Dividend stripping**

Dividend stripping occurs where a company, just before it is to pay dividends out of its qualified income (which does not attract ACT), is bought by another company. The acquiring company receives the dividends and then subsequently sells the acquired company at a loss.

The Commissioner has the discretion to treat a dividend paid as part of a dividend stripping transaction and not paid out of qualified income. Under such a direction the tax-payer will be liable to ACT in respect of the dividends.

## **LOSSES**

### **Individuals**

Where business income of an individual taxpayer is exceeded by deductions relating to that income, the loss (being the amount of the excess):

- May not be deducted against other income of the taxpayer but shall be carried forward; and,
- May be deducted in determining the chargeable business income in subsequent years of assessment.

Where property income of an individual taxpayer is exceeded by deductions relating to that income, the loss (being the amount of the excess):

- May not be deducted against other income of the taxpayer but shall be carried forward; and,
- May be deducted in determining chargeable property income in subsequent years of assessment.

### **Companies**

Where the taxpayer is a company, the excess of the deductions allowed over the taxpayer's gross income shall be carried forward and may be deducted in determining chargeable income in subsequent years of assessment.

Where manufacturing income of a resident company is exceeded by the deductions relating to that income, the loss (being the amount of the excess):

- May not be deducted against other income of the company but shall be carried forward; and,
- May be deducted in determining the chargeable manufacturing income in subsequent years of assessment.

### **Losses on disposal of business assets**

A loss arising from the disposal of a business asset, whether or not the asset was on capital or revenue account, is allowed as a deduction.

### **Unutilised capital losses on disposal of investment assets**

Losses on disposal of investment assets are only allowed to the extent of gains derived by the taxpayer from the disposal of investment assets by the taxpayer. Any unutilized losses in a year of assessment can be carried forward indefinitely for future set-off against chargeable gains arising on disposal of investment assets.

## **FOREIGN SOURCED INCOME**

Foreign-sourced income from employment income in a foreign country derived by a resident individual is exempt from income tax if the income is chargeable to tax in the foreign country.

The table below illustrates how certain individuals are taxed on foreign and Lesotho sourced-income.

Individual	Employment income	Business income	Property income	Other income
Resident citizens and permanent residents	Worldwide except if sourced and taxed abroad	Worldwide	Worldwide	Worldwide
Diplomat residents	Foreign source taxable if exempt	Lesotho source only	Lesotho source only	Lesotho source only
Lesotho diplomats	Foreign service allowance is exempt	Worldwide	Worldwide	Worldwide
Expatriates	Worldwide	Worldwide (except foreign disposal)	Worldwide (except foreign disposal)	Worldwide
Non-resident	Lesotho source only	Lesotho source only	Lesotho source only	Lesotho source only

## INCENTIVES

There are several incentives relating to taxation in Lesotho, namely:

- The manufacturing tax rate is reduced to 10%;
- The deduction of pension contributions from the gross income which is before tax and its exemption when receiving the payment;
- The exemption of dividends to a resident individual from a resident company;
- A tax exemption for subsistence farming by a resident individual;
- An interest deduction to the individual as specified in the legislation (sections 27 and 158)

## C. FOREIGN TAX RELIEF

A resident taxpayer is entitled to a foreign tax credit against their liability to Lesotho income tax in respect of any foreign income tax borne directly or indirectly by the resident on foreign-source income subject to Lesotho tax.

The foreign tax credit is calculated by applying the average rate of Lesotho income tax to the foreign-source income reduced by any deduction properly allocated to that income. The calculation is made separately for business income and for other income.

Foreign income tax borne by:

- A partnership is treated as borne by partners
- A trustee (where the income on which the trustee was assessed is included in the gross income a beneficiary under this Order is treated as borne by the beneficiary.
- A beneficiary (where the income on which the beneficiary was assessed is included in the income of a trustee under this Order) is treated as borne by the trustee.

Where a resident company is entitled to both a credit for advance corporation tax and a foreign tax credit, the foreign tax credit shall be applied first.

For the purpose of the above, the average rate of Lesotho income tax is the percentage that the Lesotho income tax, before the foreign tax credit, is of chargeable income of the taxpayer and in the case of a taxpayer with both business and other income, the average rate of tax is to be calculated separately for both categories of income. Foreign income tax includes foreign withholding tax but does not include a foreign tax designed to raise the foreign tax level on the income so that the taxation of the country of residence of the taxpayer is reduced.

## **D. CORPORATE GROUPS**

There is no group basis of taxation in Lesotho.

A company is liable to tax separately from its members, and dividends are only taxable if they are from unqualified income.

A manufacturing company is taxed at a special rate of 10% on profits. A non-manufacturing company is taxed at standard rate of 25% on profits.

## **E. RELATED PARTY TRANSACTIONS**

### **Loss on disposal to an associate**

Where an asset is disposed of at a loss to an associate, then the loss is not recognized for tax purposes. In such a situation, the asset is deemed to have been sold by the disposer and acquired by the buyer for its adjusted cost base at the date of disposal.

### **Transfer between spouses and former spouses**

Where an asset is transferred between spouses or between former spouses as part of a divorce settlement, a taxable disposal has not arisen. In such cases the (former) spouse is deemed to have acquired the asset at its adjusted cost base to the other (former) spouse as at the date of transfer. Correspondingly, the (former) spouse transferring the asset is deemed to have disposed of it for its adjusted cost base at the date of transfer.

## **F. PERSONAL INCOME TAX**

Personal tax is based on residency. An individual is a resident if they:

- Have a place of abode in Lesotho;
- Are present in Lesotho for more than 182 days in any consecutive period of twelve months which includes all or part of the year of assessment;
- Are an official of the Lesotho Government posted overseas during the year of assessment;
- Have a resident lifestyle.

### **Interest**

The first M 500 of interest derived from a single savings account with a registered financial institution resident in Lesotho by a resident individual is exempt from income tax.

As the Lesotho branch of a non-resident financial institution is deemed to be a resident company under Section 6(2), an account held with such a branch qualifies

for the exemption. An account held with a foreign branch of a non-resident financial institution does not however qualify for exemption, and the interest paid on such an account is fully taxable with a credit for any foreign tax (such as withholding tax) paid on the interest.

## **G. TREATY AND NON-TREATY WITHHOLDING TAX RATES**

### **Treaty Rates:**

The withholding tax rates applicable to countries with which Lesotho has concluded a double taxation agreement are as follows:

- Dividend, interest, royalty and natural resource payments is subject to 25%; and
- A royalty on technology is subject to 15%.

### **Non-Treaty Rates:**

The statutory withholding tax rates are as follows:

- Interest: 10%;
- Liquidator: 10%;
- Superannuation fund: 25%;
- Resident contractor: 5%;
- Non-resident contractor: 10%;
- Non-resident Individual: 25%;
- Resident Individual: Marginal rates are currently 20% up to M 51,670 and then 30% above.

**LIBYA****CURRENCY:** Libyan Dinar (LVD)**POPULATION:** 6.57 million**GDP GROWTH:** 15%**GDP:** US\$ 63 billion**A. TAXES PAYABLE**

In Libya, There shall be subjected to tax any income resulting in Libya from any assets existent therein, whether material or immaterial or from any activity or work therein. The latest income tax law has been issued on 28th of January, 2010 listed under number (7) of the year 2010. The new laws has come into force as from 28/04/2010, replacing the old Income Tax Law no (11) of 2004.

**FEDERAL TAXES AND LEVIES:**

Libya is not a federation country; therefore, there are no federal taxes.

**COMPANY TAX**

Incomes resulting in Libya and abroad for the national companies and branches of foreign companies in Libya, whatever the type of their activity or purpose might be, are subjected to corporate tax. The companies shall mean the general companies and the private joint-stock companies. The branches of foreign companies shall mean the aspects of activity and capitals, as performed by the foreign companies in Libya, whatever their organization or legal status may be. Companies are liable to corporate income tax on their profits stemming from any business they carry on in Libya. They are subjected to company tax at rate of corporate tax of 20% of taxable income and Jihad tax at 4% of taxable income.

In some cases where a foreign company is not registered in Libya, deemed profit tax based on estimated profit (mostly 20% - 60% of total income) may apply and taxed at the general corporate income tax rate. Likely, deemed profit tax may apply to companies that do not record their books and accounts in accordance with the local regulations.

**Salaries and Wages Tax**

The salaries and wages tax is calculated on the base salary plus any allowances and taxed as follow:-

- 1- Allowance: 1,800 L.D for single person, 2,400 L.D for married person, plus, 300 L.D for every child (per annum).
- 2- Tax rate is calculated after the personal allowance deductions and employee contribution of INAS deductions. The rates are 5% for the first 12,000 L.D per annum, and 10% for the excess amount.
- 3- Other taxes levied on personal incomes are include, Jihad tax at 3% of taxable salary income, and Solidarity Fund at 1% of taxable salary income.



### **Social security contributions (INAS):**

The contributions are payable by all employees working in Libya whether local or foreign, based on gross income with a total of 15% (3.75% employee contribution, 11.25% employer contribution).

### **CAPITAL GAINS TAX**

Capital gains are treated as ordinary business income and taxed at the general corporate income tax rate of 20%. Proceeds of sale of any business asset and liquidation proceeds received during the tax period are included in business profit.

### **BRANCH PROFITS TAX**

Branch's income of foreign companies registered in Libya are calculated and taxed on the same basis of corporate income tax.

### **SALES TAX / VALUE ADDED TAX**

Libya does not impose any VAT.

### **FRINGE BENEFITS TAX**

In general, cash benefits paid to employees are added to their salary and taxed accordingly. There are, however, some exceptions (such as, travel allowances, telephone allowance, fuel allowance and the use of a company car).

### **LOCAL TAXES**

Special tax (Jehad tax) is imposed on wages, companies, duties on certain business activities, and some customs duties. This tax is payable under Law no: 44/1970 and is levied on personal incomes at 3% and corporate profits at 4%.

### **OTHER TAXES**

Certain legal transactions are subject to registration duties. These include:

- Stamp duty on certain transactions at varying rates as well fixed duties. For more information about Libyan stamp duty law no: (12) of (2004) and its amendment no (8) of (2010). <http://tax.gov.ly/laws.aspx?lawid=12>  
For example; Contract negotiated in Libya must be registered with the Tax Department within 60 days of signing the contract. Contracts are subjected to a 1% Stamp Tax on the value of the contract plus 0.05% on the 1% Stamp Tax.
- Customs, excise and other taxes charged by the Customs and Excise Department.

## **B. DETERMINATION OF TAXABLE INCOME**

### **CAPITAL ALLOWANCES**

Generally, expenses incurred wholly and exclusively for the purpose of the business are deductible. However, specific rules apply in respect of certain categories. For example, the general expenses or fees for services or interests or commissions charged by the foreign company to its branch in Libya shall be only considered in the amount deemed necessary for achieving the purposes of the branch, at maximum of (5%) of the administrative expenses approved by the Tax department, provisions and reserves are not permissible deductions for tax purposes.

## DEPRECIATION AND AMORTIZATION

Depreciation of assets used in business activities must be computed at a maximum annual percentage. For tax purposes, the straight-line method is normally adopted, and depreciation rates shall not exceed the following:

	Annual rate of depreciation (%)
Buildings with machineries installed on it	3
Other Buildings	2
Passenger Vehicles	20
Trucks	10
Vessels	4
Ferries and fishing boats	4
Aircrafts	8
Furniture for offices, houses, stores	10
Furniture for hotels cafes, restaurants and hospitals	20
Furniture for camps outside cities	20
Office machineries	10
Electric generators	15
Computers and related equipment	20
Computer programs	10
Other machineries	15
Start-up fees (at establishing the company) is normally amortized within the next five years	20

## STOCK/INVENTORY

Inventories are mostly valued at cost and calculated on a FIFO basis. However, the method chosen must be applied consistently.

Inventory reserves are not permissible deductions for tax purposes.

## CAPITAL GAINS AND LOSSES

As mentioned above, capital gains and losses are usually taxable as ordinary income.

## DIVIDENDS

Dividends received from other companies will be subjected to tax at the tax rate applicable to business income and is considered as "other income in P&L statement".

## INTEREST DEDUCTIONS

Interest payable is generally tax deductible on an accruals basis.

However, interest payable on taxes, fines and penalties are not deductible. Also, interest derived from loan finance received from shareholders is not deductible.

## **LOSSES**

Losses of fiscal year may be carried forward up to five years. Losses may not be carried backwards. If the ownership of a company changes part way through the next years of loss' year, the general loss deduction will be only be applied on their shares percentage.

## **FOREIGN SOURCED INCOME**

Tax authorities levy taxes on resident companies on all profits arising from foreign sources in the same way as income from local sources. Except, income raised for person as salaries.

## **INCENTIVES**

In 2010, Libyan authority promoted Libyan and foreign companies to invest in Libya. The Law no 9/2010 aims at the promotion of national and foreign capital investment, with the purpose of setting up investment projects, within the scope of the state's general policy and the objectives of economic and social development, in order to particularly ensure achievement of the following goals:

- Technically upgrade and qualify Libyan cadres and elevate their efficiency, in order to acquire advanced skills in addition to opening employment opportunities.
- Endeavour to introduce know-how and technology and thereof inserted into the Libyan economy.
- Contribution towards setting up, developing or rehabilitating economic, service and production units, in a manner that assists such units to compete and be introduced into the world markets.
- Achievement of development in the relevant area
- Increase and diversify income sources
- Control energy consumption
- Utilize locally available raw material

The investment project, subject to the provisions of this Law, shall enjoy the main following privileges:

- Exemption of the machinery, equipment and apparatuses necessary for the execution of the project, from all taxes, customs duties, import fees, service charges and other fees and taxes of a similar nature.
- Exemption of the investment project from income tax for any activity, for the first 5 years.
- Exemption of commodities produced for export, from production tax, customs duties and such charges imposed on exports.
- Exemption of stamp duty payable in accordance with the effective legislation.
- Other exemptions are available for certain projects and some nationalities companies.

However, the Executive Regulation of this Law shall decide the conditions and rules necessary for the execution of invested companies.

## **C. FOREIGN TAX RELIEF**

Double Taxation Agreement with Libya has been made with some countries such as:

- Valid agreements such as with Egypt, Tunisia, Sudan, Italy, Malta, India, Kuwait,

Saudi Arabia, Algeria, Pakistan.

- Finished but unvalid agreements such as with France, Russia, Belarus, England, Syria, Ukraine
- In process agreements such as with Jordan, Iran, Spain, Slovakia, Switzerland, Portugal, Germany, Austria, Serbia, Bosnia

#### **D. CORPORATE GROUPS**

There is no group basis tax option in Libya. Each company has to fill-in its tax returns separately including the holding company.

#### **E. RELATED PARTY TRANSACTIONS**

Related party transactions negotiated at arm's length are treated the same as non-related party transactions.

#### **F. EXCHANGE CONTROL**

Foreign companies are able to transfer distributable annual net interests and revenues achieved by the foreign capital invested in the project.

However, abroad transfer is regulated by the Central Bank of Libya and such an authorisation from the bank is necessary.

#### **G. PERSONAL INCOME TAX**

Resident and Non-resident individuals are subject to tax only on their Libyan salaries income at the same rates mentioned above.

Other sourced income (other than registered as a company) is taxed according to its source. Tax on income from agriculture is levied at a flat rate 0%; income on commercial activities is 15%; Tax on income from industry and crafts is levied at 10%; tax on income from profession activities is levied at 15%; and income derived from partners share entity is levied at 10%.

## **MAURITIUS**

**CURRENCY:** Mauritian Rupee (MUR)

**POPULATION:** 1.32 million

**GDP GROWTH:** 3.9%

**GDP:** US\$ 13.6 billion



### **KEY TAX POINTS**

- 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%.
- Value-Added Tax (VAT) is charged by VAT registered entities at the standard rate of 15% on goods and services supplied by them in Mauritius. Certain supplies are exempted or zero-rated.
- Certain local taxes apply including excise duty, land and property taxes and customs duties.
- Personal income tax is chargeable at a flat rate of 15% for individuals resident in Mauritius.
- There is no capital gains tax.

### **A. TAXES PAYABLE**

#### **FEDERAL TAXES AND LEVIES**

The main income tax legislation in Mauritius is the Income Tax Act 1995 as amended by subsequent Finance Acts. Corporate and Personal Taxes are embodied under one heading of Income Tax and are payable by all resident companies and individuals on non-exempt income derived from Mauritius and from other sources. The profits of all Resident 'Sociétés' (Partnerships) are taxable in the hands of the partners in proportion to their profit sharing ratio. A non-resident société is liable to income tax as if the société was a company. 'Resident', in relation to an income year, means:

- a company which is incorporated in Mauritius or has its Central Management and control in Mauritius
- an individual who:
  - (a) has his/her domicile in Mauritius unless his/her permanent place of abode is outside Mauritius
  - (b) has been present in Mauritius in that income tax year for a period of, or an aggregate period of, 183 days or more or has been present in Mauritius in that income year and the two preceding income years for an aggregate period of 270 days or more
- a société which has its registered office address in Mauritius and includes a société which has at least one partner resident in Mauritius
- trust – where the trust is administered in Mauritius and a majority of the trustees are resident of Mauritius or where the settlor of the trust was resident in Mauritius at the time the instrument creating the trust was executed
- any other association – an association or body of persons which is managed or

administered in Mauritius.

## **CORPORATE TAXATION**

The rate of tax applicable for all companies is 15% on the companies' profit which consist of business/trading profits and passive income.

## **ALTERNATIVE MINIMUM TAX (AMT)**

Where in the case of a company the normal tax payable is less than 7.5% of its book profit, the tax payable for that income year is deemed to be 7.5% of its book profit or 10% of any dividends declared in respect of that year, whichever is the lesser. This alternative minimum tax is applicable in certain specific cases.

## **GLOBAL BUSINESS COMPANIES**

Corporations holding Category 1 Global Business Licence (GBC1) pay tax at a rate of 15%.

Pursuant to the Foreign Tax Credit Regulation Act 1996, a GBC1 which does not pay tax in a foreign jurisdiction on its foreign income earned outside Mauritius, is presumed to have paid tax elsewhere and can claim tax credit of 80% of its income resulting in an effective tax rate of 3% only.

Corporations Holding Category 2 Global Business Licence (GBC2) are exempt from tax.

## **DUE DATES FOR PAYMENT OF TAX**

Companies must file tax returns and pay any income tax not later than six months from the end of the month in which the accounting period ends.

## **ADVANCE PAYMENT SYSTEM (APS)**

Companies, unit trust schemes, collective investment trusts, cells of a protected cell company, société holding Category 1 Global Business Licence, must submit an APS Statement in respect of each of the three months period commencing the first day of the accounting year and pay any tax in accordance with the APS Statement within three months from the end of the quarter. This is applicable to companies having an annual turnover exceeding Rs 4M.

## **CAPITAL GAINS TAX**

There is no Capital Gains Tax in Mauritius.

## **BRANCH PROFITS TAX**

There is no Branch Profits Tax in Mauritius.

## **WITHHOLDING TAX**

### **Dividends**

Mauritius does not levy withholding tax on dividends by resident companies.

### **Interest**

No withholding tax on interest paid to non-resident companies.

## **VALUE ADDED TAX (VAT)**

VAT is charged on taxable supplies (both goods and services) made in Mauritius at a standard rate of 15%.

Certain items such as basic foodstuffs and medical and educational services are exempt while exports are zero rated.

The threshold for VAT registration is a turnover of taxable supplies exceeding Rs 4m per year. VAT Registration is compulsory irrespective of the annual turnover of a person engaged in a certain business or profession.

## **FRINGE BENEFITS TAX**

Employees receiving any advantage in money or money's worth are taxed thereon.

Certain types of income are exempt:

- rent and housing allowance for certain persons
- passage benefits, limited to 6% of basic salary
- the first Rs 1.5 million of lump sum paid on retirement or death.

## **LOCAL TAXES**

All taxes are on a 'national' basis but municipal and district councils are empowered to levy property tax, entertainment tax and certain licences.

## **B. DETERMINATION OF TAXABLE INCOME**

The taxable income is determined by ascertaining the assessable income and then deducting any expenditure or loss in the income year to the extent to which it is exclusively incurred in the production of gross income (other than 'emoluments'). For emoluments, the expenditure must be wholly, exclusively and necessarily incurred in performing the duties of an office or employment.

The unauthorised deductions are:

- investment, expenditure or loss of a capital, private or domestic nature, fine
- expenditure or loss incurred in the production of exempt income or which is recoverable under a contract of insurance or indemnity
- income tax or foreign tax
- any expenditure incurred in providing business entertainment or gifts.

## **CAPITAL ALLOWANCES**

Annual allowances are available on capital expenditure incurred exclusively in the production of gross income. The rate of annual allowance varies from 5% to 100% depending on the type of asset and is calculated on the base value or on cost.

## **DIVIDENDS PAID BY RESIDENT COMPANIES**

Dividends paid by resident companies are exempted.

## **ROYALTIES**

Royalties paid to a non-resident are exempted from tax for the following companies/trusts:

- (i) a company holding a GBC1 Licence out of its foreign source income
- (ii) a bank in so far as the royalty is paid out of gross income derived from its

- banking transactions with non-residents and corporation holding a GBC2 Licence
- (iii) by a trust.

### **INTEREST RECEIVED**

The following type of interest are exempt from tax.

Interest payable on:

- (i) a balance maintained in a bank by an individual who is not resident in Mauritius
- (ii) savings and fixed deposit account held by an individual, a société or a succession
- (iii) call and deposit amounts held with any bank by a GBC1.
- (iv) interest paid to a non-resident not carrying on any business in Mauritius by:
  - (a) a GBC1 out of its foreign source income or
  - (b) by a bank in so far as the interest is paid out of gross income derived from its banking transactions with non-residents and corporation holding Global Business Licence

### **LOSSES**

Losses can be carried forward (but not backwards) for set off against income derived in the five succeeding income years provided that there is continuity; i.e. that 50% in nominal value of the allotted shares and not less than 50% of the paid up capital was held by or on behalf of the same person. If a company engaged in manufacturing activities is taken over by another company 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 or merger takes place on such conditions relating to safeguard of employment of the companies. Losses arising from annual allowance on capital expenditure cannot be carried forward.

### **FOREIGN SOURCED INCOME**

Income derived from outside Mauritius by a resident is taxable in the normal manner subject to double taxation relief.

### **INCENTIVES**

Presently, most incentives have been removed. The exceptions are:

- (a) deduction of twice the emoluments paid to a disabled person
- (b) transfer of loss of a manufacturing company by another company on take over or merger
- (c) additional investment allowance on capital incurred on the acquisition of state-of-art technological equipment by a manufacturing company.
- (d) tax relief on the interest paid by an individual on a housing loan, subject to conditions.

### **CORPORATE SOCIAL RESPONSIBILITY (CSR)**

Every profitable company and resident société are required to spend 2% of its chargeable income of the preceding year to implement:

- (a) an approved programme by the company
- (b) an approved programme under the National Empowerment Foundation or
- (c) Finance an NGO.



**For the purpose of CSR, a company does not include:**

- (a) a company holding a GBC1 Licence
- (b) a bank holding a banking licence under the Banking Act in respect of its income derived from its banking transactions with non-resident or corporation holding Global Business Licence
- (c) An Integrated Resort Scheme (IRS) Company
- (d) A non-resident société, a trust or a trustee of a unit trust scheme.

**GLOBAL BUSINESS COMPANIES**

Global business companies (companies, trusts, sociétés) have special fiscal regimes and incentives such as customs duty remission and concessionary income tax rates for expatriates. Generous tax credits are available to those companies.

**OFFSHORE TRUSTS**

Resident trusts are taxed at 15%. Deemed tax credit of 80% is available to the trusts. Non-resident trusts and their non-resident beneficiaries are exempt from taxes.

**SOCIÉTÉ (PARTNERSHIP)**

Every partner of a société holding a GBC1 Licence is liable to income tax in respect of its share at the rate of 15%.

**C. FOREIGN TAX RELIEF**

Unilateral relief is provided for in the Income Tax Act. In the event of double taxation, relief is by way of an ordinary credit. The taxpayer may elect to claim the credit on aggregate foreign-source income or on a source-by-source basis.

**D. CORPORATE GROUPS**

The general rule is that no group relief is allowed except in a few special cases.

**E. RELATED PARTY TRANSACTIONS**

The tax authorities may adjust the liability of a taxpayer where it considers that a transaction has not been entered into or carried out by persons dealing at arm's length. It must be of the opinion that avoidance or reduction of liability of tax was the main purpose of such a transaction.

**F. WITHHOLDING TAX**

The rates for withholding taxes are as follows:

	Residents		Non-residents	
	Companies	Individuals	Companies	Individuals
Interest	0%	0%	15%	15%
Royalties	10%	10%	15%	15%
Rent	5%	5%	5%	5%

	Residents		Non-residents	
	Companies	Individuals	Companies	Individuals
Contract	0.75%	0.75%	0.75%	0.75%
Services	3%	3%	10%	10%
Payments made by central government or local authority for procurement of goods/ services	1-3%	1-3%	10%	10%

## G. PERSONAL TAX

### TAX YEAR

The fiscal year is on a calendar year basis.

Income Tax is payable by residents on non-exempt income derived from Mauritius less allowable deductions including interest on housing loan, subject to conditions. Employers deduct income tax from each salary payments of all individual taxpayers. The personal tax rate is 15%.

## H. TREATY AND NON-TREATY WITHHOLDING TAX RATES

The rates for treaty countries are as follows.

Treaty countries	Dividends (%)	Interest (%)	Royalties (%)
Barbados	5	5	5
Bangladesh	10	– <sup>1</sup>	– <sup>1</sup>
Belgium	5/10	10	0
Botswana	5/10	12	12.5
China	5	10	10
Congo	0/5	5	0
Croatia	0	0	0
Cyprus	0	0	0
Egypt	5/10	10	12
France	5/15	– <sup>1</sup>	15
Germany	5/15	0	10
Guernsey	0	0	0
India	5/15	– <sup>1</sup>	15
Italy	5/15	– <sup>1</sup>	15

Treaty countries	Dividends (%)	Interest (%)	Royalties (%)
Kuwait	0	0	10
Lesotho	10	10	10
Luxembourg	5/10	0	0
Madagascar	5/10	10	5
Malaysia	5/15	15	15
Monaco	0	0	0
Mozambique	8/10/15	8	5
Namibia	5/10	10	5
Nepal	5/10/15	10/15	15
Oman	0	0	0
Pakistan	10	10	12.5
Rwanda	10	10	10
Senegal	0	0	0
Seychelles	0	0	0
Singapore	0	0	0
South Africa	5/15	0	0
Sri Lanka	10/15	10	10
State of Qatar	0	0	5
Swaziland	7.5	5	7.5
Sweden	0/15	0	0
Thailand	10	10/15	5/15
Tunisia	0	2.5	2.5
Uganda	10	10	10
United Arab Emirates	0	0	0
United Kingdom	10/15	-1	15
Zimbabwe	10/20	10	15
Zambia	5/15	10	5

1 Same rate as under domestic law.

## MOROCCO

**CURRENCY:** Morocco Dirham (MAD)

**POPULATION:** 33.66 million

**GDP GROWTH:** 4.7%

**GDP:** US\$ 121.9 billion



### KEY TAX POINTS

- Moroccan corporations are subject to a unitary tax system called the corporate tax 'impôt sur les sociétés' or IS system.
- The normal rate of corporation tax is 30% with a 37% rate applying to leasing companies and credit institutions.
- The standard rate of Value Added Tax is 20% and applies to all suppliers of goods and services, except those taxed at other rates or those who are exempt. A reduced rate of 10% applies to specific items.
- Dividends paid to a non-resident are subject to a 15% withholding tax unless the rate is reduced under an applicable tax treaty. Interest on loans obtained from a non-resident and royalties paid to non-residents are subject to a 10% withholding tax (subject to treaties).

### A. TAXES PAYABLE

#### GENERAL REGIME

The Moroccan taxation system consists of direct and indirect taxes. Indirect taxes provide a greater source of tax revenue than the direct taxes. Moroccan corporations are subject to a unitary tax system called the corporate tax 'impôt sur les sociétés' or IS system.

The system is statutory and contains a package of incentives designed to encourage both Moroccan and foreign investors. For example, in order to promote foreign investment the Budget Law for 2014 exempted permanently from corporate tax the Fund "AFRICA 50" created by the African Development Bank.

From 2014, the taxation of agricultural incomes, which were until 2013 exempted from income tax, is established.

The key measures introduced by the Budget Law for 2015 are summarized as follows:

- Exemption from personal income tax on the gross monthly salary income capped at 10,000 dirhams paid by companies created between 1 January 2015 and 31 December 2019 and within the limits of 5 employees;
- Increase of the VAT exemption period for investment goods from 24 to 36 months from the start of activity;
- Transfer prices: the Budget law 2015 establishes a procedure to taxable businesses in Morocco, having direct or indirect dependency links with companies outside of Morocco to conclude with the fiscal Administration prior

agreement on the method of determining transfer prices between them for a period not exceeding four years. This measure will enable these companies to benefit from a legal guarantee against the risk of calling into question the method of determining prices.

## **CORPORATE INCOME TAX**

The definition of 'corporation' covers limited liability companies, limited partnerships by shares, general and limited partnerships in which at least one partner is a corporate entity, civil companies, branches of foreign corporations, public sector companies having profit-oriented activity and joint ventures having business-oriented activity. General partnerships and limited partnerships in which all partners are individuals may elect to be taxed under the corporate tax regime. The same applies to joint ventures in which all parties are individuals.

The normal rate is 30% with a 37% rate applying to leasing companies and credit institutions. Foreign contractors carrying out engineering, construction or assembly projects relating to industrial or technical installations may opt to be taxed at a rate of 8% calculated on the total contract price net of VAT and similar taxes.

## **MINIMUM CORPORATE TAX CONTRIBUTION**

Companies are always subjected to a minimum contribution (Cotisation Minimale; CM) of 0.5% of the annual turnover. The CM is based on turnover, income from interest, subsidies, bonuses or donations received. The CM is not payable by companies during their first 36 months of operation. However, the legal entities liable to Corporate Income Tax which do not have a turnover must pay a minimum contribution. As from 2014, this minimum contribution is raised at MAD 3,000 (MAD 1,500 previously).

There are also specific rates of corporate income tax detailed as follows:

- 8.75% applying to companies that operate in free zones export, during the 20 consecutive years following the fifth year of full exemption and service companies with the status of "Casablanca Finance City" in accordance with the laws and regulations, beyond the five years of exemption;
- 10% for organisations with regional or international status "Casablanca City Finance", according to the laws and regulations, from the first year of granting such status and optionally for offshore banks during the 15 first consecutive years following the date of obtaining approval;
- 10% applying for companies with a fiscal net income of less than or equal to MAD300,000;
- 17.5% for companies operating in some northern and southern regions and also for companies exporting products or services after the total exemption from corporate tax for a period of five consecutive years calculated from the year in which the first export operation was performed.

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. Expenses not permitted include: fines, penalties, interest on shareholder loans where the stock is not fully paid up, and interest on shareholder loans in excess of the official annual interest rate.

Morocco operates a territorial tax system. Companies (both resident and non-resident) are generally subject to corporate tax only on income generated from activities carried on in Morocco. Foreign corporations are subject to taxation on income arising in Morocco if they have, or are deemed to have, a permanent establishment in Morocco. A company is resident in Morocco if it is incorporated there or its place of effective management is in Morocco.

The calendar year is normally the fiscal year although a company may opt for a different fiscal year. Accounts for income tax purposes must be filed within three months after the end of the relevant accounting period.

Corporate tax is payable in four equal instalments, based on the prior year's assessment. The actual amount payable is adjusted in the three months following the end of the accounting period. Foreign companies that have elected for the 8% default taxation must submit a declaration of their turnover before 1 April following each calendar year.

### **TAXATION OF AGRICULTURAL INCOME (COMMON MEASURE TO BOTH PERSONAL INCOME TAX AND CORPORATE INCOME TAX)**

First, the definition of Agricultural Income as set by the article 46 of the General Tax Code is profoundly amended. According to the Budget Law for 2014, Agricultural Incomes encompass "profits made by farmer/cattle breeder and derived from all activities inherent in animal/plant operating cycle and whose revenues are intended to human or animal feed, as well as the treating/processing activities of these revenues, apart from their transformation by industrial means."

As from 1st January 2014, incorporated farms making a turnover superior or equal to MAD 5 million during three (3) consecutive fiscal years are subject to Corporate Income Tax.

On the other hand, incorporated farms with a turnover below such threshold keep their current status, under which they are totally and permanently exempted from CIT (article 6-1-A-29 of the General Tax Code).

The taxation of incorporated farms or farmers will follow this timetable:

Period	Threshold
From 1st January 2014 to 31st December 2015	Turnover superior or equal to MAD 35 million.
From 1st January 2016 to 31st December 2017	Superior or equal to MAD 20 million.
From 1st January 2018 to 31st December 2019	Turnover superior or equal to MAD 10 million.

Thus, starting from 1 January 2020, all farms making a turnover superior or equal to MAD 5 million operated either through a corporation or not will be subject to Corporate Income Tax or Personal Income Tax.

However, farmers liable to tax are exempted from instalment payments for the first taxable fiscal year (article 170 of the GTC).

Incorporated farms and farmers benefit temporary from reduced tax rates for the five years:

- Tax rate of 17.5% for incorporated farms subject to corporate tax for the five consecutive years, starting with the first taxable year;
- Tax rate of 20% for farmers subject to Personal income tax.

## **SOCIAL CONTRIBUTION**

A tax called social contribution (contribution sociale) comes into force from January 2013 to December 2015. This tax is applied to the net income (after income tax) of the entities.

<b>Net income MAD</b>	<b>Tax Rate</b>
15,000,000 – Less than 25,000,000	0.5%
25,000,000 – Less than 50,000,000	1.0%
50,000,000 – Less than 100,000,000	1.5%
Over 100,000,000	2.0%

## **BRANCH REMITTANCE TAX**

A 15% branch remittance tax is imposed on profits remitted to the head office. The Moroccan-sourced income of Moroccan branches of foreign companies is subject to income tax at the ordinary corporate rate of tax.

The taxable income is calculated as if the branch was a separate entity from the foreign company.

## **VALUE ADDED TAX**

The Value Added Tax (VAT) is a non-cumulative tax levied at each stage of the production and distribution cycle. Thus, suppliers of goods and services must add VAT to their net prices. Where the purchaser is also liable for VAT, input VAT may be offset against output VAT. The standard VAT rate is 20% and applies to all suppliers of goods and services, except those taxed at other rates or those who are exempt. A reduced rate of 10% applies to specific items such as banking and credit services, leasing, gas, water and electricity.

Two types of exemptions from VAT are provided. The first is an exemption with credit, equivalent to the zero tax concept, which applies to exports, agricultural materials and equipment, and fishing equipment. The second is an exemption without credit - ie the seller receives no credit for input VAT paid. This exemption applies to basic foodstuffs, newspapers and international transport services.

Within the framework of the future tax reform, the Government intends to radically

overhaul the value-added tax (VAT) system, notably by progressively aligning the VAT rates, and eventually limiting the number of rates to two, namely a 10% and 20% rate of VAT.

As from 1 January 2014, the rates of the following products are amended: Raw sugar, raw logs, some categories of farm equipment and catering services directly provided by the company to the staff are now subject to the rate of 10%.

The 20% rate applies to equipment and fishing nets, dried raisins and dried figs, candles and paraffin.

The 10% rate applies to food for cattle feed (previously subject to the 7% rate). Finally, the rate of 20% applies to commercial vehicles, alimentary fats and margarines (14% previously).

Before the Budget Law for 2014, the right of deduction arose at the end of the month following the establishment of the Customs receipts or full or partial payment of bills on behalf of the beneficiary. As from 1 January 2014, the right of deduction of VAT begins at the end of the month of the establishment of Customs receipts or at the end of the month of the full or partial payment of bills on behalf of the beneficiary. As a result, the "one-month lag" rule is abolished.

### **BUSINESS TAX**

A business tax or "taxe professionnelle" is levied on individuals and enterprises that habitually carry out business in Morocco. The business tax is applied on the annual rental value of business premises (rented or owned) capped at MAD 50 million net of VAT. The tax rates range from 10% to 30% with exemption for the five first years of activity.

### **URBAN PROPERTY**

Owners of real estate are subject to urban property tax on the rental value of the property. The same applies to owners of machines and appliances that are integral parts of the establishment producing goods or services.

### **PROPERTY TAX**

Property tax is assessed on the rental value of the property. The general property tax rate is 10% of the assessed rental value, as determined by the local tax authorities.

If the property is used as a primary residence, only 25% of the assessed rental property value is subject to tax. Properties occupied as a main or second residence are taxed at progressive rates as follows:

<b>Tax Base MAD</b>	<b>Tax Rate</b>
Up to 5,000	Nil
5,000 – 20,000	10%
20,000 – 40,000	20%
Over 40,000	30%



## **CUSTOMS DUTIES**

All goods and services may be imported. Goods deemed to have a negative impact on national production, however, may require an import licence. Products from the EU are fully exempted from March 2012. Cars, household items and also semi-finished products for local industry are reviewed. The rates fall for products brought from the outside world. Some materials and products, however, are exempted, especially those imported under the investment charter, imported under customs economic systems and those using renewable energies. Value added tax is also payable on goods imported into Morocco.

## **CAPITAL GAINS TAX**

Individuals earning capital gains from selling property are subject to tax on property profits. Profits on the sale of property are taxable at 20% of any profit but with a minimum tax of 3% of the sale price. The taxable gain is computed by deducting the following from the selling price:

- Acquisition price and incidental costs;
- Transfer costs;
- Investment expenses;
- Interest payments.

Capital gains from the sale of a property which has been the primary residence of the taxpayer are not subject to tax under some qualifications:

- The property has been the seller's primary residence for at least six years;
- The property has been the seller's primary residence for at least four years on the day of the sale, and the property area does not exceed 100 sq. m. and the profit does not exceed MAD 250,000;
- The profit made on one or more transfers by individuals within a calendar year whose total value does not exceed MAD 140,000.

## **B. DETERMINATION OF TAXABLE INCOME**

### **CAPITAL GAINS**

Morocco instituted a tax on the proceeds from a company's stocks, shares and comparable income (TPT), distributed by companies based in Morocco and paying taxes on corporations. The tax of 10% is collected at the source and applies to:

- Capital interest;
- Profit percentages;
- Special allowances or the payment of fees and other compensation allotted to members of the board of directors (except for the fraction of these compensations considered as salary and subject to personal income tax (IR);
- Sums levied on profits to repay capital produced to stockholders or to buy over stocks;
- Beneficiary/founder's shares;
- Surpluses from winding up augmented by reserves built up over at least ten years ago;
- Profits made in Morocco by establishments whose home office is located abroad, as these profits are made available to such companies abroad.

## **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. Losses may not be carried back.

## **DIVIDENDS**

Dividends received by corporate shareholders from taxable Moroccan-resident entities 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 dividend derived from foreign subsidiaries. The original participation exemption regime granted 100% allowance to a Moroccan recipient company of Moroccan-source dividends.

## **CONSOLIDATED RETURNS**

Consolidated returns are not permitted. Each company must file its own return.

## **INTEREST DEDUCTIONS**

Interest paid on loans and other debts is deductible to the extent it relates to borrowings made for income producing purposes.

Thin capitalisation rules apply to reduce the deduction available where the taxpayer is a foreign entity operating in Morocco, a foreign controlled Moroccan entity or a Moroccan resident with foreign business investments. In each of these cases, the tax deduction for interest may be reduced if the taxpayer's debt exceeds the levels permitted under the thin capitalisation provisions.

## **REPATRIATION OF PROFITS AND TRANSFER PRICING**

In addition to paying interest and dividends, the payment of management fees, service fees and royalties are methods of repatriating profits to the non-resident associates, controllers and owners of Moroccan entities.

In these circumstances, the payments made by the Moroccan resident to the non-resident associate must reflect the market value of the goods and/or services to the Moroccan company. That is, all payments must be calculated with reference to arm's length market rates.

Where the Tax Office takes the view that the Moroccan company has paid an excessive amount for the goods and/or services, the Tax Office can disallow the deduction claimed by the Moroccan company and substitute an alternative price.

Other transactions between Moroccan taxable entities (or branches) and their related foreign entities or head offices are also subject to the transfer pricing rules. Where a Moroccan branch of a foreign company remits profits to its parent by way of management fees or service fees, the profits are not subject to withholding tax or branch profits tax.

## **C. FOREIGN TAX RELIEF**

Since a Moroccan resident is taxed on worldwide income, the Moroccan tax system

provides relief from foreign taxes paid on such worldwide income by means of a foreign tax credit. This foreign tax credit cannot exceed the Moroccan tax otherwise payable in respect of the foreign-source income.

## D. WITHHOLDING TAX

Dividends paid to a non-resident are subject to a 15% withholding tax unless the rate is reduced under an applicable tax treaty. Interest on loans obtained from a non-resident is subject to a 10% withholding tax. Royalties paid to non-residents are subject to a 10% withholding tax unless the rate is reduced under an applicable tax treaty.

## E. PERSONAL TAXES

Individuals, regardless of nationality or activity, who have their habitual residence in Morocco are subject to a personal income tax (impôt sur le revenu or IR) on their worldwide income on a progressive scale between 10% and 38%.

Individuals who do not have their habitual residence in Morocco are subject to tax only on Moroccan-source income. Habitual residence status is established by reference to one of the following:

- (1) Place of permanent abode;
- (2) Centre of economic interest;
- (3) Duration of stay in the country exceeding 183 days within any period of 365 days.

The issue of double taxation is partially addressed by tax treaties or unilateral relief in the form of tax credit.

All compensation received by an individual is taxable, including salaries and wages, allowances, pension annuities, and all other employment benefits, investment income, property income and income derived from the carrying out of a business or profession. Capital gains derived from the disposal of immovable property are generally subject to tax as part of the personal income of the individual, i.e. 20%.

Filing and payment: the tax return must be filed by 31 March of each year in the place where the taxpayer has his/her habitual residence or main business.

Resident individuals are assessed to tax on taxable income from January 2010 according to the following scales:

Income MAD	Tax Payable
0-30,000	Nil
30,001 - 50,000	10%
50,001 - 60,000	20%
60,001 - 80,000	30%
80,001 - 180,000	34%
Over 180,000	38%

A range of rebates are available to Moroccan resident individual taxpayers.

Employers must retain and pay any income tax due on the salaries paid to their employees the previous month within the first ten days of each month. Individuals who receive incomes from non-wage sources must file a tax declaration every year on or before 31 March.

Net rental income is taxable under the general income tax (Impôt Général sur le Revenu or IGR) at progressive rates. A standard deduction of 40% of the gross rental income covers the income-generating expenses in lieu of itemised deductions. As of 2014, the taxation on such rental incomes is now effective as from the first year (the exemption of rental income derived from the renting of new buildings applicable during the three-year period following the completion of the constructions is abolished).

Until 2013, retirement pensions in Morocco were subject to a 55% tax allowance on their whole annual gross amount. The Budget Law for 2014 capped this advantage by introducing a threshold reducing this advantage to 40%:

- 55% from MAD zero (0.00) to MAD 168,000;
- 40% beyond.

Furthermore, the Budget law 2014 creates the new fiscal regime of “auto-entrepreneur”, applicable to individuals whose annual turnover does not exceed MAD 500,000 for commercial, industrial, and artisanal activities undertaken, and where yearly turnover does not surpass MAD 200,000 for the provision of services. Under the “auto-entrepreneur” status, individuals are subject to income tax at a rate of 1% or 2% of turnover, depending on the activity.

Finally, the Budget Law for 2014 provides a new disposition aiming at deferring taxation on the net capital gain realized by a taxpayer who contributes the stocks he holds in one or several companies to a resident holding company liable to Corporate Income Tax.

The operation must satisfy the following conditions:

- The contribution must be carried out between 1 January 2014 and 31 December 2015;
- The value of the contributed shares must be assessed by a legally accredited accounting expert;
- The company to which the shares are contributed shall undertake to keep the shares during a minimum of 4 years from the date of the contribution;
- The taxpayer who proceeds to the contribution shall undertake, in the contribution agreement, to pay the tax on the gains he shall derive from the sale, refunding or cancellation of the stocks received in exchange for the contribution.

In case of non-respect of these formalities, the capital gains are taxed in accordance with ordinary tax rules.

## **SOCIAL CONTRIBUTION**

This tax called social contribution (contribution sociale) is in force from January 2013 to December 2015. This tax is applied to the annual net income (salaries, dividends,

etc) earned by an individual.

Net Income MAD	Tax Rate
0 - 360,000	Nil
360,001 - 600,000	2%
600,001 - 840,000	4%
Over 840,001	6%

## F. OTHER TAXES

### DOMESTIC CONSUMPTION TAX

As from 1 January 2014, the amount of this tax is raised to MAD 500 by hectolitre for energizing drinks, and to MAD 700 by hectolitre for wines.

### TAX ON PLANE TICKETS

The Budget Law for 2014 sets out a new tax on plane tickets coming into force as of 1 April 2014. This tax will be levied on tickets purchased on international flights departing from Moroccan airports (domestic flights are exempted). However this tax will not apply to certain category of tickets, such as those for flying and security personal or for children below two (2) years old.

The amount of tax is set to MAD 100 for Economy Class and MAD 400 for Business and First Class.

### SPECIAL ANNUAL TAX ON LUXURY VEHICLES

The Budget Law for 2014 raises the rates of this tax as follows:

Value of the vehicle excluding VAT	Rate
From MAD 400,000 to MAD 600,000	5%
From MAD 600,001 to MAD 800,000	10%
From MAD 800,001 to MAD 1,000,000	15%
Superior to MAD 1,000,000	20%

## G. TREATY AND NON-TREATY WITHHOLDING TAX RATES

The Moroccan government is eager to encourage foreign investment. This is reflected by the territoriality principle for taxation applicable to corporations mentioned above.

In addition, Morocco has concluded about 47 treaties including a multilateral agreement with MAU (Maghreb Arab Union: Algeria, Tunisia, Libya and Mauritania) for the prevention of double taxation, mainly with developed countries. Morocco's list of treaty-partners include Belgium, Canada, France, Germany, Italy, Luxembourg, the Netherlands, Norway, Romania, Spain, the United Kingdom and the United States. The treaty signed with Sweden was cancelled and has not been applicable since 2007.

Most of the tax treaties are based on the UN (United Nations) model and do not contain specific anti-abuse provisions. Reduced withholding tax rates vary from one treaty to another. Of special interest is the treaty with France which offers advantages involving self-employed foreigners and payments for technical assistance and contracts (e.g. imported supplies).

**MOZAMBIQUE****CURRENCY:** Mozambican Metical (MZM)**POPULATION:** 27.25 million**GDP GROWTH:** 8.2%**GDP:** US\$ 18.6 billion**A. TAXES PAYABLE****COMPANY TAX**

Resident corporations are subject to corporate income tax (IRPC) on their worldwide income. Resident companies are those which have their head office, or place of effective management, in Mozambique.

Non-resident companies with a permanent establishment in Mozambique are liable for IRPC on the income attributable to that permanent establishment.

A non-resident company with no permanent establishment in Mozambique is taxed on the following types of income sourced in Mozambique: capital gains, dividends, interests, royalties, services and rentals.

Taxable profit is taxed, normally, at 32%. Non documented expenses are taxed at 35%.

The tax year usually coincides with the calendar year (1 January to 31 December). Exceptions must be previously approved by the Finance Minister and only applies if a company is owned, more than 50%, by another with a different tax year it may adopt that different tax year.

Tax is payable as follows:

Taxable persons	Tax payment
Resident entities whose main activity is commercial, industrial or agricultural and non-residents with a permanent establishment in Mozambique.	<ul style="list-style-type: none"> <li>- Payments on account (PC) in May, July and September (5<sup>th</sup>, 7<sup>th</sup> and 9<sup>th</sup> Month after year end)</li> <li>- Special payments on account (PEC) in June, August and October (5<sup>th</sup>, 8<sup>th</sup> and 10<sup>th</sup> Month after year end).</li> <li>- The balance is due by the date when the tax return is filed – generally 31 May. (5<sup>th</sup> month after year-end)</li> </ul>
Resident entities whose main activity is neither commercial, industrial nor agricultural.	Tax is payable by 31 May following the end of the tax year.
Non-resident entities without a permanent establishment.	Taxed by definitive withholding made by client or by independent tax return

Payments on account (PC) are estimated on the basis of 80% of previous tax year's IRPC liability, less any tax withheld at source and divided into three equal instalments.

$$PC = \frac{(\text{IRPC of previous year} - \text{withheld tax of previous year}) \times 80}{3 \text{ instalments}}$$

Special payments on account (PEC) are estimated on the basis of 0.5% of the sales and/or services rendered during the previous financial year, with the minimum amount of 30.000 MT and maximum of 100.000 MT, net of provisional tax payments made in the previous year and divided into three equal instalments.

$$PEC = \frac{(\text{turnover of previous year} \times .05\% \text{ PC of previous year})}{3 \text{ instalments}}$$

Permanent establishments of non-resident companies are taxed at the rates applicable to resident companies.

When there is no permanent establishment, tax is levied at rates varying between 10% and 20% according to the source of income.

### **CAPITAL GAINS TAX**

Worldwide capital gains obtained by resident companies are included in taxable income. The gain (or loss) is calculated by the difference between the sales proceeds and the acquisition cost which may be updated using official inflation coefficients.

If the proceeds of the sales are reinvested in other fixed assets, within three tax years following the year of sale, 100% of the gain obtained (net of the related losses) will be excluded from taxation.

When only part of the consideration is reinvested, only the corresponding part of the gain qualifies for the relief.

### **BRANCH PROFITS TAX**

All income attributable to the Mozambique branch (permanent establishment) is subject to corporation tax. No tax is imposed on the eventual remittances of profits to the head office.

### **SALES TAX/VALUE ADDED TAX (VAT)**

The standard rate is 17%. VAT is chargeable on the sale of almost all goods and services as well as on imports. Usually VAT is recoverable by corporate entities.

### **OTHER TAXES**

Municipal tax on real estate: Owners of real estate properties are subject to tax between 0.2% and 1% for urban properties depending on the municipality.

Real Estate Transfer Tax (SISA): Real Estate Transfer Tax applies to transfer of real estate property and is normally payable by the purchaser at a rate of 2%. A 10% rate applies when the purchaser of the property is a resident of a black-listed offshore jurisdiction.

Social security contributions (INSS): Social security contributions are payable by employers (4%) and employees (3%) on monthly remuneration.

## B. DETERMINATION OF TAXABLE INCOME (IRPC)

Normally net income, or taxable income, is arrived at by adjusting the accounting profits for non-taxed income and non-deductible expenses. As a general principle, costs are only deductible when necessarily incurred for the purpose of producing income.

### DEPRECIATION

Fixed assets can be depreciated for tax purposes. The main depreciation rates are:

Assets	Rate %
Tangible assets:	
Industrial buildings	4
Office and residential buildings	2
Machinery and installations, air conditioning, and telephone equipment	10
Lifts	8.33
Tools	25
Laboratory equipment	12.5
Telex and interior equipment	10
Furniture and filing systems	10
Typewriters and accounting machines	14.28
Computer hardware	16.66
Warehouse and filing installations:	
Of concrete	5
Of wood	6.66
Of steel	8.33
Trucks	20
Automobiles	25
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
Manufacturing licences, concessionaire agreements, and similar rights	5 *
Trademark or premium of taking over leases of real estate	**

\* If some conditions are met.

\*\* May be accepted by tax authorities if proven the decrease of the value.

### STOCKS/INVENTORY

Inventory must normally be valued at the effective cost of acquisition or production



(historic cost). Other methods which may be adopted include:

- the standard cost method, which must be calculated in accordance with the appropriate technical and accounting principles;
- the sale price method, based on the market value less a normal profit margin;
- the special costing for basic or normal inventory, subject to prior approval of the tax authorities; and
- the costing based on market price quote, this can be used by companies selling agricultural products and other biological assets.

### CAPITAL GAINS AND LOSSES

Gains obtained by non-resident entities from the disposal of shares may be exempt from tax depending on the holding period of the shares. This exemption is not applicable if the gains are obtained from a non-resident.

Period of detention of shares	Reduction %	Effective Rate
Less than one year	0%	32%
12 to 24 months	15%	27,2%
24 to 60 months	35%	20,8%
More than 60 months	45%	17,6%

### DIVIDENDS

There is a full participation exemption for payment of dividends between Mozambique resident companies when the recipient of the dividends is a company that has held a participation of not less than 20% of the share capital of the distributing company for a minimum period of two years (if the investment is held for less than 2 year the law allows that the shareholders will still be exempt if the investment is held until it completes 2 years). If such conditions are not met, the dividend amount is subject to taxation.

### INTEREST DEDUCTIONS

Interest is deductible on an accruals basis. The Fiscal Administration is entitled, under certain circumstances, to disallow interest payments to related parties in excess of arm's length arrangements. Thin capitalization rules are applied when the debt/equity ratio exceeds 2:1.

### LOSSES

Operating losses incurred by resident companies, or by a branch of a non-resident company, may be carried forward to set off against taxable profits for five years. No carry backward is allowed.

### FOREIGN SOURCED INCOME

Taxation of resident companies and permanent establishments takes into account their worldwide income. Double taxation treaties may allow to balance the tax paid overseas and IRPC.

### INCENTIVES

The Investment Law grants certain tax and customs benefits depending on the amount, location and sector of investment activity.

## **C. FOREIGN TAX RELIEF**

Foreign-sourced income, gross of tax paid abroad, is included in taxable income. A unilateral credit for foreign income tax suffered can be set off against the IRPC. Mozambique's tax treaties also apply the ordinary credit method. The tax credit is restricted to the lower of:

- the income tax paid abroad (ordinary credit method); and
- the Mozambique income tax chargeable on that foreign income.

## **D. CORPORATE GROUPS**

There is no group basis tax option in Mozambique. Each company has to fill in its tax returns separately.

## **E. RELATED PARTY TRANSACTIONS**

Transfer pricing legislation enables the tax authorities to make corrections to taxable income when the conditions (and prices) agreed between related parties are different from those that would have been agreed and accepted by independent entities. Taxpayers must keep the necessary documentation to support the transfer pricing policy within the group.

## **F. WITHHOLDING TAX**

Payments between resident companies are liable to withholding tax if they are originated from:

- a) Income from intellectual property or industrial as well as the provision of know-how;
- b) Income derived from the use of or right to use , industrial, agricultural, commercial or scientific equipment
- c) Income from investment not covered in the preceding paragraphs and property income;
- d) Remuneration earned as a member of the statutory bodies of legal persons and other entities ;
- e) Income from the intermediary in the conclusion of any contract and income other services rendered or used in Mozambique .

Non-resident entities without a permanent establishment are 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.

## **G. EXCHANGE CONTROL**

All transfers to and from abroad are subject to registration with the Bank of

Mozambique and may not be authorized in certain circumstances. Shareholders loans or any other type of foreign loan are liable to pre-approval by the Central Bank. Other examples of operations that require pre-approval are insurance operations and guarantees operations.

## H. PERSONAL TAX

Personal Income tax (IRPS) is payable by individuals on income obtained from employment, a business activity or independent profession, investment income, immovable property, capital gains, pensions and betting or gambling profits. Resident individuals are subject to income tax on their worldwide income while non-residents are liable to income tax only on income sourced in Mozambique.

Taxable Income	Tax Rate (%)	Flat rate rebate
0 - 42,000	10	-
42,000 – 168,000	15	2,100
168,000 – 504,000	20	10,500
504,000 – 1,512,000	25	25,700
over 1,512,000	32	141,540

### Double taxation treaties

Mozambique has established DTT with the following countries: Portugal, Italy, Mauritius, UAE, South Africa, Macau, Vietnam, Botswana and India. Under the DTT treaties in place tax is levied at the following reduced rates:

Country	Dividends	Interest	Royalties	Capital gains
Portugal	10%	10%	10%	0% *
Italy	15%	10%	10%	0%
Mauritius	8 / 10 / 15% **	8%	5%	0%
UAE	0%	0%	5%	0% *
South Africa	8 / 15% ***	8%	5%	0%
Macau	10%	10%	10%	0%
Vietnam	10%	10%	10%	0% *
Botswana	0 / 12% ****	10%	10%	0% *
India	7,5%	10%	10%	0% *

\* In case the shares sold are from a company which its value is constituted with more than 50% of immovable property, the capital gains are taxed in Mozambique.

\*\* 8% for dividend payments by a 25% or more owned subsidiary in Mozambique to its Mauritius parent company; 10% for dividend payments by a less than 25% owned subsidiary in Mozambique to its Mauritius parent company; 15% in all other cases.

\*\*\* 8% for dividend payments by a 25% or more owned subsidiary in Mozambique to its South Africa parent company; 15% in all other cases.

\*\*\*\* 0% for dividend payments by a 25% or more owned subsidiary in Mozambique to its Botswana parent company; 12% in all other cases.

**NAMIBIA****CURRENCY:** Namibian Dollar (NAD)**POPULATION:** 2.32 million**GDP GROWTH:** 4.5%**GDP:** US\$ 13.1 billion**A. TAXES PAYABLE****FEDERAL TAXES AND LEVIES****INCOME TAX**

Income tax is source-based with certain incomes deemed to be from a Namibian source, eg interest derived from financial institutions. Tax is imposed on all receipts and accruals from a Namibian source, other than receipts or accruals of a capital nature. The taxable income of external companies is computed in the same way as for local companies. The current rate of corporate income tax is 33% commencing on or after 1 January 2013.

The reduction of the corporate tax rate for non-manufacturing and non-mining companies from 33% to 32% will be implemented and become effective for years of assessment commencing on or after 1 January 2014 as previously announced. The effective date remains uncertain as the relevant promulgation in the Government Gazette is still pending.

The rate of tax payable by manufacturing companies remains unchanged at 18% for the first 10 years of assessment as a registered manufacturer. The normal tax rate of 32% for years of assessment commencing on 1 January 2014 will apply after the 10 year period. The effective date remains uncertain as the relevant promulgation in the Government Gazette is still pending.

The tax year is the same as the financial year of the company. Tax liabilities are calculated on a self-assessment basis.

The collection of taxes is made as follows:

- Provisional Payments (1st and 2nd) are due after the first six months of the financial year and on the last day of the financial year
- A top-up payment is payable on due date for the return of Income – seven months after the end of the financial year.

Tax rates for mining, mining services and oil or gas companies.

The tax rate by hard rock mining companies and companies rendering services in connection with mining is 37.5%.

The tax rate by diamond mining companies is 55% and

The basic rate of tax payable by oil and gas extraction companies are 35%.

Oil and Gas extraction companies are also subject to additional profits tax that is calculated in terms of a complex formula contained in the Petroleum Taxation Act.

## **PROCEEDS ON SALE OF OIL AND GAS EXPLORATION AND PRODUCTION LICENCES**

The proceeds on the sale of petroleum licences and right to explore for, develop or produce petroleum will become taxable once the Income Tax Act is amended. The effective date of the amendment is not yet announced.

## **RESTRAINT OF TRADE PAYMENTS**

Restraint of Trade payments which were previously regarded as receipts of a capital nature and not subject to income tax will become taxable once the Income Tax Act is amended. The effective date of the amendment is not yet announced.

## **CAPITAL GAINS TAX**

There is no capital gains tax in Namibia.

## **BRANCH PROFITS TAX**

Normal company income tax rules apply to the Namibian branch tax profits of overseas companies.

## **VALUE ADDED TAX (VAT)**

VAT applies to the supply of goods and services by taxable persons in Namibia and on the import of goods and services into the country.

The VAT registration threshold will be increased from N\$ 200,000 to N\$ 500,000. The effective date of the amendment is not yet announced.

Criteria will be introduced for voluntary VAT registration and VAT import accounts.

Mandatory security requirements will be introduced for the deferral of import VAT on goods. The effective date of the introductions of the security requirements is not yet announced.

VAT is payable at the rate of 15% of the value of the goods supplied or imported. Certain supplies are eligible for a 0% rate. These include:

- Export of goods and services and related supplies
- International transport
- Sale of a going concern
- Sale of land and buildings for residential purposes and erection of residential buildings
- Supply of municipal services to residential accounts
- Supply of mahango and maize meal
- Supply of agricultural land to be used for resettlement purposes
- Supplies made in respect of guarantees
- Supply of funeral undertaking services
- Supply of services physically rendered elsewhere than in Namibia
- Petrol, diesel and paraffin
- Certain food supplies
- Postage stamps, but excluding postage stamps supplied as a collector's piece;
- Telecommunication services to residential accounts
- Supplies by charitable organisation and similar institutions
- Supply of livestock (on the hoof)
- The supply of goods, and the repair thereof, to be used as aids by physically

handicapped persons who are blind, deaf, crippled or a chronic invalid. Services for any adjustment or modification in respect of a vehicle used for these purposes.

### **Exempt Supplies**

- Financial services
- Medical services and services provided by hospitals
- Group finance/management companies and inter-company loans
- Residential leases and fringe-benefit accommodation
- Public transport services
- Educational services
- Management of group housing and commercial premises
- Employee organisations
- Local authorities
- Fringe benefits
- Supplies to foreign heads of State

### **LOCAL TAXES**

Municipal taxes are payable on the value of fixed property.

### **OTHER TAXES**

Other taxes include:

- stamp duty (on documents and marketable securities)
- transfer duties payable on property transactions
- motor vehicle licences
- royalty on minerals
- Customs and Excise duties
- Royalty tax
- non-resident's shareholders tax.
- withholding tax on interest
- withholding tax on services.

### **WITHHOLDING TAX ON SERVICES**

The rate of withholding tax on services applicable to payments to non-residents for services of technical, managerial or consultative nature including director's fees and entertainment fees will be reduced from 25% to 10%. The effective date of the amendment has not yet been announced. Further relief may be available in terms of a double taxation agreement between Namibia and the country in which the service provider is resident.

### **ENVIRONMENTAL TAX**

The introduction of the first phase of the environmental taxes which will include a carbon dioxide emission tax on motor vehicles, as well as taxes on incandescent light bulbs and motor vehicle tyres is expected in 2015.

### **EXPORT LEVY**

An export levy on the export of unprocessed minerals and other natural resources will be introduced to promote domestic value-addition. This tax is likely to be in the form of the levy previously proposed on minerals, fish, game, crude oil and gas. The rate is

expected not to exceed 2% of the value of the goods exported.

### **ROYALTY WITHHOLDING TAX**

The royalty withholding tax rate applicable to royalties payable to non-residents will reduce to 9.6% (previously 9.9%) once the company tax rate of 32% becomes effective.

### **EXCISE DUTIES**

Excise duty rates on certain alcohol and tobacco products increased effective from 25 February 2015.

## **B. DETERMINATION OF TAXABLE INCOME**

### **CAPITAL ALLOWANCES**

Allowances are available on plant and machinery. Tax relief is allowed on the cost of assets used in the trade, claimed over a three-year period (excluding finance charges on Hire Purchase or Lease).

Allowances on buildings used in the trade are 20% in the year they were taken into use, balance at 4% per annum for the next 20 years.

Allowances on buildings used for manufacturing purposes are 20% in the year they were taken into use, balance at 8% per annum for the next ten years. This is only applicable for 'registered manufacturers' and must be applied for.

### **DEPRECIATION**

No depreciation is allowed in Namibia for tax purposes.

### **STOCK/INVENTORY**

Stock is to be valued at the lower of cost or market price, usually FIFO method. LIFO may be applied for.

### **DIVIDENDS**

Dividends are not taxable except if paid to foreign taxpayers. Double Taxation Agreements are applicable.

### **INTEREST DEDUCTIONS**

Interest deductions are allowed in Namibia if they are incurred in the production of income.

### **LOSSES**

Losses and profits generated by a taxpayer may be set off against each other. A net loss may be carried forward to utilise in future tax years.

Assessed losses incurred in a year of assessment from a trade carried on by a natural person may not be set off against other income of that person with effect from years of assessment commencing 1 March 2012.

### **FOREIGN SOURCED INCOME**

Foreign income is not taxable in Namibia, except that deemed to be from a Namibian source.

## **INCENTIVES**

### **MANUFACTURING INCENTIVES**

A manufacturer may qualify for registered manufacturer status if its activities are beneficial to the economic development of Namibia by way of net employment creation, net value addition, replacement of imports or an increase in net exports. The benefits available to registered manufacturers include accelerated capital allowances in respect of industrial buildings and enhanced allowances for training costs and pension contributions.

### **EXPORT PROCESSING ZONES/STATUS**

A registered manufacturer deriving income from the export of goods manufactured or produced by it to another country is entitled to an additional deduction of 25% of specified types of expenses.

### **INDIVIDUALS**

Incentives for individuals include housing subsidies, study bursaries or loans and travelling allowances. Special deductions for contributions to pension and other retirement funds and tertiary education policies are available up to N\$40,000 in total.

## **C. FOREIGN TAX RELIEF**

A tax credit is available for foreign tax paid in respect of dividends, royalties and similar income which is also taxable in Namibia, subject to a maximum of the Namibian tax payable on the overseas income concerned.

## **D. CORPORATE GROUPS**

Corporate groups are not taxed as groups in Namibia. The individual legal entities in a group are taxed.

## **E. RELATED PARTY TRANSACTIONS**

There are no special rules in Namibia other than those contained in tax treaties.

## **F. WITHHOLDING TAX**

Generally, a withholding tax (NRST) at 20% must be deducted from any dividend distributed by a company to a shareholder who is a non-resident and not carrying on business in Namibia. This rate may be reduced to 10% if the beneficial owner of the dividends is a company who holds directly or indirectly at least 25% of the share capital of the company paying the dividends.

The rate of tax can be reduced to 5% in terms of the provisions of a double taxation agreement between Namibia and a foreign country.

Royalty payments to non-residents are subject to a withholding tax based on the company tax rate applicable to the recipient company's year-end (currently 34% commencing on or after 1 January 2009) on 30% of the gross royalty tax payable.

The Ministry of Finance in Namibia introduced a withholding tax on interest, which will be levied on any interest earned or accrued to any person (other than a Namibian



company) from a Namibian banking institution and/or a unit trust. The 10% tax will be deducted from interest earned by any person on bank accounts and applicable unit trust investments. Namibian companies will, however, be taxed at the normal corporate tax rates applicable.

The 10% withholding tax on interest is a final tax and, as from the 28 February 2010 tax year, interest from a Namibian banking institution and/or a unit trust will no longer be included in taxable income on the tax returns of affected persons.

Although account holders are liable for the payment of the withholding tax, Section 34C of the Income Tax Act requires Namibian banking institutions and unit trust schemes to withhold and pay the tax on interest directly to Inland Revenue, within 20 days after the month in which the interest accrued or was received by the account holder.

The Ministry of Finance introduced a withholding tax on services rendered by non-residents and non-resident shareholder's tax. The effective date for the commencement of withholding tax on services i.e. Section 35A is 30 December 2011 for any resident in Namibia (resident and juristic persons) to withhold tax on payments for services rendered by non-residents.

The payment of management fees, consultancy fees, entertainment fees or directors' fees by a Namibian resident to a non-resident is subject to withholding tax at a rate of 25%. Amounts that have been subject to the 25% tax rate do not fall into the gross income of the recipient of the amount.

The Namibian resident must pay the withholding tax to the Revenue authorities within 20 days after the end of the month during which the withholding tax was deducted or withheld. Late payment of the withholding tax is subject to a penalty of 10% and interest as a rate of 20% per year.

## **G. EXCHANGE CONTROL**

Exchange controls apply in Namibia.

## **H. PERSONAL TAX**

Individuals are taxed under the same statute as companies, i.e. the Income Tax Act 1981, as amended. Generally, the income of a non-resident which is derived from Namibia is taxed in the same manner as that of a resident. Only income from a source within Namibia will be included in taxable income. Profits of a capital nature are not taxed.

All individuals are taxed on income at progressive marginal rates over a series of income brackets as follows: (Tax rates reduced effective 1 March 2013)

Taxable income (N\$)		Rate
Up to	50,000	0%
50,001 to	100,000	18% on amount exceeding N\$50,000
100,001 to	300,000	N\$ 9,000 plus 25% on amount exceeding N\$100,000
300,001 to	500,000	N\$59,200 plus 28% on amount exceeding N\$300,000
500,001 to	799,999	N\$115,200 plus 30% on amount exceeding N\$500,000
800,000 to	1,500,000	N\$205,000 plus 32% on amount exceeding N\$800,000
Over	1,500,000	N\$429,000 plus 37% on amount exceeding N\$1,500,000

The tax year runs from 1 March to 28 February.

Tax is determined by self-assessment with a final tax due for qualifying salaried taxpayers.

The due date for returns of Income is 30 June for most taxpayers although this is 30 September for others such as sole proprietors.

The collection of taxes is as follows:

- provisional taxes are to be paid in instalments after the first six months of the tax year and on the last day of the tax year
- a top-up payment is due on the tax return filing date.

## I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

The treaty withholding rates are made as follows:

	Dividends		Interest	Royalties
	Individuals/ companies (%)	Qualifying companies (%)	(%)	(%)
Treaty countries:				
Botswana	10	10	10	10
France	15	5	10	10
Germany	15	10	0*	10
India	10	10	10	10
Malaysia	10	5	10	5
Mauritius	10	5	10	5
Romania	15	15	15	15
Russia	10	5	10	5
South Africa	15	5	10	10
Sweden	15	5	10	5/15
United Kingdom	15	5	20	5

\* Taxable only in the state of residence of the recipient.

## **NIGERIA**

**CURRENCY:** Nigerian Naira (NGN)

**POPULATION:** 179.70 million

**GDP GROWTH:** 7.3%

**GDP:** US\$ 657.2 billion



### **KEY TAX POINTS**

- All companies operating in Nigeria outside the oil and gas sector of the economy are required to pay income and education tax. The rate is 30% of total profit for income tax and 2% of assessable profit for education tax.
- VAT is imposed on non-exempt supplies of goods and services within Nigeria as well as on goods imported. Export goods are non-taxable. The standard rate is 5%.
- Certain payments to domestic companies and individuals and non-resident companies/investors are subject to withholding tax at 5% or 10%.
- A resident person is assessable to tax on his global income, i.e. income accruing in, derived from, brought into or received in Nigeria. Non-resident persons pay tax on the portion of their income sourced in Nigeria.

### **A. TAXES PAYABLE**

#### **FEDERAL TAXES AND LEVIES**

##### **COMPANY TAX**

All companies operating in Nigeria outside the oil and gas sector of the economy are required to pay income and education tax. The rate is 30% of total profit for income tax and 2% of assessable profit for education tax. Total profit is profit after deducting previous year losses carried forward and capital allowances. Assessable profit is obtained prior to deducting capital allowances.

A lower income tax rate of 20% is applicable to a Nigerian company that engaged in manufacturing or agricultural production, mining of solid minerals or wholly export trade, within the first five years of operation, and where the turnover does not exceed N1 million

Resident companies pay tax on their worldwide income. Non-resident companies are taxed on the proportion of their income earned in Nigeria. Companies are deemed to be resident companies if they are registered or incorporated in Nigeria.

The fiscal year runs from 1 January to 31 December. A Company can choose any date for its accounting year-end but must file returns not later than six months after its accounting year-end. Tax can be paid in a maximum of six equal monthly instalments if a taxpayer files self-assessment and applies for payment in instalments.

Minimum tax is payable where a company has no taxable profit or the tax payable is

less than the minimum tax calculated as follows:

The highest of:

- 0.5% of gross profit
- 0.5% of net assets
- 0.25% of paid up share capital
- 0.25% of turnover up to N500,000
- Plus
- 0.125% of turnover in excess of N500,000.

Exemption from Minimum tax:

A company would not be liable to minimum tax if it meets any of the following conditions:

- It carries on agriculture trade or business
- It has at least 25% imported equity capital
- It is still within its first four calendar years in operation

## **PETROLEUM PROFIT TAX**

Companies in the oil and gas sector together with construction and consulting companies providing services to oil companies are regulated by separate tax laws. Tax rates are different for resident companies in the upstream sector of the oil and gas industry. The rates range from 50% for some of the new production sharing contracts to 65.75% for others in the first five years, during which all pre-operation expenses are expected to be fully amortised, and 85% of their chargeable profits thereafter. The tax rate in the downstream sector is 30%.

Chargeable profit is profit of the company after deducting allowances. For offshore companies that engage in petroleum operation, 20% of their turnover is deemed profit and taxed accordingly.

Petroleum companies are required to file their returns of estimated tax within two months into a new accounting year and commence payment of the tax in 12 monthly instalments pending determination of the result of their operation at the close of the year.

Both estimated and final taxes are computed in US dollars and payment made in US dollars in accordance with returns filed.

## **CAPITAL GAINS TAX**

Capital gains and losses are treated differently from regular business transactions of individuals, partnerships and companies in Nigeria. Gains arising from the disposal of assets are taxed at the rate of 10%. Taxable assets include land and building situated in Nigeria, as well as plant and machinery. Corporate Securities are exempted from Capital Gains Tax.

Inflation is rarely taken into account in determining capital gains. Payment of capital gains tax can be postponed if the proceeds on disposal of an asset are reinvested in acquiring similar assets.

Capital losses cannot be charged against normal trading income but can be carried

forward to offset future capital gains tax from the same source.

### **BRANCH PROFITS TAX**

There is no branch profits tax in Nigeria. Non-Nigerian companies operating branches, which are exempted from local incorporation by the Federal Government, are treated as separate entities and taxed on income earned from their activities in Nigeria.

Activities of non-Nigerian companies, which would attract tax in Nigeria and other special issues, are set out in legislation. Examples are turnkey projects, allocation of income and expenditure between the foreign company and its branch in Nigeria, transfer pricing etc.

### **VALUE ADDED TAX (VAT)**

VAT is imposed on non-exempt supplies of goods and services within Nigeria as well as on goods imported. Export goods are non-taxable.

The standard rate is 5%. VAT is generally assessed by a taxable person who supplies taxable goods and services and payment made when filing monthly returns.

Transactions on basic food items produced within the country, books and educational materials, plant and machinery for use in Export Free Zone, agricultural equipment, and all medical and pharmaceuticals products and services, amongst others, are exempt from VAT.

### **OTHER TAXES**

#### **CUSTOMS AND EXCISE DUTY**

Customs duties are levied on goods coming into the country at varying rates from 5% to 75% of import value at each port of entry. Excise duties paid by companies on locally manufactured goods have been abolished.

#### **STAMP DUTIES**

A number of transactions attract stamp duties. These include incorporation of companies, increase in companies authorised share capital, mortgage bonds, debenture and dealing in securities, settlement of estates and conveyance of property.

### **LOCAL TAXES**

States in Federation (there are now 36 states) have a variety of local taxes in their areas of jurisdiction. Local taxes include motor vehicles' licence/registration; consent fees for transfer of property in real estate; property tax; gaming/casino tax; water rates etc. Local Councils impose Land use charge on properties and several other taxes.

## **B. DETERMINATION OF TAXABLE INCOME**

Taxable profit of a company is determined by ascertaining its income on ordinary activities and subtracting all allowable deductions based on financial results of the preceding year.

To be deductible, expenses must be of revenue nature and incurred wholly, exclusively,

necessarily and reasonably for earning the income reported. Donations to certain bodies are not allowable for tax purposes.

### **CAPITAL ALLOWANCES / DEPRECIATION**

Capital allowances are granted to companies against taxable income in lieu of the wear and tear of business assets. Rates of capital allowances are highest (95%) for expenditure on replacement plant and machinery for mining agricultural production, industrial plant and machinery, and motor vehicles used for public transportation.

In addition, investment allowances of between 10% to 15% are available to manufacturing companies in their first year of acquisition of plant and machinery. Other business assets such as factory buildings, furniture and fittings enjoy capital allowances at lower rates but generally at 50% initial and 25% annual in other cases.

### **STOCK / INVENTORIES**

Closing stocks have to be appropriately valued at the lower of cost or net realisable value. Accepted valuation methods are first-in-first-out (FIFO) and weighted average but last-in-first-out (LIFO) valuation is not acceptable. Valuation method once adopted must be consistently followed.

### **CAPITAL GAINS AND LOSSES**

Capital gains and losses as discussed above are excluded from regular trading operation of a company and assessed separately under different tax law.

### **DIVIDENDS**

Dividends received by a Nigerian company from other domestic companies are excluded in the determination of taxable income to the extent that such distribution has suffered withholding tax in the hands of recipient. Dividends paid to non-resident companies and investors attract withholding tax of 10%, which is the final tax, while dividends distributed by Unit Trusts and pioneer companies during the pioneer period are tax-exempt in the hands of recipients and withholding tax is not deductible for such dividend.

### **INTEREST**

Interest paid on loans used for business operations are allowable for tax purposes. For new business, such interest is capitalised prior to starting commercial production. Interest income received by lending institutions on loans to export oriented companies and agricultural businesses are granted tax exemptions depending on tenure and moratorium of the loans.

### **LOSSES**

Normal business losses can be carried forward indefinitely except for insurance companies who can only carry forward losses for a maximum of four years.

### **Tax Incentives**

#### **Government Incentives To Industry**

Nigeria's Industrial Policy document introduces a number of incentives designed to promote investment, employment, product mix and various other aspects of industry. These incentives fall within the following broad categories:

- (a) Fiscal measures on taxation;
- (b) Effective protection of local industries with import tariff;
- (c) Export promotion of Nigerian-made products;
- (d) Foreign currency facility for international trade;
- (e) CIT (Exemption of Profit) Order.

Enterprises which fulfil the required criteria are free to apply for the following specific incentives:

### **1 Pioneer Status**

100% tax-free period for five years for pioneer industries that produce products declared as “pioneer products” under the Industrial Development (Income Tax Relief) Act.

### **2 Local Raw Materials Utilisation**

30% tax concession for five years to industries that attain minimum local raw materials utilisation as follows:

Industrial Sector	Minimum Level
Agro	80%
Agro-allied	70%
Engineering	65%
Chemical	60%
Petro chemical	70%

### **3 Labour Intensive Mode of Production**

There is a 15% tax concession for five years. The rate is graduated in such a way that an industry employing 1,000 persons or more will enjoy the 15% tax concession while an industry employing 100 will enjoy only 6%, while those employing 200 will enjoy 7% and so on.

### **4 Local Value Added**

There is a 10% tax concession for five years. This applies essentially to engineering industries where some finished imported products serve as inputs. The concession is aimed at encouraging local fabrication rather than the mere assembly of completely knocked down parts.

### **5 In-Plant Training**

There is a 2% tax concession for five years of the cost of facilities provided for training.

### **6 Export-Oriented Industries**

There is a 10% tax concession for five years. This concession will apply to industries that export not less than 60% of their products. The emphasis here is on the encouragement of the pre-establishment stage of an export-oriented enterprise.

### **7 Infrastructure**

20% of the cost of providing basic infrastructure such as roads, water, electricity where they do not exist is tax deductible once and for all.

## **8 Investment In Economically Disadvantaged Areas**

There is a 100% tax holiday for seven years and additional 5% depreciation allowance over and above the initial capital depreciation.

## **9 Research And Development (R&D)**

There is an incentive of 120% tax deductible expenses provided the research and development is carried out in Nigeria; and 140% for R&D on local raw materials.

Expenses incurred by other companies in respect of R&D are tax deductible to a company but the amount deducted must not exceed 10% of the company's total profit for that year of assessment.

## **10 Abolition Of Excise Duty**

In order to boost local industries, stimulate trade and reduce business costs, the Government decided that all excise duties be abolished with effect from 1 January 1998 but from 1 January 1999 excise duties were re-introduced on the following specific products:

- Spirits and other spirit-based alcohol;
- Cigarettes, cigars, cheroots and cigarillos;
- Other manufactured tobacco and tobacco-manufactured substitutes.

## **11 Re-Investment Allowance**

This incentive is granted to companies engaged in manufacturing which incurs qualifying capital expenditure for the purpose of approved expansion, etc. The incentive is in the form of a generous allowance of capital expenditure incurred by companies' for the following:

- Expansion of production capacity;
- Modernisation of production facilities;
- Diversification into related products.

This scheme is to encourage re-investment of profits at a time when such investment is declining.

## **12 Companies Engaged In Export Trade**

With effect from 1 January 1996:

(i) Profits of any Nigerian company in respect of goods exported from Nigeria provided that the proceeds from such exports are repatriated to Nigeria and are used exclusively for the purchase of raw materials, plant and equipment and spare parts, are exempted from tax.

(ii) The profits of companies whose products are used exclusively as inputs for the manufacturing of products for exports is tax exempt. For this purpose, the exporter must give a certificate of purchase of the input of exportable goods to the seller before the profit can be eligible for tax exemption.

## **13 Taxation Of Export Free Zone Enterprises**

All new industrial undertakings including foreign companies and individuals operating in any Export Processing Zone in Nigeria shall be allowed a full tax holiday for three consecutive years of assessment.



Manufacturing companies can include the assembly and processing of goods for export provided the value of exported goods is not less than 75% of the total turnover during the assessment year.

### **14 Tax Relief to Export Oriented Enterprises**

The profit or gains of 100% of export oriented undertakings established outside an export free zone shall be fully exempted from income tax for three consecutive assessment years provided that:

- (i) The undertaking is 100% oriented;
- (ii) The undertaking is not formed by splitting up or the reconstruction of a business already in existence;
- (iii) It manufactures, produces and exports during the relevant year, and the proceeds or goods exported during the year are not less than 75% of its turnover for the year;
- (iv) The undertaking is not formed by transfer of machinery or plant previously used for any purpose to the new undertaking or, where it does, the written down value does not exceed 25% of the total value of the plant and machinery;
- (v) That the undertaking repatriates at least 75% of the export earnings to Nigeria and places this in the domiciliary account with a bank in Nigeria.

### **15 Solid Minerals**

Companies engaged in the mining of solid minerals are entitled to claim initial and annual allowances as follows:

- Initial Allowance: 30%
- Annual Allowance: 20%

In addition, they are to enjoy a tax-free holiday for the first three years of operation.

### **16 Replacement of Industrial Plant And Machinery**

Plant and machinery purchased to replace old ones are to enjoy a once and for all 95% capital allowances in the first year and the remaining 5% is to be retained as the book value until the final disposal of the asset.

In addition, an investment tax credit of 15% was granted for such replacements with effect from 1 January 1996

### **17 Tax Incentives For Hoteliers And Tourism Services**

25% of income derived from tourism by hotels in convertible currencies will be exempted from tax with effect from 1996 provided such incomes are set aside and put in reserve fund to be utilised within five years in expansion or the construction of new hotels, conference centres and new facilities useful for tourism development.

### **18 Tax Incentives For Local Manufacturers**

All companies engaged wholly in the fabrication of tools, spare parts and simple machinery for local consumption and export are to enjoy 25% Investment tax credit on their qualifying capital expenditure. Any taxpayer who purchases locally manufactured plant and machinery and equipment is similarly entitled to 15% investment tax credit on such fixed assets bought for business use.

## 19 Employment Tax Relief (Etr)

This is an income tax relief on the employment of persons that do not possess any previous work experience within three years of graduating from school or any vocation. To qualify for this, a company must have a minimum net employment of 10 employees in an assessment year of which 60% must be a new graduates who must have no previous work experience within three years of graduating.

'Net Employment' is defined as "the difference between incoming and outgoing employees of the company within the assessment period."

The relief to be enjoyed is 5% of the company's assessable profit and shall be limited to the gross salary of the qualifying employees.

It should also be noted that, in line with the order, the tax exemption (relief) shall only be utilised in the year of assessment in which the employees were first employed and any unabsorbed deduction shall not be carried forward to another assessment period.

## 20 Work Experience Acquisition Program Relief (Weapr)

This is a relief on the employment and retention of experienced employees.

The basic criterion is that a company must have a minimum net employment of five new experienced employees and retain such employees for a minimum of two years from the year of assessment when the employees were first employed.

The company shall enjoy an exemption from income tax of 5% of its assessable profits in the assessment period in which the company qualifies.

The tax exemption (relief) shall only be utilised in the year of assessment in which the company qualifies and any unabsorbed deduction shall not be carried forward to another assessment period.

## 21 Infrastructure Tax Relief (Itr)

The Exemption Order also stipulates that, where a company incurs expenditure on infrastructure or facilities of a public nature, 30% of the cost of the infrastructure or facilities will be granted as an exemption from income tax in the assessment period in which the infrastructure or facilities were provided.

The infrastructure or facilities, according to the Order include:

- Power (electricity);
- Roads and bridges;
- Water;
- Health, education and sporting facilities; and,
- Such other infrastructure or facilities as may be determined by Order Issued from time to time by the Minister of Finance.

Before a company can qualify for ITR, the infrastructure or facilities must have been completed and in use by the company and the public.

The exemption shall be enjoyed in the assessment period in which the infrastructure

or facilities was provided and may only be carried forward for a maximum period of two assessment periods following the period in which it first became available.

The incentives set out in this section are in no way exhaustive and neither are the quantum nor percentage of relief mentioned fixed for all time. There is the need therefore to ascertain the current operative figures at the time of making investments.

### **D. CORPORATE GROUPS**

There are no provisions for consolidation of accounts for group taxation in Nigeria.

### **E. RELATED PARTY AND ARTIFICIAL TRANSACTIONS**

Related party transactions are required by the tax laws to be disclosed separately and the tax officials are given power to determine whether the transactions are at arm's length and the adjustment to be made to the liability. When a disposition is not, in fact, given effect to and the transaction is artificial or fictitious, the transaction may be set aside by the Revenue.

The Tax authority in March 2012 published transfer pricing (TP) guidelines on "connected taxable person" which include various categories of entities; individuals, companies, partnerships, joint ventures, trusts or associations. This regulation shall apply to transactions between connected persons within and outside Nigeria carried on in a manner consistent with the arm's length principle and includes:

- (i) Transactions between a permanent establishment (PE) and its head office or other related branches. Branches are treated as separate entities;
- (ii) Sales and purchase of goods and services;
- (iii) Sales, purchase or lease of tangible assets;
- (iv) Transfer, purchase or use of intangible assets;
- (v) Provision of services;
- (vi) Lending or borrowing of money;
- (vii) Manufacturing arrangement;
- (viii) Any other transaction which may affect profit and loss or any matter incidental to the foregoing.

For each tax year, a connected taxable person shall, without notice or demand, make a disclosure in the prescribed form (through a TP disclosure form) with details of transactions that are subject to this regulation. The TP disclosure form and other necessary document shall be filed along with the connected persons annual income tax returns for each tax year.

### **E. EXCHANGE CONTROL**

Exchange control regulations have been abolished in Nigeria. Under the new foreign exchange and investment promotion laws, a foreign investor is guaranteed unconditional transferability of funds through an authorised dealer in freely convertible currencies in respect of:

- Dividends or profit (net of taxes) attributable to the investment;
- Payment in respect of loan serving where foreign loan has been obtained;
- The remittance of proceeds (net of all taxes) and other obligations in the event

of a sale or liquidation of the enterprise or any interest attributable to the investment. Authorised dealers of foreign currencies need to notify the Central Bank of Nigeria of any cash transfer to or from a foreign country of any sum in excess of USD 10,000.

A tax clearance certificate must, however, be obtained by anyone wishing to remit dividend and interest funds outside the country.

## F. WITHHOLDING TAXES

Certain payments to domestic companies and individuals and non-resident companies and investors are subject to withholding tax at the following rates:

	<b>Corporate Bodies (%)</b>	<b>Individual (%)</b>
Dividends	10	10
Royalties	10	10
Interest	10	10
Director Fees	10	10
Rent (including hire of equipment)	10	10
All aspect of building construction and related activities	5	5
All aspect of contract activities or agency arrangements including contract for supply (excluding survey, design and deliveries which remain at 5%)	2.5 (Previously 5%)	2.5 (Previously 5%)
Management services	10	5
Consultancy and professional fees	10	5
Technical services	10	5
Commission	10	5

Withholding tax paid by a resident person and companies in Nigeria is payment on account of tax and can be used to offset part of personal and companies' income tax except in the case of dividend and interest (franked investment income) where withholding tax becomes a final tax. Withholding tax paid by non-resident individuals and companies is a final tax.

## H. PERSONAL TAX

While the above outline applies mainly to companies, different tax rules and principles apply to individuals in employment, sole traders, partners in a partnership and trustees as outlined below.

The concept of residence determines the extent to which the income of taxpayer is liable to Nigerian tax. A resident person is assessable to tax on his global income, i.e. income accruing in, derived from, brought into or received in Nigeria. An individual is regarded as resident in Nigeria in an assessment year if he/she:

- (i) Is domiciled in Nigeria;
- (ii) Sojourns in Nigeria for a period or periods in all amounting to 183 days or more

- in a 12 month period; or,
- (iii) Serves as a diplomat or diplomatic agent of Nigeria in a country other than Nigeria.

The profit of a trade, profession or vocation is liable to tax in Nigeria regardless of the period such a trade, profession or vocation has been carried on. Income from employment, however, is liable to tax when a person becomes resident.

Non-resident persons pay tax on the portion of their income sourced in Nigeria. They become liable to tax from the day they begin to carry on a trade, business, profession or vocation in Nigeria. Double taxation treaties have been concluded with a number of countries and double taxation relief applies to such income.

The pay-as-you-earn system of collection is in operation.

There are a number of allowances against total income.

### INCOME TAX TABLE

- (1) Relief shall be granted thus:
- Higher of 1% of gross income;
  - Or a consolidated relief allowance on income at a flat rate of NGN 200,000; plus 20% of gross income.

- (2) Tax Exempt Income;

The following deductions are tax exempt:

- (a) National Housing Fund Contribution;
- (b) National Health Insurance Scheme;
- (c) Life Assurance Premium;
- (d) National Pension Scheme;
- (e) Gratuities.

- (3) After the relief allowance and exceptions had been granted in, accordance with paragraphs 1 and 2 of the Schedule to the New Personal Income Tax (Amendment) Act 2011, the balance of income shall be taxed as specified in the following tax table, subject to a minimum of 1% of gross income whichever is higher.

- First NGN 300,000 @ 7%;
- Next NGN 300,000 @ 11%;
- Next NGN 500,000 @ 15%;
- Next NGN 500,000 @ 19%;
- Next NGN 1,600,000 @ 21%;
- Above NGN 3,200,000 @ 24%.

Note:

- Gross emolument is defined to include benefits in kind, gratuities superannuation and any other incomes derived solely by reason of employment.
- Principal place of residence to include places where branch offices and operational site of companies are situated.
- Operational sites are defined in the bill to include oil terminals, oil platforms, flow stations, construction sites, etc. with a minimum of 50 workers.
- Full tax exemption to be granted on interest from bonds issued by Federal,

State and Local Governments and their Agencies, corporate entities and interest earned on short term securities.

- Interest for default in tax remittance to be charged at the prevailing minimum re-discount rate of the Central Bank of Nigeria on an annual basis.
- Individual tax clearance certificates (TCC) to be required for change of ownership of vehicles and application for land title transfer or perfection.
- Due date for filing employee tax returns to be 31 January.
- Stiffer criminal penalties for non-compliance. The penalty for late filing by corporate bodies is NGN 500,000 and NGN 50,000 for individuals.
- Tax officers to apply for a warrant from the High Court before levying any distress on a taxpayer.
- "Itinerant worker" includes an individual irrespective of his status who works at any time in any state during a year of assessment (other than as a member of the armed forces) for wages, salaries or livelihood by working in more than one state for a minimum of 20 days in at least three months of every assessment year. The relevant tax authorities are empowered to collect taxes from itinerant worker.

## SOCIAL SECURITY

Nigeria operates a national contributory pension scheme. The required rate to be contributed by the employer has been increased to a minimum of 10% (previously 7.5%) of the employee's monthly emoluments. While the required rate to be contributed by employee increased to a minimum of 8% (previously 7.5%) of his/her monthly emoluments.

## I. TREATY AND NON TREATY WITHHOLDING TAX RATES

	Dividends (%)	Interest (%)	Royalties (%)
Non-Treaty Countries:	10	10	10
Treaty Countries	7.5%	7.5%	7.5%

Presently, Nigeria has concluded a tax treaty with the following countries:

1. Belgium	7. Canada
2. China	8. Czech and Slovakia Republic
3. France	9. Netherlands
4. Pakistan	10. Romania
5. United Kingdom	11. South Africa
6. Philippines	

## **RWANDA**

**CURRENCY:** Rwandan Franc (RWF)

**POPULATION:** 12.52 million

**GDP GROWTH:** 6.7%

**GDP:** US\$ 8.8 billion



### **KEY TAX POINTS**

- Companies pay company tax based on computed tax profits at a rate of 30%.
- Categories of supplies of services and goods include exempt supplies and taxable supplies (i.e. at a rate of 0% and 18% for zero rated supplies and standard rated respectively). Export of goods and services physically rendered outside Rwanda are zero rated supplies. Services rendered within Rwanda although consumed outside Rwanda will be subject to VAT at the rate of 18%.
- A withholding tax of 15% is levied on dividends, interest, royalties and other listed payments made by resident individuals or resident entities including tax-exempt entities.

### **A. TAXES PAYABLE**

#### **COMPANY TAX**

Companies pay company tax based on computed tax profits at a rate of 30%.

A registered investment entity that operates in an export processing Zone or a foreign company that has its headquarters in Rwanda and fulfils the requirements stipulated in the Rwandan Law on Investment Promotion, are entitled to pay corporate income tax at the rate of 0%.

Venture capital companies registered with the capital markets Authority in Rwanda benefit from a corporate income tax of 0% for a period of five years from the date the decision has been taken.

Newly listed companies on capital market are taxed for a period of 5 years on preferential rates under the law.

A registered investor is entitled to a profit tax discount on employment of a given number of Rwandans.

#### **CAPITAL GAINS TAX**

Capital gains tax applicable at a rate of 30% on capital gains arising from the disposal (sale or cession) of immovable commercial property and sale of shares. Gains derived from disposals of other business assets are aggregated with other income and are taxed at the normal corporate income tax rate.

Gains arising from disposal of shares listed on the Rwanda Stock Exchange are exempt from tax.

In case of corporate re-organisation, the transferring company is exempt from tax in respect of capital gains and losses realised on re-organisation.

### **BRANCH PROFITS TAX**

Branch of a foreign entity pays tax rate of 30%.

### **VALUE ADDED TAX (VAT)**

Supplies of goods and services for Value Added Tax (VAT) purposes are either exempt, zero rated or standard rated. The standard rate of VAT is 18%.

Persons with investment certificate qualify for VAT exemption on several capital goods imported.

### **FRINGE AND EMPLOYMENT BENEFITS TAX**

Generally, benefits in kind received by an employee are included in taxable income in consideration of market value for tax purposes.

### **MOTOR VEHICLES**

The benefit is valued at 10% of the employment income excluding benefits in kind.

### **HOUSING**

The benefit is valued at 20% of the employment income excluding benefits in kind.

### **LOANS TO EMPLOYEES**

Tax is payable on interest free or low interest loan including salary advance exceeding three months salary granted to employees. The benefit is valued as the difference between the interest rate offered to commercial banks by the National Bank of Rwanda and the actual rate paid by employees.

### **OTHER BENEFITS**

Benefits provided by an employer to a person related to an employee when there is no service rendered, are treated as if provided to the employee. Benefits provided by a company to one of its members are considered in the same manner as benefits an employer gives to an employee.

### **LOCAL TAXES**

Employment income is taxed on a withholding tax basis known as Pay-As-You-Earn (PAYE) at a graduating scale of 0% to 30%.

### **OTHER TAXES:**

#### **MEDICAL INSURANCE SCHEME (RAMA)**

La Rwandaise D'Assurance Maladie (RAMA) is the country's medical insurance scheme. Employees contribute 7.5% and employers contribute 7.5%. Members automatically include all civil servants, pensioners who previously contributed towards medical care and private institutions who have applied and been accepted.

#### **SOCIAL SECURITY FUND (CSR)**

Contributions are set at 3% for employees and 5% for employers in respect of the employees' monthly income. Total remittance is 8%. Included in the 5% contribution



by employers is a 2% contribution for occupational hazard.

## B. DETERMINATION OF TAXABLE INCOME

Taxable income is accounting income adjusted for non-taxable income and for non-deductible expenses. Expenses are deductible if they are incurred wholly and exclusively in the production of income.

### CAPITAL ALLOWANCES

Location	Rate
Kigali*	40%
Outside Kigali*	50%

\*Conditions apply

The rates for wear and tear allowances for business assets deductible from taxable profits are as follows:

Wear and Tear	Rate
Heavy machinery and equipment	5%
Intangible assets including goodwill	10%
Computers and accessories, information and communication systems, software products and data equipment	50%
All other business assets	25%

Industrial building allowances	Rate
Buildings (excluding land) including built-in equipment and plant	5%

### OTHER DEDUCTIONS

Cost of bad debts (subject to recovery procedures) allowable. However, commercial banks and leasing entities duly licensed as such are allowed to deduct 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.

### DEPRECIATION

This is an accounting expense that is not allowable for tax purposes but wear and tear allowances as shown above are deductible allowances in determination of taxable income.

### LIQUIDATION

Proceeds of sale of any business asset and liquidation proceeds received during the tax period are included in business profit.

### DIVIDENDS

Dividends are taxed on a withholding tax basis which is final tax. Standard rate is 15% subject to provisions of double taxation relief, where applicable.

### INTEREST DEDUCTIONS

Interest incurred wholly and exclusively in the production of income is allowable.

However, where a company is controlled by a non-resident person, other than commercial banks and insurance companies, the interest deductibility is restricted only to the extent that the total indebtedness of the company does not exceed four times the paid-up share capital and revenue reserves (thinly capitalised).

## **LOSSES**

Net operating losses are allowed for carry forward to a maximum of five years by deducting earlier losses before later losses. However, this incentive not applicable where the direct and indirect ownership of the share capital or the voting rights of a company, whose shares are not traded on a recognized stock exchange changes more than 25% by value or by number.

## **FOREIGN SOURCED INCOME**

The following taxable payments are excluded from taxable income resulting from employment:

- (i) Employment income received by an employee who is not a citizen of Rwanda from a foreign government or a non-governmental organization under an agreement signed by the Government of Rwanda and when the income is received for the performance of aid services in Rwanda;
- (ii) Employment income received from an employer who is not a resident in Rwanda by a non-resident individual for the performance of services in Rwanda, unless such services are related to a permanent establishment of the employer in Rwanda.

## **INCENTIVES**

Income accruing to registered collective investment schemes and employees' shares scheme are exempted from income tax.

A registered investment entity that operates in a special economic Zone or a foreign company that has its headquarters in Rwanda and fulfils the requirements stipulated in the Rwandan Law on Investment Promotion, are entitled to exemption from withholding tax mentioned in Article 51 of Law no 16/2005 of 18/08/2005 on direct taxes on income and tax free repatriation of profit.

Income derived from agricultural and livestock activities is exempt, if the proceeds from these activities do not exceed RWF 12,000,000 in a tax period. Capital deductions are as given under 'Capital allowances' above.

A registered investment entity that operates in an export processing Zone and foreign companies with headquarters in Rwanda who fulfil the requirements stipulated in the Investment code of Rwanda is entitled to the following preferential tax rates:

- Pay corporate income tax at the rate of 0%;
- Exemption from withholding tax; and,
- Tax free repatriation of profits.

## **C. FOREIGN TAX RELIEF**

Foreign tax relief is limited only to countries with double taxation relief.

## **D. CORPORATE GROUPS**

The income tax law does not allow the filing of consolidated returns, the combining of profits and losses of affiliated companies or the transfer of losses from loss companies to profitable members of the same group of companies. Generally for tax purposes, a corporation tax rate of 30% applies to all separately incorporated companies irrespective of groups both in Rwanda and outside for profits derived in Rwanda.

## **E. RELATED PARTY TRANSACTIONS**

Related party transactions are allowable expenses if incurred wholly and exclusively in the production of income and taxed as income if earned or accrued as business activities. Transfer pricing adjustment rules apply. The Rwandan law on direct taxes on income stipulates that where conditions are made or imposed between related persons carrying out their commercial relationship which differ from those which would be applied between independent persons, the Commissioner General, may direct that the income of one or more of those related persons be adjusted to include profits that would have been made if they operated as independent persons. Provisions for advance agreements with Commissioner General exist.

## **F. WITHHOLDING TAX**

A withholding tax of 15% is levied on the following payments made by resident individuals or resident entities including tax-exempt entities:

- (i) Dividends\* except those governed by Article 45 of Law no 16/2005 of 18/08/2005 on direct taxes on income;
- (ii) Interests\*;
- (i) Royalties;
- (iv) Service fees including management and technical service fees;
- (v) Performance payments made to an artist, a musician or a sportsperson irrespective of whether paid directly or through an entity that is not resident in Rwanda;
- (i) Lottery and other gambling proceeds;
- (ii) Goods supplied by companies or physical persons not registered with the tax administration.

\* Withholding tax applicable on dividends and interest is a final tax. However, withholding tax on dividends and interest income on securities listed on capital markets and interest arising from investments in listed bonds with a maturity of 3 years and above shall be reduced from 15% to 5% when the person who withholds is a resident taxpayer of Rwanda or of the East African Community.

Withholding tax of 5% of the value of goods imported for commercial use shall be paid at Customs on the CIF (cost insurance and freight) value before the goods are

released by Customs.

Withholding tax of 3% on the sum of invoice, excluding the value added tax, is retained on payments by public institutions to the winner of public tenders. The following taxpayers are exempt from withholding tax:

- (i) Those whose business profit is exempt from taxation; and,
- (ii) Those who have a tax clearance certificate issued by the Commissioner General of Rwanda Revenue Authority.

## **G. EXCHANGE CONTROL**

The currency in Rwanda is the Rwandan franc (RWF). Rwanda does not impose foreign exchange controls.

## **H. PERSONAL TAX**

The tax rates are as follows:

<b>Tax bands for monthly income (RWF)</b>	<b>Rate</b>
0 to 30,000	0%
30,001 to 100,000	20%
100,001 and greater than	30% plus RWF 14,000

## **I. TREATY WITHHOLDING TAX RATES**

Rwanda has double tax agreements with Belgium and Mauritius.

## **SIERRA LEONE**

**CURRENCY:** Sierra Leonean Leone(SLL)

**POPULATION:** 6.42 million

**GDP GROWTH:** 9.9%

**GDP:** US\$ 6.1 billion



### **A. TAXES PAYABLE**

#### **TAXES AND LEVIES**

The National Revenue Authority (NRA) in Sierra Leone administers most of the taxes payable including the major revenue contributors.

The Domestic Taxes Department (DTD) of the NRA has been established as a 'one-stop shop' for the administration of all Sierra Leone's domestic taxes – namely the Goods and Services Tax, Income Tax Pay-As-You-Earn (PAYE), Corporation Tax, Withholding Tax, Payroll Tax, Personal Income Tax, Rent Tax and Foreign Travel Ticket Tax.

In the future, the DTD will also administer non-tax revenues, such as levies and royalties and Excise duties. It exercises its functions with the authority of the Commissioner General of the NRA

#### **RESIDENTS AND NON-RESIDENTS**

##### **RESIDENT INDIVIDUAL**

1. An individual shall be treated as resident in Sierra Leone for the entire year of assessment if that individual:
  - Has a normal place of abode in Sierra Leone and is present in Sierra Leone at any time during the year of assessment;
  - Is present in Sierra Leone on more than one hundred and eighty two days (182) in a twelve month period that commences or ends during the year of assessment; or
  - Is an official of the Government of Sierra Leone posted overseas during the year of assessment.
2. An individual who was not a resident in the preceding year of assessment shall not be treated as a resident for the period preceding the day the individual was first present in Sierra Leone during the year of assessment.
3. An individual who is not a resident in the following year of assessment shall not be treated as a resident for the period following the last day on which the individual was present in Sierra Leone during the year of assessment if during that period the individual had a closer connection to a foreign country than to Sierra Leone.
4. For the purposes of this section an individual shall not be treated as present in Sierra Leone on any day when:
  - The individual crosses the border to Sierra Leone to perform services as an employee in Sierra Leone;
  - The individual is in transit between two points outside Sierra Leone;
  - The individual is present in Sierra Leone for the purpose of medical treatment or full-time study; or

- The individual is present in Sierra Leone by of diplomatic status or being dependant of a person with diplomatic status.

### **TEMPORARY RESIDENT INDIVIDUAL**

An individual treated as resident, shall be treated as temporarily resident in Sierra Leone for the entire year of assessment if that individual:

Is not a citizen of or domiciled in Sierra Leone;

Does not intend, during the year of assessment, to reside in Sierra Leone for a total period of more than four years, and

As of the end of the year, has not been resident in Sierra Leone for more than four years.

### **COMPANY TAX**

Company tax is based on computed chargeable income.

Resident companies pay tax at 30% on their worldwide income.

Temporarily Resident Taxpayer-The calculation of the chargeable income of a temporarily resident taxpayer is similar to that for a resident taxpayer except assessable income includes only Sierra Leone source income and income from other sources that is remitted to Sierra Leone.

A company is considered a resident if it satisfies the three alternative tests of residence; place of incorporation; place of management and control; and place of majority of operations. Subject to subsection (2), a company that does not satisfy any of these tests is a non-resident person for the year of assessment.

Non-Resident companies pay tax at the rate of 30% on income sourced in Sierra Leone.

A permanent establishment of a non-resident person in Sierra Leone shall be treated as a resident person separate from but associated with its non-resident owner"

### **CAPITAL GAINS TAX**

Capital gains tax shall be payable by a chargeable person at the rate of 30% of the capital gain accruing to or derived by that chargeable person from the disposal of a chargeable asset owned by a chargeable person.

Chargeable asset" includes land and sea, property attached and integrated equipment, fixtures, improvements including leases, anything growing on the land and all interest in the property including sea which may be right to future ownership, right to occupy as tenant, life estate, the right to explore, develop, extract or produce oil, and other minerals, the right to shares, stocks and other investment opportunities in an entity, business or company, intellectual property rights, reversion of property , if it is not used for its current purpose, an easement across another person's property and any other privileges relating to the property, business and business asset including goodwill wherever situated.

Chargeable disposal" means the sale, realization or change of hands of a chargeable asset other than those specifically exempt from capital gain.

Chargeable person" means a person, individual, corporation and related organizations including permanent establishment, associates, affiliates and joint ventures which have made chargeable disposal of a chargeable asset during a year of assessment.

### **EXEMPTION FROM CAPITAL GAINS**

- Capital gain of a person that is up to and under the minimum chargeable income of Le3,600,000 per annum or per transaction;
- Capital gain accruing to or derived by a company out of a merger, amalgamation or re-organization of the company where there is continuity of underlying ownership in the asset of at least one quarter.
- Capital gain resulting from a transfer of ownership of the asset by a person to that person's spouse, children, parent, brother or sister;
- capital gain resulting from a transfer of ownership of the asset between former spouses as part of a divorce settlement or a genuine separation agreement;
- Capital gain where the amount received on realization is, within one year of realization, used to acquire a chargeable asset of the same nature (referred to as "replacement asset"); and
- Where part only of the amount received or realized is used in the manner referred to in paragraph (e), any part of the capital gain represented by the amount used to acquire the replacement asset is less than the cost base of the asset realized at the time of realization."

### **BRANCH PROFITS TAX**

A branch in Sierra Leone of a non-resident company shall be subject to tax on repatriated income at the rate of 30% as though such income were a dividend taxable at the rate of 10%, this tax being in addition to income tax on the chargeable income of the branch.

Repatriated income is the higher of—

- Funds repatriated in the year out of accumulated profits; and
- The chargeable income of the branch less—
- Sierra Leone income tax paid on that chargeable income; and Any profit reinvested or retained in the branch

### **SALES TAX / VALUE ADDED TAX**

The Goods and Service Tax (GST) is a form of Value Added Tax (VAT). It is aimed at being comprehensive for most goods and services.

Export will be zero-rated and imports will be levied the same taxes as domestic goods and services adhering to the destination principle.

GST applies to each of the following (with some exceptions):

- All goods subject to customs duty
- All goods subject to excise duty
- All goods listed in the First Schedule of the GST Act 2009. These include foods and beverages, wines and spirits, hydrocarbons, tobacco, cement, medicines, paints, perfume and toiletries, soaps, detergents, candles, matches, plastics, paper and paper articles, ammunition and weapons, furniture, motor vehicle bodies, structures and parts of structures for building, bridges, etc.

Every registered GST trader shall in the ordinary course of business, maintain an electronic cash register as may be determined by the Commissioner-General for the purpose of recording all transactions.

Turnover threshold for supplies over a 12-month period is Le 350,000,000.

Goods and services tax shall be imposed on the following in accordance with the Goods and Services Tax Act 2009-

- For mining companies, all non-production related items;
- For construction companies all non-construction related items; and
- For agricultural companies all non-agricultural related items.

The classification of items that are non-production related, non-construction related and non-agricultural related shall be determined by the Commissioner -General.

The rate of GST applicable to a taxable supply or import is:

- If the supply or import is zero-rated under the First Schedule, zero per cent;
- In any other case, 15 per cent.

## FRINGE BENEFITS TAX

Non-cash benefits given by employers to employees are included in employment income on the basis of the higher of the cost to the employer or the market value.

### Non-cash Benefit

Motor vehicle	Value to be added for tax purposes $P \times (R + 20\%C)$ where C is the purchase cost or full lease cost of the vehicle; P is the proportion of the employee's non business use; R is the employer portion of the running cost of the vehicle in the year.
Accommodation	Market rent of accommodation reduced by payment made by employee toward the benefit
Discharge/reimbursement of employee utility expenditure	Amount paid or reimbursed
Provision of domestic assistants	Employer's contributions towards the total emoluments paid to domestic assistant
Provision of meal, refreshment or entertainment	Actual cost to employer of providing the benefits
Waiver of an obligation	Amount of payment or repayment waived

## LOCAL TAXES

The City/Town Councils in the 14 Districts administer local taxes.

## OTHER TAXES

### 1. National Social Security And Insurance Trust (Nassit)

The National Social Security and Insurance Trust (NASSIT) is a Statutory Public Trust set up by the National Social Security and Insurance Trust Act No. 5 of 2001 to



administer Sierra Leone's National Pension Scheme.

The primary responsibility of the Trust is the part replacement of income lost as a result of the contingencies of old age, invalidity and death.

Employers and employees contribute 10% and 5% respectively of the employees' employment income.

## 2. Small and micro tax payer regime

### Turnover income tax payable in Leones

i.	under 10,000,000	Nil
ii.	10,000,001-20,000,000	100,000 plus 2% of the amount above 10,000,000
iii.	20,000,001-100,000,000	300,000 plus 4% of the amount above 20,000,000
iv.	100,000,001-200,000,000	3,500,000 plus 5% of the amount above 100,000,000
v.	200,000,000-350,000,000	8,500,000 plus 6% of the amount above 200,000,000

## 3. Payroll tax

All employers should make a return and pay tax for all non-citizen employees they employ, as follows:

ECOWAS Nationals	- Le 500,000 per employee per year
Non-ECOWAS Nationals	- Le 3,000,000 per employee per year

The amount payable, together with the completed Return, must be submitted to the DTD on or before 31st January of the year in which they apply. Where a non-citizen is employed in the course of the year, a subsequent return and payment must be filed within 14 days from the date of the employment.

## 4. Business Registration

The Office of the Administrator and Registrar-General (OARG) deals with starting a business and registering property indicators. Stamp duty is applicable and rates vary according to the type of instrument.

Inheritance / Estate duty – a tax duty of 10% of the value of the entire estate is payable

Stamp and Transfer Duty – Stamp duty rates vary from 1% to 12.5%. This applies to agreements, bills of exchange, promissory notes, bills of lading, bonds, leases and conveyances

## B. DETERMINATION OF TAXABLE INCOME

Deductions for income tax assessment purposes include expenses incurred necessarily to obtain, maintain and preserve such income. The Income Tax Act 2000 lists specific regulations for dealing with fixed assets, real estate, products, shares or securities sold, as well as deductible property plant and equipment, depreciation, bad and doubtful debts and meals, refreshment and entertainment.

## **CAPITAL ALLOWANCES**

### **CAPITAL ALLOWANCE DEDUCTION**

Depreciable assets are classified into groups with depreciation rates as follows—  
Group Assets Included Rate of Capital Allowance

- |  |      |
|--|------|
| 1. Plant, machinery and equipment, including automobiles and trucks -                                      | 40%  |
| 2. All other tangible depreciable assets except buildings- and intangible depreciable assets -             | 10%  |
| 3. Buildings used to house industrial, manufacturing, or agricultural activities                           | 15%  |
| 4. Buildings used to house commercial activities other than those described in group 3 –                   | 10%  |
| 5. Buildings other than those described in groups 3 and 4 -  | 5%   |
| 6. Expenditure on start-up costs on mineral and petroleum prospecting and exploration                      | 100% |
| 7. Production rights and other expenditure incurred on mineral and petroleum development shall be follows: |      |
| • initial allowance  | 40%  |
| • annual allowance   | 20%  |

### **INVESTMENT ALLOWANCES**

The amount of investment allowance to be deducted from business income is five percent of the cost of the relevant asset.

### **BUSINESS INVESTMENT RELIEF**

The maximum relevant amount of business investment relief available to an individual is fifty percent of qualifying investments totaling not more than Le3, 000,000 in any year of assessment.

### **DEPRECIATION**

Depreciation is not allowed. However, capital allowances deduction for depreciation of a taxpayer's depreciable assets are allowed.

## **STOCK/INVENTORY**

### **Trading stock**

- A taxpayer who maintains trading stock shall establish and maintain inventories of such stock.
- A deduction shall be allowed for the cost of trading stock sold during the year of assessment.
- The cost of trading stock sold in a year of assessment shall be determined by adding to the value of opening trading stock the cost of goods acquired during the year and subtracting the value of closing trading stock.
- A cash-basis taxpayer may calculate the cost of trading stock on the prime-cost or absorption-cost method and an accrual-basis taxpayer shall calculate the cost of trading stock on the absorption-cost method.
- The value of trading stock on hand at the end of the year of assessment shall be the lower of its cost or market value at that date.
- Where particular items of trading stock are not readily identifiable, a taxpayer may account for the trading stock on the first-in-first-out method or the average-cost method, but once chosen, a stock valuation method may only be changed with the written permission of the Commissioner, and a taxpayer using

the last-in-first-out method shall change to the first-in-first-out or the average stock method within five years from the date of commencement of this Act.

### **CAPITAL GAINS AND LOSSES**

The gain realised or the loss incurred on the disposal of a business or investment asset is taken into account in determining chargeable income.

The gain from the disposal of an asset is the excess of the consideration received over the adjusted cost base of the asset.

The loss from the disposal of an asset is the excess of the adjusted cost base over the consideration received.

The gain or loss on disposal of an asset which is not a business or investment asset is not taken into account in determining chargeable income.

### **DIVIDENDS**

Dividends received from an investment in Sierra Leone by a resident and a non-resident person is subject to a final withholding tax at 10%. The withholding tax on dividend does not apply to a dividend paid by a resident company to another resident company or to a complying retirement fund resident in Sierra Leone. Under certain conditions, payments other than distributions out of profits may be treated as dividends.

### **INTEREST DEDUCTIONS**

A taxpayer that is not a bank is entitled to a deduction of eighty percent of the interest expenses paid in respect of a debt obligation incurred by the taxpayer to produce assessable income.

### **LOSSES**

Any allowable loss suffered by the taxpayer to the extent that the loss has not been deducted in a previous year of assessment in-so-far as the tax payable each year will be less than 50% of the tax due if such loss is not carried forward;

### **FOREIGN SOURCED INCOME**

Income is from a foreign-source if it is derived from an activity which occurs out of Sierra Leone.

Any income which is not from a source in Sierra Leone is foreign-source income.

### **INCENTIVES**

#### **Importation of plants, machinery or equipment.**

The following shall be entitled to duty free import for a period of three years from the date of first registration.

- New and existing businesses importing plants, machinery or equipment excluding vehicles
- New business if it invests at least US\$10,000,000.00; and
- An existing business if it invests at least US\$5,000,000.00 in expanding the business.

## PETROLEUM REFINERY

A petroleum refinery investing a minimum of US\$20,000,000 and employing at least fifty Sierra Leonean citizens shall be eligible for the following relief—

- a) A corporate tax relief not exceeding five years; and
- b) Equipment and machinery for establishing the refinery shall be imported free of duty for a period of five years.

A new business investing a minimum of US\$2,000,000 and employing at least twenty Sierra Leonean citizens shall be eligible for the following relief—

- a) A corporate tax relief not exceeding five years; and
- b) Equipment and machinery for establishing a new business shall be imported duty free for a period of five years.

## AGRICULTURE

(1) Entities engaged in agricultural production shall be entitled to duty-free import of agricultural inputs for a period of five (5) years from the date of first registration.

(2) For the purpose of this section “agricultural inputs” means:

- (a) Fertilizers;
- (b) Pesticides;
- (c) Insecticides;
- (d) Seeds and seedlings;
- (e) Hybrid tree seeds;
- (f) Seed animal for feeding purpose;
- (g) Day-old-chicks; and
- (h) Animal sement.

(1) The income derived from investment in poultry business shall be exempt from income tax for a period of three (3) years:

- (a) In the case of a Sierra Leonean citizen if the investment is at least US\$50,000; and
- (b) In the case of a non-citizen, if the investment is at least US \$500,000

(2) Import of feeds, vaccine and veterinary drugs for poultry and livestock shall attract duty free import for a period of five years from the date of commencement of business.

## RESEARCH AND DEVELOPMENT

For the purposes of income tax, any expenses incurred on research and development by an investor, shall be eligible for deduction from profits of 100% of the cost incurred up to the extent of profits of the same year the expenditure is made but any unclaimed amount shall not be available for future deductions.

## TRAINING

For the purposes of income tax, any expenses incurred on training of local staff in an approved training programme, shall be eligible for deduction from profits of 100% of the cost incurred up to the extent of profits of the same year the expenditure is made but any unclaimed amount shall not be available for future deductions.

## C. FOREIGN TAX RELIEF

- A resident taxpayer is entitled to an allowable tax credit in respect of foreign

income tax borne by the taxpayer on assessable income derived from a foreign source.

- The allowable tax credit in respect of any foreign-source income may not exceed the Sierra Leone income tax on that foreign-source income, calculated by applying the average rate of Sierra Leone income tax to the foreign-source income reduced by any deduction properly allocated to that income.
- The allowable tax credit in respect of foreign-source income and the Sierra Leone income tax imposed on that income are calculated separately for each amount of foreign-source income derived by a taxpayer.
- Foreign-source income derived by a foreign branch of a resident company is aggregated and considered a single receipt of income.

### **Foreign employment income of residents**

Foreign-source employment income derived by a resident individual during a year of assessment from employment in a foreign country shall be exempt from income tax if the income is chargeable to tax in the foreign country.

## **D. CORPORATE GROUPS**

There are no special rules existing for the taxation of groups.

## **E. RELATED PARTY TRANSACTIONS**

Expenses incurred in these transactions are allowable. But the Commissioner General has power to re-characterise a transaction entered into as part of a tax avoidance scheme.

## **F. EXCHANGE CONTROL**

Exchange controls are under direct supervision of the Bank of Sierra Leone.

Foreign Exchange: In order to improve transparency and efficiency in foreign exchange transactions and achieve a market-determined foreign exchange rate, the Bank of Sierra Leone (BSL) has initiated a weekly auctions of non-cash foreign exchange. While the auction is primarily designed as a mechanism for the BSL to efficiently inject foreign exchange into the market, it also envisages a window for the sale of foreign exchange by other economic agents at market rates.

## **DIAMOND EXPORTING**

- Residents and non-residents are allowed to finance their diamond operations in Sierra Leone in United States Dollars, in notes, drafts or bank transfers.
- Diamond Exporters should ensure that moneys brought into Sierra Leone for their transactions are channelled through the banking system. Foreign exchange could be brought into Sierra Leone in any of the following ways: -
  - A. Letter of Credit
  - B. Telegraphic Transfer
  - C. Cash Dollar Notes
- For B and C above, Diamond Exporters will be allowed to export up to the amount of funds confirmed by the commercial banks as brought in.

- On a quarterly basis, commercial banks will be required to submit to the Bank of Sierra Leone returns on the inflows and outflows in respect of each licensed exporter.
- The list of commercial banks in Sierra Leone at any point in time would be obtained from the Bank of Sierra Leone.

## G. PERSONAL INCOME TAX

Rates of tax applicable to individuals resident in Sierra Leone

There was a pronouncement of the revised minimum wages in 2014 to Le 500,000.

Tax Threshold	Rate of Tax
Not over Le 3,600,000 per annum	nil
Next Le 3,600,000 per annum	15%
Next Le 3,600,000 per annum	20%
Excess over Le 10,800,000 per annum	30%

On a monthly basis, the rates are as follows:

Tax Threshold	Rate of Tax
Not over Le 300,000 per month	nil
Next Le 300,000 per month	15%
Next Le 300,000 per month	20%
Excess over Le 900,000 per month	30%

Further, for individuals receiving employment income, there is a threshold on non-taxable allowance of Le 2,600,000 per annum or Le 220,000 per month.

The income tax year of assessment is 1<sup>st</sup> January to 31<sup>st</sup> December.

## H. TREATY AND NON-TREATY WITHHOLDING TAX RATES

There is a double tax treaty with the United Kingdom (UK). It is very old but is still valid because it has never been cancelled.

This UK – Sierra Leone Treaty was extended by the colonial authorities to cover countries such as The Gambia; Ghana; Nigeria ;Canada ;New Zealand ;Denmark and Norway.

However, this does not reduce the rate of withholding taxes on payments to non-residents.

### WITHHOLDING TAX RATES

#### (a) Rates of tax to be withheld from payments made to residents

Type of payment Rate

Payments to contractors -5%

Dividends -10%  
Interests - 15%  
Rents -10%  
Royalties - 25%  
Pensions and annuities - 15%  
Natural resource payments - 25%  
Real property - 10%  
Winnings of Le 500,000 and above from any lottery - 10%

**(b) Rates of tax to be withheld from payments made to non-residents:**

Employment income - 25%  
Payments to contractors -10%  
Dividends - 10%  
Interest - 15%  
Rents and royalties - 25%  
Pensions and annuities - 25%  
Natural resource payments -25%  
Payments to or applications for the benefit of non-resident beneficiaries - 25%"

**INVESTMENT INFORMATION**

The Investment Promotions Act 2004 was enacted to promote and attract both domestic and foreign private investment for the development of production and value adding opportunities, to improve export and employment opportunities. The Act provides for several incentives for investors. Sections 8-10 of the Act provides for the following;

- Expatriate personnel with work permits shall be permitted to make remittances abroad through their commercial banks, subject to such withholding tax obligations as are contained in the Income Tax Act 2000.
- The remittance of profits, after taxes, earned by a foreign investor from a business enterprise, is guaranteed as constituting current international transactions in respect of which payments transferred abroad shall be allowed without restriction.
- An investor may freely repatriate proceeds received from the liquidation of a business enterprise and awards resulting from any settlement of disputes in respect of such business enterprise.
- There shall be no restriction on the transfer of repayments of principal and interest on an arms length third party loan contracted outside Sierra Leone and registered with the Bank of Sierra Leone but interest payments due on such loans may be subject to the withholding tax obligations in the Income Tax Act, 2000.

**Residence and Work Permit**

All foreign citizens are required to obtain a work permit from the Ministry of Labour

**ANNUAL BUDGET**

The yearly budget is presented to Members of Parliament by the Minister of Finance and Economic Development for discussion and ratification by Parliament at the end of November of each year, for the commencement of the financial year on 1<sup>st</sup> of January.

**SOMALILAND****CURRENCY:** Somaliland Shilling (SLSH)**POPULATION:** 3.50 million**GDP GROWTH:** 8.5%**GDP:** US\$ 1.4 billion**A. COMPANY TAX**

Company tax is based on computed tax profits as follows:

Resident companies:	10%
Non-resident companies:	16.3%

**B. CAPITAL GAINS TAX**

10% of the net gain

**C. BRANCH PROFITS TAX**

Branch of a foreign entity pays tax at the rate of 16.3%.

**D. SALES TAXES/VALUE ADDED TAX (VAT)**

The VAT rate is 5%.

**E. LOCAL TAXES**

Employment income is taxed at 6% of the gross annual income

Vehicle road tax rate 0.5% of the value of the vehicle

**F. LAND RATES**

Land rates are based on the percentage of the site value.

**G. RENTAL INCOME TAXES**

10% of the rental income

**H. SINGLE BUSINESS PERMIT**

Depending on the type of business, this permit costs a minimum of USD 200 to a maximum of USD 600.

**I. CAPITAL ALLOWANCES**

Land 0%



Buildings 5%  
Machinery 10%  
Computers 33%  
Equipment 20%  
Trucks 20%

### **J. PERSONAL TAX**

6% on the gross income

**SOUTH AFRICA****CURRENCY:** South African Rand (ZAR)**POPULATION:** 51.62 million**GDP GROWTH:** 2.3%**GDP:** US\$ 352.5 billion**A. TAXES PAYABLE****FEDERAL TAXES AND LEVIES****COMPANY TAX**

A company is resident in South Africa (SA) if it is incorporated, formed or established in SA or has its place of effective management (day to day management) in SA.

Subject to certain limited exemptions, South African resident companies and close corporations (companies) are taxed on their worldwide income. Furthermore, and again subject to certain exemptions, the international 'anti-avoidance' practice of taxing income earned by Controlled Foreign Companies (CFCs) applies to South African residents.

Normal tax is payable by South African companies on their worldwide taxable income at the rate of 28%. The tax is payable by both public and private companies as well as close corporations.

Small business corporations are close corporations and private companies with only natural persons as shareholders, gross income of less than R20 million during a year of assessment, and where not more than 20% of its gross income consists of investment income or income from the rendering of a personal service. These corporations qualify for taxation at the following rates in respect of the years of assessment ending between 1 April 2015 and 31 March 2016:

Taxable income		Rates of tax
R0 –	R 73 650	Nil
R73 651 –	R365 000	7% of the amount over R73 650
R365 001 –	R550 000	R20 395 + 21% of the amount over R365,000
R550 001 +		R59 245 + 28% of the amount over R550,000

Life assurers are taxed according to the four fund approach. The taxable income of what is known as The Individual Policyholder Fund is taxed at 30%. The Company Policyholder Fund and The Corporate Fund are taxed at 28%. Retirement Fund's receipts and accruals are exempt from tax.

Mining companies are, in addition to their specific corporate rates of tax, subject to a royalty calculated on the gross sales relating to the transfer of mineral resources. The royalty is calculated in terms of a specific formula and depending on whether refined or unrefined minerals are transferred can range from 0.5% to 7%.

### TRUSTS

South African trusts pay tax at a flat rate of 41% (2015: 40%) on each Rand of taxable income. Notwithstanding the aforementioned, special provisions apply to testamentary trusts (for so long as the beneficiaries remain minors under the age of 18 years) and trusts created for the benefit of mentally or physically challenged persons. These trusts pay tax at rates applicable to resident individuals.

Founders and donors of trusts may be taxed on income earned by the trust in terms of certain attribution rules (deeming provisions). The same can apply to beneficiaries of non-resident trusts in certain circumstances.

### CAPITAL GAINS TAX (CGT)

CGT was introduced with effect from 1 October 2001. South African residents are taxed on their worldwide assets while non-residents are only subject to CGT on any direct or indirect interest or right in or to immovable property situated in SA, and assets of a permanent establishment through which they carry on a trade in SA.

CGT is triggered on the disposal or deemed disposal of an asset which includes but is not limited to any event, act, forbearance or operation of law that results in the creation, variation, transfer or extinction of an asset.

A noteworthy deemed disposal arises on emigration from SA or termination of SA tax residence (exit charge).

CGT not only affects assets purchased and sold after 1 October 2001 but it also affects assets acquired prior to this date and disposed of subsequent to 1 October 2001. In the case of assets acquired prior to 1 October 2001 and disposed of subsequent thereto, the gain is calculated based on the growth in value after 1 October 2001 which, of necessity, has resulted in legislation providing for complex alternatives to determine the gain at the time of disposal.

Strictly speaking, CGT is not a separate tax but rather forms an integral part of SA's income tax legislation. In short, subject to any exclusions and exemptions, a taxable gain is calculated by taking the difference between the proceeds received on disposal of the asset and the base cost and then multiplying this amount by an inclusion factor (which varies depending on the nature of the taxpayer). The resultant sum is then added to the taxpayer's normal taxable income and taxed accordingly.

A capital loss results where the base cost exceeds the proceeds on disposal. Capital losses are however ring-fenced and may not be set off against a taxpayer's taxable income from revenue sources but may be set off against capital gains, with any excess capital losses carried forward for set off against any capital gains arising in subsequent years of assessment.

A summary of some of the more relevant inclusion rates and effective rates are set out below:

Nature of taxpayer	Inclusion rate	Maximum tax rate	Effective rate
Company/close corporation	66.6%	28%	18.7%
Natural person	33.3%	41%	0% to 13.7%
Trust	66.6%	41%	27.3%

## BRANCH PROFITS TAX

Where a branch of a foreign company operates in South Africa, a branch profits tax at the rate of 28% of taxable income applies.

## DIVIDENDS TAX (DT)

Dividends paid or that become payable by a South African company to a shareholder are subject to a 15% withholding tax. Notable exclusions from the DT are dividends paid to another South African company and dividends paid by headquarter companies. The DT may be reduced for dividends paid to foreign shareholders in terms of any applicable Double Tax Agreement.

## VALUE ADDED TAX (VAT)

VAT is imposed on most goods and services supplied by a vendor at 14%. Exports are zero-rated. Very few exemptions exist. Compulsory VAT registration is triggered when the value of taxable supplies in a 12 month period exceeds or is expected to exceed R1 million. As from 1 April 2014, compulsory VAT registration is triggered when the value of taxable supplies have already exceeded the R1 million threshold within the preceding 12 months or there is a written contractual commitment to make taxable supplies exceeding R1 million within the next 12 months.

## FRINGE BENEFITS TAX

Employees are taxed on the value of fringe benefits as determined in accordance with a separate schedule to the Income Tax Act. The tax levied is in accordance with the tax rates applicable to natural persons.

## DONATIONS TAX

Subject to certain exemptions, donations tax is levied at the rate of 20% on the value of any property disposed of under any donation (or deemed donation) made by a natural person, company, municipality or trust resident for tax purposes in SA.

## SECURITIES TRANSFER TAX

With effect from 1 July 2008, securities transfer tax is levied on every transfer of a security. A security in essence is any share in a company, member's interest in a close corporation or any right or entitlement to receive any distribution from a company or close corporation.

Only securities issued by companies incorporated, established or formed inside SA and companies incorporated, established or formed outside SA, which are listed on a South African exchange, are taxable.

The tax rate is 0.25% and is applied to the taxable amount in respect of any transfer

of a security.

## TRANSFER DUTY

Transfer duty is imposed on the transfer of immovable property (on or after 1 March 2015) at the following rates:

Property Value	Rates of Tax
On the first R750 000	0%
For R750 001 to R1 250 000	3% on the value above R750 000
For R1 250 001 to R1 750 000	R15 000 + 6% on the value above R1 250 000
For R1 750 001 to R2 250 000	R45 000 + 8% on the value above R1 750 000
For R2 250 000 +	R85 000 + 11% on the value above R2 250 000

## Other taxes

These include, amongst others, customs and excise duties, and skills development levies.

## B. DETERMINATION OF TAXABLE INCOME

The taxable income of a company is determined by deducting expenditure incurred in the production of income and other allowable expenses and allowances from the company's income. Capital gains are subject to CGT with effect from 1 October 2001.

Allowances/plant, machinery and equipment used in manufacture

Asset Type	Conditions for annual allowance	Annual Allowance
Industrial buildings or improvements and buildings used for research and development (note 1)	Construction of buildings or improvements on or after 1 January 1989, provided building is used wholly or mainly for carrying on process of manufacture or similar process or research and development.	5% of cost (previously 2%) (Note 2)
	Construction of buildings or improvements on or after 1 July 1996 to 10 September 1999 and the buildings or improvements are bought into use before 31 March 2000 and used in the process of manufacture or similar process.	10% of cost (Note 2)
New commercial buildings (other than residential accommodation) (Note 3)	Any cost incurred in erecting any new and unused building, or improving an existing building on or after 1 April 2007 wholly or mainly used for the purpose of producing income in the course of trade.	5% of cost

Building in an Urban Development Zone	Costs incurred in erecting or extending a building in respect of demolishing, excavating the land, or to provide water, power or parking, drainage or security, waste disposal or access to the building improvement to existing buildings.	20% in first year 8% in each of the 10 subsequent years
Hotel Buildings	Construction of buildings or improvements, provided used in trade as hotelkeeper or used by lessee in trade as hotelkeeper. Refurbishments (Note 4) which commenced on or after 17 March 1993.	5% of cost 20% of cost
Hotel equipment	Machinery, implements, utensils or articles bought into use on or after 16 December 1989.	20% of cost
Aircraft	Acquired on or after 1 April 1995.	20% of cost (Note 2)
Farming equipment and equipment used for production of renewable energy	Machinery, implements, utensils or articles (other than livestock) bought into use on or after 1 July 1988 for farming operations. Biodiesel plant and machinery bought into use after 1 April 2003. Machinery used for the generation of electricity from wind power, solar energy, hydropower, biomass comprising organic wastes, land fill gas or plant materials.	50% in first year 30% in second year 20% in third year
Ships	South African registered ships used for prospecting, mining or as a foreign-going ship, acquired on or after 1 April 1995.	20% of cost (Note 2)
Plant and Machinery (Note 1)	New and unused manufacturing assets acquired on or after 1 March 2002 will be subject to wear and tear allowances over 4 years.	40% in first year 20% in each of the 3 subsequent years (Note 5) 20% of cost
Plant and Machinery (small business corporations only)	Used manufacturing assets New and unused plant and machinery bought into use on or after 1 April 2001 and used by the taxpayer directly in the process of manufacture.	100% of cost
Non-manufacturing assets (small business corporation only)	Acquired on or after 1 April 2005.	50% in first year 30% in second year 20% in third year

Licences	Expenditure, other than for infrastructure to acquire a licence from government body to carry on telecommunication services, exploration, production or distribution of petroleum or the provision of gambling facilities.	Evenly over the period of the licence, subject to a maximum of 30 years
Communication lines and cables	Acquiring electronic communication lines or cables for direct joint ownership.	5% of cost
	Premium in respect of an indefeasible right of use (IRU)	Period of use (IRU must have a legal term of at least 20 years)
Environmental treatment and recycling asset and improvements	Any new and unused air, water and solid waste treatment and recycling plant or pollution control and monitoring equipment used in the course of the taxpayer's trade and required by law of the Republic.	40% in first year 20% in each of the three subsequent years
Environmental waste disposal asset and improvements thereto	Any new and unused air, water, and solid waste disposal site, dam, dump, reservoir, or other structure of a similar nature of a permanent nature, used in the course of the taxpayer's trade and required by the law of the Republic.	5% of cost

### NOTES:

1. As from 1 April 2012, new or unused assets or buildings used for the purposes of research and development will also qualify for the allowances.
2. Recoupment of allowances can be deducted from the cost of the replacement asset.
3. Allowances available to owners as users of the building or as lessors/financiers.
4. Refurbishment is defined as any work undertaken within the existing building framework.
5. Where plant and machinery is used in a process of manufacture or similar process, the taxpayer is obliged to make use of the allowances and not the wear and tear rates.
6. Prior to 1 January 2013, wear and tear on any assets acquired from a connected person may only be claimed on the original cost to the seller less allowances claimed by the seller, plus recoupments and CGT included in the seller's income.

### CERTIFIED EMISSION REDUCTIONS

Income received by a person disposing of credit emission reductions (CERs) emanating from Clean Development Mechanism (CDM) projects as envisaged in the Kyoto Protocol, will be wholly exempt from income tax and capital gains tax. This exemption includes 'in specie' distributions and applies in respect of CERs disposals on or after 11 February 2009. This concession ceases to apply from 1 January 2021.

As CERs will, by default, be exported, they will be zero-rated for VAT purposes.

## STOCK INVENTORY

All trading stock on hand at the end of the tax year must be added to income while all trading stock on hand at the beginning of the year ranks as a deduction. Trading stock is valued at the lesser of cost or net realisable value. Consumable stores and work-in-progress on hand constitute trading stock. The LIFO method of valuing trading stock is not permitted in respect of years of assessment commencing on or after 1 July 2000.

## RESEARCH AND DEVELOPMENT EXPENDITURE

As from 2 November 2006, specific deductions are allowed for expenditure incurred in respect of qualifying research and development activities. The department of Science and Technology must approve the entire 150% deduction. Only expenditure incurred is on or after the date of receipt of the application is eligible for this deduction.

Plant and machinery used for research and development qualify to be written off over four years (40:20:20:20). As from 1 January 2015, these assets can be written off over three years (50:30:20). Buildings used for research and development activities qualify for a 5% annual allowance.

## INTELLECTUAL PROPERTY

Where the expenditure was incurred before 29 October 1999, the deduction is allowed over the number of years of the duration of use or 4% of the expenditure, whichever is greater.

Where the expenditure was incurred on or after 29 October 1999 and exceeds R5 000 the annual deduction is limited to:

5% of the expenditure in the case of an invention, patent, copyright, knowledge or other property of a similar nature

10% of the expenditure in the case of a design or other property of a similar nature.

No allowance is allowed in respect of any expenditure incurred on or after 29 October 1999 in respect of the acquisition of any trademark or property of a similar nature.

## INTEREST AND FINANCE CHARGES

Interest incurred in the production of income is a deductible expense. Where the loan or instrument in respect of which interest is incurred complies with certain requirements, such interest is deemed to be incurred on a day-to-day basis.

Interest incurred prior to the commencement of trade is deductible in the year in which trade commences.

## TAX LOSSES

Subject to certain anti-avoidance provisions, company tax losses are carried forward to the following year provided the trading activity is perpetuated and income is derived from that trade. For natural persons, tax losses from secondary trades are ring-fenced in certain circumstances.

## INTEREST RECEIVED

Interest received (or accrued) is included in gross income. Where the loan or instrument in respect of which interest is received complies with certain requirements,



such interest is deemed to accrue on a day-to-day basis.

### **FOREIGN SOURCED INCOME**

South African resident individuals and corporates are subject to tax in SA on their worldwide income.

However, this general principle may be overridden by the provisions of a double taxation agreement or certain unilateral relief provisions contained in South African tax legislation.

A comprehensive set of rules govern the determination of the source of income.

Foreign dividends, i.e. dividends paid or payable by a foreign company, in respect of a share in that company are taxable, subject to certain exemptions.

The following foreign dividends are fully exempt from tax:

- If the shareholder (whether alone or together with any other company forming part of the same group of companies as that person) holds at least 10% of the total equity shares and voting rights in the company;
- If the shareholder is a company which is in the same country as the foreign company paying the dividend;
- If the dividend is in respect of foreign shares listed on the Johannesburg Stock Exchange and from 1 March 2014 includes a dividend in specie;
- If the dividend is declared out of net income which has already been taxed in SA in terms of the legislation regulating the taxation of CFCs, in the hands of the shareholder. Certain limitations apply in respect of this exemption.

Foreign dividends that are not fully exempt from tax are exempt in part based on a specified formula, the effect of which is that the foreign dividend will be subject to an effective 15% tax.

### **INCENTIVES**

The Department of Trade and Industry provides an additional industrial investment allowance for qualifying industrial assets and projects. No tax holiday scheme is in force.

### **REGIONAL HEADQUARTER COMPANY AND INVESTMENT FUND REGIMES**

A headquarter company regime applies from years of assessment commencing on or after 1 January 2011. Qualifying criteria for a headquarter company are:

- For the duration of the year of assessment each shareholder of the headquarter company must have held at least 10% of the headquarter company's equity shares and voting rights
- Where the company in question was dormant for a part of the year of assessment in which the qualifying 10% shareholding stands to be determined, the shareholding during the dormant part of the year must be ignored
- At the end of the year of assessment and all previous years of assessment of that company, 80% or more of the cost of the total assets of the company was attributable to one or more of the following:

- any interest in equity shares in
- any amount loaned or advanced to
- any intellectual property that is licensed by the company to any foreign company in which that company (whether alone or together with any other company forming part of the same group of companies as that company) held at least 10% of the equity shares and voting rights (qualifying investments)
- Where the foreign company in question is dormant, the 80% of the cost of its total assets requirement should be ignored for that part of the year of assessment or previous years of assessment during which it was dormant)
- Where the gross income of that company for that year of assessment exceeds R5 million, 50% or more of that gross income consisted of amounts in the form of one or both of the following:
  - any rental, dividend, interest, royalty or fee paid or payable by any foreign company that constitutes a qualifying investment; or
  - any proceeds from the disposal of any interest in a foreign company or in intellectual property licensed to a foreign company that constitutes a qualifying investment, and
- The company elects to be classified as a headquarter company.

The SA tax implications of qualifying as a headquarter company are:

- The company is resident in SA for normal tax purposes but is excluded from the definition of a resident for purposes of the corporate roll over rules.
- Dividends declared are not subject to Dividends Tax.
- Dividends received from a headquarter company do not enjoy the general local dividend exemption and are treated as foreign dividends, subject to the foreign dividend taxation rules.
- The disposal of shares by the headquarter company in foreign companies could qualify for CGT exemption in SA in terms of the participation exemption rule.
- No application of transfer pricing rules for back to back cross-border loans to foreign companies that constitute qualifying investments.
- No application of transfer pricing rules for back to back licensing of intellectual property (losses as result of back to back licensing will however be ring-fenced).
- Exemption from the pending withholding tax on interest in respect of back to back loans.
- Exemption from withholding tax on royalties in respect of back to back royalties paid to a foreign shareholder (applicable from 1 January 2015).
- Exemption from securities transfer tax.

A regional investment fund regime also applies from years of assessment commencing on or after 1 January 2011. Qualifying foreign investors will be regarded as passive investors with no exposure to South African tax because of the use of a South African portfolio manager.

## C. FOREIGN TAX RELIEF

Tax credits are granted in respect of foreign taxes paid on foreign sourced income in accordance with unilateral provisions contained in the Income Tax Act and numerous Double Tax Agreements. Where income is sourced in SA, no foreign tax credit will be

allowed but a deduction of the foreign taxes suffered is likely to be allowed. Special rules apply to foreign taxes suffered on income received or accrued from services rendered in SA.

### **D. CORPORATE GROUPS**

Group taxation is not applicable. However, corporate rules exist which provide relief in respect of transactions between group companies and between founding shareholders and their company. The relief provisions deal with the following transactions:

- asset-for-share transactions
- intra-group transactions
- unbundling transactions
- transactions relating to liquidation, winding-up or deregistration
- amalgamation transactions.

Briefly, the corporate rules provide for the following tax relief in respect of the above mentioned transactions, provided certain requirements are met:

- CGT
- STC (until 31 March 2012)
- Dividends Tax (effective from 1 April 2012)
- Securities transfer tax
- Income tax, specifically with respect to capital allowances claimed, recovery of capital allowances and the transfer of trading stock
- Transfer duty
- VAT.

The corporate rules have been expanded to include most inbound and foreign-to-foreign restructuring transactions that fall within the list of transactions set out above. These rules are complex. However, for the most part they require that the transactions be effected within a group of companies and that only built in capital gains assets would qualify for the roll over relief.

### **E. RELATED PARTY TRANSACTIONS**

The Commissioner for the South African Revenue Services is empowered to make adjustments to cross-border transactions between related parties that are not conducted on arm's length terms. While no specific thin capitalisation rules apply, the normal arm's length transfer pricing principle applies in respect of loans as well. There are also limitations on certain deductions and allowances on transactions between connected parties.

### **F. WITHHOLDING TAXES**

Royalty and similar income are subject to withholding taxes at source. The applicable rate will increase from 12% to 15 % from 1 January 2015. As from 1 July 2013, royalties paid by headquarter companies are exempt from the withholding tax.

A 15% withholding tax on dividends earned by non-residents applies from 1 April 2012. Dividends in specie will be subject to the 15% tax but the company declaring

the dividends will be liable for the tax.

A 15% withholding tax on interest paid or payable to non-residents is to be imposed from 1 March 2015. Notable exclusions include interest paid on so-called portfolio debt capital, i.e. government bonds, listed securities, debts owing by local banks, domestic brokerage accounts, etc., international bank finance and interest paid by a headquarter company.

As from 1 January 2016, a withholding tax on cross border consultancy, management and technical fees from a South African source is to be imposed at a rate of 15%. Service fees which constitute remuneration are exempt from this withholding tax.

## G. EXCHANGE CONTROL

Subject to certain limited exclusions, South African residents are subject to exchange controls. Exchange controls have been relaxed somewhat in recent years. Non-residents are excluded from the ambit of exchange controls.

## H. PERSONAL TAX

As a result of the change from a source-based system of taxation to a resident-basis of taxation, SA resident individuals are subject to tax on their worldwide income irrespective of the source of the income, except for certain exclusions.

Non-resident individuals, subject to certain exclusions, are subject to tax on their SA-sourced income only.

A natural person will be regarded as a resident for tax purposes if he is ordinarily resident in SA or where the person is not ordinarily resident in South Africa but spends more than a certain number of days in SA (the physical presence test).

The income tax rates applicable to natural persons for the tax year ending 29 February 2016 are:

Taxable Income		Rates of Tax
R	0 – R181 900	18% of each R1
R181 901 – R284 100	R 32 742 +	26% of the amount over R181 900
R284 101 – R393 200	R 59 314 +	31% of the amount over R284 100
R393 201 – R550 100	R 93 135 +	36% of the amount over R393 200
R550 101 – R701 300	R149 619 +	39% of the amount over R550 100
R701 301 +	R208 587 +	41% of the amount over R701 300

In respect of the 2016 year of assessment, the first R23,800 (2013: R22 800) of local interest earned is exempt from tax for individuals younger than 65 years and the first R34,500 (2013: R33 000) for individuals aged 65 years or older.

Deductions available to salaried employees and directors are restricted to the following:

- Bad debt allowance

- Doubtful debts allowance
- Wear and tear allowance
- Pension or retirement annuity fund contributions
- Donations to qualifying Public Benefit Organisations
- Home office expenses, subject to requirements
- Legal expenses
- Prior to 1 March 2015, premiums paid in terms of an certain allowable insurance policies
- As from 1 March 2008, refunded awards for services rendered and refunded restraint of trade awards .

Retirement saving contribution deductions are subject to certain limitations. Medical expenses are not deductible but a tax credit is available in respect of medical scheme contributions/fees. In addition to the medical scheme fees tax credit a further tax credit is available in respect of additional medical expenses, subject to certain limitations.

### DEEMED EMPLOYEES

Labour brokers and personal service providers are regarded as employees. A labour broker is a natural person who, for reward, provides a client with other persons to render a service for the client or procures such other persons for the client and remunerates such person.

A personal service provider is a company or trust where any service rendered on behalf of the entity to its client is rendered personally by any person who is a connected person in relation to such entity and certain provisions are met.

A labour broker who is not in possession of an exemption certificate will be subject to employees' tax at the rate applicable to individual taxpayers. A personal service provider will be subject to employees' tax at a rate of 28% in the case of a company and 40% in the case of a trust.

Deductions available to deemed employees are limited to remuneration for services rendered, contributions to pension and provident funds, legal expenses, bad debts, rent, finance charges, insurance, repairs and maintenance and fuel, incurred wholly and exclusively for trade.

## I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

Withholding tax rates for dividends, royalties and interest (from 1 March 2015) paid to non-residents from SA are set out in the table below. The rates below assumes a South African domestic withholding tax rate of 15% as it applies in respect of royalties paid to non-residents from 1 January 2015 (for the rates as it would have applied in respect of royalties paid to non-residents prior to 1 January 2015, please refer to earlier versions of this guide).

	<b>Royalties</b> <b>%</b>	<b>Dividends</b> <b>%</b>	<b>Interest</b> <b>%</b>
Non Treaty Countries	15	15	15

	Royalties %	Dividends %	Interest %
Treaty Countries			
Algeria	10	10/15	10
Australia	5	5/15	10
Austria	0	5/15	0
Belarus	5/10	5/15	5/10
Belgium	0	5/15	10
Botswana	10	10/15	10
Brazil	10/15	10/15	10
Bulgaria	5/10	5/15	5
Canada	6/10	5/15	10
Croatia	5	5/10	0
Cyprus	0	0	0
Czech Republic	10	5/15	0
Democratic Republic Of Congo	10	5/15	10
Denmark	0	5/15	0
Egypt	15	15	12
Ethiopia	15	10	8
Finland	0	5/15	0
France	0	5/15	0
Germany	0	7.5/15	10
Ghana	10	5/15	5/10
Greece	5/7	5/15	8
Hungary	0	5/15	0
India	10	10	10
Indonesia	10	10/15	10
Iran	10	10	5
Ireland	0	5/10	0
Israel	0/15	15	15
Italy	6	5/15	10
Japan	10	5/15	10
Korea	10	5/15	10
Kuwait	10	0	0
Lesotho	10	15	10
Luxembourg	0	5/15	0
Malawi	15	15	15
Malaysia	5	5/10	10
Malta	10	5/10	10
Mauritius	0	5/15	0
Mexico	10	5/10	10
Mozambique	5	8/15	8
Namibia	10	5/15	10
Netherlands	0	5/10	0

	<b>Royalties</b> %	<b>Dividends</b> %	<b>Interest</b> %
New Zealand	10	5/15	10
Nigeria	7.5	7.5/10	7.5
Norway	0	5/15	0
Oman	8	5/10	0
Pakistan	10	10/15	10
Peoples Republic Of China	7/10	5	10
Poland	10	5/15	10
Portugal	10	10/15	10
Romania	15	15	15
Russian Federation	0	10/15	10
Rwanda	10	10/15	10
Saudi Arabia	10	5/10	5
Seychelles	0	5/10	0
Singapore	5	5/15	0
Slovak Republic	10	5/15	0
Spain	5	5/15	5
Swaziland	10	10/15	10
Sweden	0	5/15	0
Switzerland	0	5/15	5
Taiwan	10	5/15	10
Tanzania	10	10/15	10
Thailand	15	10/15	10/15
Tunisia	10	10	5/12
Turkey	10	10/15	10
Uganda	10	10/15	10
Ukraine	10	5/15	10
United Kingdom	0	5/10/15	0
Usa	0	5/15	0
Zambia	15	15	15
Zimbabwe	15	15	15

**Note**

The above rates are provided as a guide only. A number of DTA's provide for alternative rates, including zero, to be applied in specific circumstances. The DTA's are available on [www.sars.gov.za](http://www.sars.gov.za)

**SOUTH SUDAN****CURRENCY:** South Sudanese Pound (SSP)**POPULATION:** 11.73 million**GDP GROWTH:** 19%**GDP:** US\$ 13.6 billion**A. FISCAL YEAR END****Residents**

Individuals: 31 December

Companies use their financial year-end

**Non-residents**

Foreign companies use their fiscal year-end

**B. TAXES PAYABLE****COMPANY TAX**

Company tax is based on computed tax profits as follows:

Corporation tax: 10% - for entities with turnover of less than SSP 1m  
 15% - for entities with a turnover between SSP 1m and SSP 75 m  
 20% - for entities with a turnover of over SSP 75 m

**CAPITAL GAINS TAX**

Capital gains are deemed as business income subject to the applicable corporate tax rate.

**INDIVIDUAL TAXATION**

Both resident and non-resident are taxed at progressive rates up to 15%.

The basis of taxation for residents is on worldwide income, whereas for non-residents is at source.

**WITHHOLDING TAX**

The relevant rates are as follows:	Resident	Non-Resident
Dividends	10%	10%
Interest	10%	10%
Royalties	10%	10%
Rent	10%	10%
Management service fee	N/A	N/A

**SALES TAXES**

	Resident	Non-Resident
Sales tax	5%	5%



Applicable on goods produced or imported into South Sudan. 10% increase during periods of budgetary austerity. 0% for goods produced by small businesses < SSP 1m in turnover

### OTHER TAXES

	Resident	Non-Resident
Excise tax	5% to 30%	5% to 30%

Applicable on excisable goods produced or imported into South Sudan and on excisable services.

### OTHER MATTERS

- Exchange controls - exist for both residents and non-residents.
- Transfer pricing - transactions between related parties are required to be at arm's length.
- Thin capitalization - No thin capitalization rules exist.
- Double tax agreements – None.
- Treaties awaiting conclusion and/or ratification – None.

**SWAZILAND****CURRENCY:** Swazi Lilangeni (SZL)**POPULATION:** 1.27 million**GDP GROWTH:** 2%**GDP:** US\$ 4 billion**KEY TAX POINTS**

- Company income tax in Swaziland is a 27.5% flat rate on the taxable profit as adjusted for income tax purposes.
- Resident and non resident companies are subject to income tax on income accrued or derived from Swaziland. Different rates apply to resident and non-resident companies.
- No tax is payable on capital gains.
- VAT Act no. 12 of 2011 was introduced in Swaziland on 1 April 2012 through the VAT Act no. 12 of 2011. VAT is chargeable on imports and the supply of goods and services in Swaziland. It is imposed at 14% on most goods and services supplied by a Vendor. Certain goods and all exports are zero rated.
- Swaziland has entered into a limited number of double taxation agreements with certain countries, including South Africa, the United Kingdom and Mauritius.
- There is no wealth tax, real estate tax or inheritance tax, sales tax or gift tax in Swaziland.
- Relief for double taxation is provided by means of credit for overseas tax suffered on overseas income.

**A. TAXES PAYABLE****COMPANY TAX****Federal taxes and levies:**

The Kingdom of Swaziland income tax system is source-based, i.e. income from a source within or deemed to be within Swaziland will be subject to taxation. Taxes are paid in two instalments in advance based on a provisional assessment, which should be at least 90% of the prior year tax charge. The Swaziland tax year is 30 June.

The estimate of taxable income may not be less than the taxable income assessed for the latest preceding year of assessment in respect of which an assessment has been issued not less than twenty one (21) days before the date such estimate is made, unless the taxpayer can satisfy the Commissioner General that the taxable income for the current year will be less than that for such preceding year.

Provisional tax payments are made as follows;

**First payment:**

This payment must be made within six months from the commencement of the year of assessment or approved financial year-end date. The estimate of taxable income may not be less than the taxable income assessed for the latest preceding year of

assessment, unless the taxpayer can satisfy the Commissioner General that the taxable income for the current year will be less than that for such preceding year.

### **Second payment:**

This payment must be made not later than the last day of the year of assessment or approved financial year end date. Where there has been an increase in the taxable income during the course of the current tax year, all taxpayers are obliged to make good the difference realized when paying either the first or second provisional tax.

### **Third payment:**

It must be paid on or before the due date of the income tax return. Interest at the rate of 18% per annum will be charged on any amount not paid by the date stated and in addition, a penalty equal to 20% of such amount may be imposed.

## **TRUSTS**

- (1) Every trustee who makes any payment from trust income to a beneficiary who has a vested right to such income shall withhold tax at the rate of thirty-three per cent of the gross amount.
- (2) The tax withheld shall be on account of the liability to tax of such beneficiary on the income derived from the trust.
- (3) Every trustee who has withheld any tax shall -
  - (a) within fifteen days from the date of payment remit to the Commissioner the amount of tax so withheld; and,
  - (b) furnish within thirty days after the end of the year of assessment to the beneficiary to whom the payment is made a certificate, showing the amount of the payment made and the tax withheld during the year of assessment.
- (4) Every trustee making any payment to which this section applies shall maintain a record showing in relation to each year of assessment-
  - (a) the payment made to each beneficiary; and,
  - (b) the tax withheld from such payment, and such record shall be kept for the period specified for examination by the Commissioner as and when required.
- (5) The deduction of tax under this section shall not relieve a beneficiary from the obligation to furnish a return for the assessment of the tax or any return from any other obligation imposed by the Income Tax Order of 1975 Amended.
- (6) A trustee who fails to withhold any tax or having withheld such tax fails to remit such tax to the Commissioner, as required shall, in addition to any penalty for which he may be liable, be personally liable to pay the Commissioner that amount of tax as if it were tax due and payable by such person under Part VII of the Income Tax Order of 1975 as Amended.

## **BRANCH PROFITS TAX**

Branches of non-resident Companies are subject to tax on Swaziland profits as if they were resident Companies. In addition, branch profits tax of 15% is charged on the deemed repatriated income. Such branch profits tax being paid or payable to a Company incorporated or registered as such in a neighbouring country (South Africa, Botswana, Lesotho, Mozambique and Namibia) and that it is neither a subsidiary nor a branch of a Company incorporated or registered outside a neighbouring country, the rate of tax for which such first mentioned Company shall be liable, at the rate of twelve and one half percent (12.5%).

## VALUE ADDED TAX (VAT)

There is no Sales tax in Swaziland. Value Added Tax (VAT) was introduced in Swaziland in April 2012. It is administered by the VAT Act No.12 of 2011 as well as the VAT Regulations of 2012. VAT is tax that is charged on the consumption of goods and services in Swaziland. VAT is also tax charged on the importation of goods and services into Swaziland.

### Standard rated supplies

These are taxable supplies that are neither exempt nor zero rated. VAT charged on standard rated supplies is 14%.

### Exempt supplies (first schedule of the VAT Act no. 12 of 2011)

- These are goods and services that do not attract VAT at all
- Suppliers of these goods and services cannot register for VAT
- Businesses dealing in exempt goods and services when purchasing taxable supplies have to pay VAT
- They cannot claim the VAT they incurred from their purchases as input tax because they are not VAT registered

### Zero-rated supplies (second schedule of the VAT Act no. 12 of 2011)

- These are goods and services that attract VAT at 0%
- Suppliers of these goods and services can register for VAT
- Such businesses can claim the VAT they incurred from their purchases as input tax at the end of each tax period

## VAT DECLARATION – PAYMENT/VAT RETURN

There are two applicable tax periods;

### Category A - One month tax period

Businesses who make annual taxable supplies of E20 million and above; or Businesses approved to deferred import VAT; must submit on a monthly basis.

### Category B – three month tax period

Businesses that make annual taxable supplies of less than E20 million are required to submit returns at three months intervals (quarterly). The return must be accompanied by proof of payment when applicable.

### Advance Payment on Vat

Taxpayers are advised to note the following on advance payment of VAT which shall come into effect on 01 April 2015:

- a. Monthly and quarterly filers are allowed to make advance payments of the VAT due even before the end of their tax period. The return will only be submitted on or before the 20<sup>th</sup> day of the month following the end of the tax period.
- b. Taxpayers must have made all VAT payments relating to that particular tax period on or before the 20<sup>th</sup> day of the month following the end of the tax period.
- c. Advance payment does not absolve the taxpayer from submitting the required VAT Returns as stipulated in Section 32 of the VAT Act, failure to submit on or before the due date shall continue to attract penalties in terms of Section 57 of the VAT Act.

- d. The facility provided by this Practice note is given as an option to both "Category A" and "Category B" taxpayers. Taxpayers who are comfortable with the payment intervals as prescribed in the legislation may continue to make payments in that manner.

### FRINGE BENEFITS TAX

In general, benefits provided to employees are added to their remuneration and taxed accordingly. There are, however, some exceptions, these include all other benefits in kind that an employee may enjoy at the expense of the employer; E.g. remuneration of domestic assistants by the employer on behalf of the employee; the amount of the remuneration paid to the assistants is added to the employee's salary before calculation of tax.

The value of free passage by road, rail, ship, or air that are paid for an employee. Such value is not taxable if the duration for the employment contract is two years or more. If the contract is less than two years the contract should not be renewable.

### STAMP DUTY

Stamp duty is levied on legal instruments relating to the sale, mortgage or lease of immovable property and the sale or mortgage of stocks and shares.

### LOCAL TAXES

Employment income is taxed on a withholding tax (WHT) basis known as Pay As You Earn (PAYE) at a graduating scale of 33% per annum.

### COMPANIES

Tax Rate	Date From	Tax Rate	Date To	Tax Rates
1 July 2012		30 June 2013		30%
1 July 2013		To Date		27.5%

### INDIVIDUALS

Taxable Income			Tax Rates
E0	- E100 000	0	+ 20% of the excess of E0
E100 000	- E150 000	E20 000	+ 25% of the excess of E100 000
E150 000	- E200 000	E32 500	+ 30% of the excess of E150 000
E200 000		E47 500	+ 33% of the excess of E200 000

### PART TIME EMPLOYEES' REMUNERATION

Remuneration	Tax Rate
0	- 8 333 20%
8 333	- 12 500 25%
12 500	- 16 666 30%
16 666	33%

**WITHHOLDING TAX RESIDENT AND NON RESIDENT**

<b>Resident And Non-Resident Tax</b>	<b>Rate Of Tax</b>	<b>Due Date</b>
Non-resident shareholders' tax (NRST) on dividends	SACU Area 12.5%. Outside SACU 15%	Within 30 days from the day on which the dividend is declared
Non-resident tax on interest	10%	Within 15 days after the date of accrual
Withholding tax on royalties and management fees	15%	Within 15 days from the date of payment.
Withholding tax on non-resident contractors	15%	Within 15 days from the date of payment.
Withholding tax on entertainers and sportsmen	15%	Within 15 days from the date of payment.
Repatriated Branch Profits	15%	Within 15 days from the date of payment.
Withholding tax on non-resident persons	15%	Within 15 days from the date of payment.

**CONCESSIONARY RATES OF NORMAL TAX IN THE CASE OF REDUNDANT OR RETIRING INDIVIDUALS – 2013 TO DATE**

<b>Taxable Income</b>	<b>Tax Rates</b>
E0 - E100 000	0 + 20% of the excess of E0
E100 000 - E150 000	E20 000 + 25% of the excess of E100 000
E150 000 - E200 000	E32 500 + 30% of the excess of E150 000
E200 000	E47 500 + 33% of the excess of E200 000

**OTHER TAXES**

These include amongst others, customs and excise duties and graded tax.

There are two rates relating to graded tax;

- The rate for all Swazi adults in receipt of income is E18/annum and this is payable via the first PAYE remittance system.
- The rate for an adult male person not in receipt of income is E4.20/annum.
- Female adults not in receipt of an income are not obliged to pay Graded tax.

**EXCISE DUTY**

Special excise duties apply to the following;

- Alcohol
- Tobacco products
- Perfumes etc

**Temporary importation**

Security is provided for the payment of customs duties and other taxes due in the event that the goods are not re-exported within the required deadline - to ensure

that goods that were imported for other than home consumption are not diverted to such consumption;

### Permanent importation

Release for free circulation (The term "free circulation" is used to describe imported goods on which all import formalities have been complied with and any customs duties or other charges have been paid and not repaid in whole or in part.)

At point of entry -obtain data to identify the goods and apply non-tariff measures (e.g licenses)

- perform point of entry controls - if necessary
- collect or secure import duties
- release the goods

Transit – suspension of duties and other charges, security required.

## B. DETERMINATION OF TAXABLE INCOME

### CAPITAL ALLOWANCES

#### WEAR AND TEAR ALLOWANCE - ITEM AND PERIOD OF WRITE OFF (NUMBER OF YEARS)

Description	Write off period
Computers software (pc's); special patterns and tooling; video cassettes	2
Bulldozers; calculators; computers (pc's); computers software; concrete transit mixers; Dictaphones; fax machines; motorized concrete mixers; patterns, tooling and dyes; textbooks; trucks (heavy duty)	3
Aircraft (light – passenger / commercial / helicopters); bicycles; compressors; debarking equipment; delivery vehicles; excavators; fork-lifts trucks; front-end loaders; graders; mobile cranes; mobile refrigeration units; motorcycles; motorized chain saws; pallets; portable concrete mixers; refrigerated milk tankers; tractors; excavators; trucks (others); track mounted cranes; water tankers	4
Battery chargers; cinema equipment; cash registers; computers (main frame); curtains; dental and doctors equipment; drilling equipment (water); engraving equipment; fire extinguishers (loose units); garden irrigation equipment (movable); hairdressers equipment; laboratory research equipment; Laundromat equipment; mobile caravans; motor mowers; musical instruments; passenger cars; photocopying equipment; portable generators; power tools (hand operated); public address systems; radio communication equipment; scales; solar energy units; staff training equipment; surveyors field equipment; tape recorders; telephone equipment; trailers; washing machines; workshop equipment; x-ray equipment	5

Adding machines; air conditioner (movable); arc welding equipment; balers; cheque writing machines; cold drink dispensers; crop sprayers; demountable partitions; drills; electric saws; electrostatic copiers; fertilizers spreaders; fitted carpets; furniture and fittings; gantry cranes; gas cutting equipment; gas heaters; and cookers; gear shapers; grinding machines; guillotines; harvesters; heat dryers; heating equipment; incubators; ironing and pressing equipment; kitchen equipment; knitting machines; lathes; medical theatre 6 equipment; milling machines; ovens and heating devices; ovens for heating food; perforating equipment; photographic equipment; planers; ploughs; refrigeration equipment; refrigerators; sanders; seed separators; sewing machines; shop fittings; spin dryers; spot welding equipment; television sets; video machines; decoders; typewriters; vending machines (including video game machines); water tanks	
Burglar alarms (removable); gymnasium equipment; neon signs and advertising boards; surveyors instruments; weighbridges (movable 10 parts)	
Lift installation (goods); lift installations (passengers); water distillation and purification plant 12	

## DEPRECIATION

Wear and Tear allowances or depreciation in respect of machinery, plant, implements, utensil and articles (including vehicles and equipment) Under Section 14(1)(c)

Group	Description Of Goods Assets Included	Depreciation Rate
1	Computer hardware and software; lorries; buses; video recorders	33 1/3%
2	Aircraft; construction equipment (mobile) (including – bulldozers, concrete mixers, graders, road scrapers); lifts and elevators; light delivery vehicles (LDV's); motor cycle; tractors; videotapes; plant and machinery working 24 hours per day	25%
3	Casino equipment, hotel soft furnishings (including carpets); medical equipment; sound and projection equipment; televisions; trailers; plant and machinery working two shifts per day	20%
4	Furniture and fittings; legal and professional libraries; musical equipment; office equipment including (accounting machines, air conditioning plant, binds and curtaining, fans) and any depreciable asset not included in any other group, including plant and machinery working one shift per day	10%
5	Railroad cars, locomotives and railroad equipment; engines and turbines; public utility plant	5%
6	Industrial Buildings	4%

Where a taxpayer elects to claim the deduction of wear and tear allowances on a



straight-line basis, such taxpayer shall obtain approval from the Commissioner of Taxes before claiming the wear and tear on straight-line basis. Requests for allowances to be granted on the "straight-line" will be considered if the following conditions in respect of the assets to which such method will be applied are satisfied:

- (a) The taxpayer maintains adequate records
- (b) The straight-line basis will apply to all assets of the same class
- (c) The annual return of income contains a schedule disclosing in respect of each asset disposed of during the year of assessment:
  - (i) The date of acquisition and the original cost
  - (ii) The income tax value as at the end of the immediately preceding tax year
  - (iii) The price realised on disposal or scrapping as well as the tax value of any profit or loss
- (d) The rates of allowance granted will be such that the rate per annum reduces the value of the asset to nil at the end of its agreed estimated life
- (e) An asset written off in full shall be brought into account at a residual value of E1 for record purposes

Where a taxpayer applies the straight-line method, the asset shall be written off in equal annual instalments over its estimated useful life. The wear and tear deduction must be reduced proportionately if the asset was acquired and commissioned during the year of assessment.

Where a taxpayer has been granted permission to apply the straight-line method, the write-off periods shall be in line with the periods prescribed by the Commissioner. Taxpayers must obtain prior approval to apply a different write-off period to an asset approved, for the proposed write off period from the Commissioner of Taxes.

### **TRADING STOCK**

- (1) There shall be taken into account, in the determination of the taxable income derived by any person, during any year of assessment, from carrying on any trade (other than farming), the value of all trading stock held and not disposed of by him (hereinafter referred to as "the value of trading stock held") at the beginning and end of each year of assessment.
- (2) The cost of trading stock disposed of during the year of assessment is determined by adding to the opening value of trading stock the cost of trading stock acquired during the year, and subtracting the closing value of trading stock.
- (3) The value of trading stock held by any person at the beginning of any year of assessment shall be deemed to be –
  - (a) where the person carried on trade on the last day of the previous year of assessment, the value of trading stock held on that date; or
  - (b) where the person commenced the trade during the year of assessment, the cost to the person of any stock acquired prior to the commencement of the trade.
- (4) The value of trading stock held at the end of a year of assessment shall be deemed to be the lower of cost or market value to the person carrying on the trade.
- (5) For the purposes of this subsection, the cost of any trading stock in relation to any date shall be –
  - (a) the cost incurred in acquiring such trading stock; and

- (b) any further costs incurred up to such date in getting such trading stock into its then existing condition or location.
- (6) Where any trading stock has been acquired by any person -
  - (a) for a consideration which cannot be valued; or
  - (b) otherwise than by way of a transaction at arm's length, such trading stock shall be deemed to have been acquired at a cost equal to the price which, in the opinion of the Commissioner, was the current market price of such trading stock on the date of acquisition.
- (7) Where particular items of trading stock are not readily identifiable, a person may account for that trading stock on the first-in-first-out method or the average cost method but, once chosen, a stock valuation method may be changed only with the written permission of the Commissioner.

## DIVIDENDS

Non-Residents Tax	Rate Of Tax	Due Date
Dividends for companies in Botswana, Lesotho, Namibia and South Africa	12.5%	Within 30 days from the day on which the dividend is declared
Dividends - for other countries	15%	Within 30 days from the day on which the dividend is declared
Residents	Rate Of Tax	Due Date
Dividends	10%	Within 15 days from the date of payment

## INTEREST DEDUCTIONS

Levy of non-residents tax on interest.

If any amount of interest accrues to or in favour of -

- (a) any person, other than a company, not ordinarily resident in Swaziland;
- (b) the estate of any deceased person who, at the date of his death, was not ordinarily resident in Swaziland; or
- (c) a company not registered in Swaziland; and the debtor in respect of such amount is ordinarily resident or carries on business in Swaziland, there shall be levied and paid a tax (in this Part referred to as nonresidents tax on interest) equal to ten per centum of such amount.

## Application of provisions

For the purpose of this Part -

- (a) if interest is payable or is credited to any person having an address outside Swaziland such interest shall, until the contrary is proved, be deemed to have accrued to any person, estate or company, as the case may be,
- (b) if the debtor in respect of any amount of interest is the estate of any deceased person, such estate shall be deemed to be ordinarily resident or to be carrying on business in Swaziland, if such person at the date of his death, was ordinarily resident or was carrying on business in Swaziland;
- (c) if the debtor in respect of any amount of interest is a company, such company shall be deemed to be ordinarily resident in Swaziland if it is registered, managed or controlled in Swaziland; and
- (d) any amount accruing to any shareholder in a building society out of the profits of

such society shall be deemed to be interest.

### **LOSSES**

Tax losses can be carried forward to offset against future profits. Losses that are offset may be carried forward indefinitely.

Losses cannot be carried back against profits of previous years.

### **FOREIGN SOURCED INCOME**

Foreign tax relief is limited only to countries which have a Double Taxation Agreement with Swaziland.

### **INCENTIVES**

The Memorandum of Understanding (MOU) sets out terms and conditions, which shall apply in respect of the grant of a Development Approval Order (DAO) by the Minister of Finance (MoF) to whichever Company that has applied for the (MOU). The tax concession is granted under the (DAO) for a period of 10 years.

### **C. FOREIGN TAX RELIEF**

Relief for double taxation is provided by means of credit for overseas tax suffered on overseas income. The credit is the lower of the foreign tax paid and the Swaziland tax on the income concerned.

Foreign tax relief is limited only to countries with double taxation relief. These include; Mauritius, South Africa and the United Kingdom.

### **D. CORPORATE GROUPS**

There is no special regime for the taxation of groups of companies. Each Company is taxed as a separate entity. Losses incurred by one affiliate may not be offset against profits made by another affiliate.

### **E. RELATED PARTY TRANSACTIONS**

Inter-company pricing between affiliated companies must be carried out on an arm's length basis or the income of both companies is adjusted for income tax purposes.

Taxpayers are obliged to provide the tax authorities with documentation containing data about the activities of the taxpayer and other parties to the transaction. This includes a list of the parties to the transaction, the description of the transaction, the terms of the transaction, methods of pricing, terms and conditions of payments etc. functions of the parties of the transaction, information about accepted risks considered by the taxpayer when concluding the transaction and so on.

### **F. EXCHANGE CONTROL**

There are no exchange controls in effect.

## G. PERSONAL INCOME TAX

Personal income tax is levied on resident and non resident individuals, whether or not they are citizens of Swaziland.

### INDIVIDUALS – 2013 TO DATE

Taxable Income		Tax Rates	
E0	- E100 000	0	+ 20% of the excess of E0
E100 000	- E150 000	E20 000	+ 25% of the excess of E100 000
E150 000	- E200 000	E32 500	+ 30% of the excess of E150 000
E200 000		E47 500	+ 33% of the excess of E200 000

When applying the above rates the following should be taken into account:

- Tax payable by a natural person will be reduced by a tax rebate amount not exceeding E8, 200 per tax year
- The rates are applicable on the amount exceeding E41 000
- The tax rebate does not apply in the case of redundant or retiring individuals.
- Tax payable by a natural person will be further reduced by a secondary rebate of additional amount not exceeding E2000 if the person is over 60 years old on the last day of assessment.

Taxpayers who are liable to tax on business income are obliged to submit their income tax declarations on business income to the Swaziland Revenue Authority by 31 October every year.

All taxpayers must keep records of their income. They are obliged to keep records for at least five years from the year to which they relate. To avoid double taxation, Swaziland has concluded a considerable number of double taxation conventions.

## H. EXEMPTIONS

There are a number of exemptions within each category of income which are defined in Section 12 of The Income Tax order of 1975 Amended.

- (1) There shall be exempt from normal tax –
  - (a) the receipts and accruals of –
    - (i) a pension fund, a retirement annuity fund, a benefit fund or a provident fund;
    - (ii) any company, society or other association of persons, whether or not registered under any law, the profits or gains of which, other than profits or gains from investments, are derived solely from transactions with or on behalf of its individual members, and the constitution of which does not admit of the distribution of its profits or gains to any persons other than the members with whom or on whose behalf the transactions took place, and does not confer upon any person any benefit other than benefits accruing to that person from transactions with or on behalf of such person, except as regards any receipts or accruals from investments by any such company, society, or association of persons; and
    - (iii) any exempt organisation other than business income that is not related to the

- function constituting the basis for the existence of the organisation.
- (b) the income of any person entitled to privileges under the Diplomatic Privileges Act to the extent provided in such Act;
  - (c) the salaries and emoluments of any person in respect of services rendered to the Government of any country other than Swaziland if that person is not ordinarily resident in Swaziland or is ordinarily resident solely for the purpose of performing such services;
  - (d) war pensions or gratuities;
  - (e) dividends received by or accrued to or in favour of –
    - (i) any person not ordinarily resident or carrying on business in Swaziland;
    - (ii) the estate of any deceased person who at the date of his death was not ordinarily resident or carrying on business in Swaziland, if, but for this exemption, such estate would have been liable for normal tax in respect of such dividend; and
    - (iii) any company;

## I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

### DOUBLE TAX TREATIES AND REDUCED RATES

Country	Dividends Qualifying Companies (%)	Interest	Royalties (%)
Mauritius	7.5	5	7.5
South Africa	10	10	10
United Kingdom	15	Fully taxable	*

\* Taxable only in the state of residence of the recipient

**TANZANIA****CURRENCY:** Tanzania Shilling (TZS)**POPULATION:** 50.96 million**GDP GROWTH:** 7%**GDP:** US\$ 40.2 billion**KEY TAX POINTS**

- Corporate tax is payable by Tanzanian companies on their worldwide taxable income at the rate of 30%.
- Value Added Tax is generally charged at the standard rate of 18% on any supply of goods or services in mainland Tanzania.
- There are several sources of income that are subject to withholding taxes, generally at rates from 2% to 15%.

**A. TAXES PAYABLE****CORPORATE TAX**

A company is resident in United Republic of Tanzania if it is incorporated, formed or established in Tanzania or has its place of effective management (day to day management) in Tanzania.

Subject to certain limited exemptions, Tanzanian resident companies and close corporations (companies) are taxed on their worldwide income as provided on Income Tax Act 2004 section 67.

Furthermore, and again subject to certain exemptions as provided on Income Tax Act 2004 second schedule, the international 'anti-avoidance' practice of taxing income earned by Controlled Foreign Companies (CFC) applies to Tanzania residents. Corporate Tax is payable by Tanzanian companies on their worldwide taxable income at the rate of 30%. The tax is payable by both public and private companies as well as close corporations.

For Individuals, where the turnover exceeds TZS 20,000,000 the taxpayer is obliged to prepare audited financial statements in respect of his/her business.

If the company has less than TZS 20,000,000 it will be taxed as follows:

### Presumptive Individual Income Tax

Annual Turnover	Tax Payable (incomplete accounting records)	Tax Payable (complete accounting records)
TZS 0 – TZS 4,000,000	NIL	NIL
TZS 4,000,000 – TZS 7,500,000	TZS. 200,000/=	4% of the annual turnover in excess of TZS 4,000,000/=
TZS 7,500,000 – TZS 11,500,000	TZS. 424,000/=	TZS 1400,000 plus 5% of the turnover in excess of TZS 7,500,000/=
TZS 11,500,000 – TZS 16,000,000	TZS. 728,000/=	TZS 340,000 plus 6.0% of the turnover in excess of TZS 11,500,000 /=
TZS 16,000,000 – TZS 20,000,000	TZS. 1,150,000/=	TZS 610,000 plus 7%% of the turnover in excess of TZS 16,000,000/=

Mining and oil and gas companies are taxed at the same fixed corporate tax of 30% of taxable income but as per the Finance Act 2013 mining companies are granted depreciation allowance of 100% on equipment used for prospecting and exploration of minerals or petroleum.

### INSURANCE

General insurance business should be treated separately from the life insurance business for tax purposes.

A general insurance business shall include;

- any other amounts to be included under the Income Tax Act
- premiums derived during the year of income by the person as insurer, including as re-insurer, in conducting the business; and
- proceeds derived during the year of income by the person under any contract of re-insurance in respect of proceeds; and

The following are deducted, together with any other amounts deductible under the Income Tax Act;

- proceeds incurred during the year of income by the person as insurer, including as re-insurer, in conducting the business; and
- premium incurred during the year of income by the person under any contract of re-insurance.

A life insurance business shall include;

- any other amount to be included under the Income Tax Act;
- premium derived during the year of income by the person as insurer, including as re-insurer, in conducting the business; and
- proceeds derived during the year of income by the person under any contract of re-insurance; and

- there shall be deducted only the expenses of managing the business's investments (including commission) that are deductible under the Income Tax Act;

The following amounts shall not be deductible;

- proceeds incurred during the year of income by the person as insurer, including as re-insurer, in conducting the business; and
- premium incurred during the year of income by the person under any contract of re-insurance.

## TRUSTS

A trust or unit trust is liable for tax, however, it will be taxed separately from its beneficiaries and trustees.

Assets owned and liabilities owed by a trust or a trustee in the capacity of trustee (other than as a bare agent) shall be treated as owned or owed by the trust and not any other person.

Amounts derived and expenditure incurred by a trust or a trustee in the capacity of trustee (other than as a bare agent), shall be treated as derived or incurred by the trust and not any other person.

The following distributions are exempted:

- Distributions of a resident trust or unit trust shall be exempted in the hands of the trust's Beneficiaries;
- Distributions of a non-resident trust or unit trust shall be included in calculating the income of the trust's beneficiaries.

## TAXATION OF PARTNERS

A partnership business is not subject to tax but partners in partnership are taxed by using individual tax rate and their taxable income is determined by taking partner's share of any partnership income; and deducting the partner's share of any partnership loss, for a year of income of the partnership ending on the last day of or during the year of income of the partner.

## CAPITAL GAINS TAX (CGT)

Gains from the disposal of investment assets situated in Tanzania by non-residents are taxed at the rate of 20% and for residents of Tanzania, regardless whether the disposal is made inside or outside Tanzania, the disposal is taxed at the rate of 10% on the net gain realized. Acquisition costs are deducted from the gross selling price.

However, are exempted from the CGT;

- If the property was used as the individual's private residence for three years prior to the sale, capital gains are exempt up to TZS 15 million (USD 8,250);
- Agricultural land with value less than TZS 10 million;
- Less than 25% of Dar es Salaam Stock exchange (DSE) shares held by a person;
- 25% or more of shares of a resident company held by another resident company within the previous five years; and,
- Units in approved collective schemes



## **BRANCH PROFITS TAX**

Where a branch of a foreign company operates in Tanzania, a branch profits tax at the rate of 30% of taxable income and 10% repatriated income applies.

## **DIVIDENDS TAX (DT)**

Gross dividends of a resident company, controlling 25% or more shares, will be taxed at 5% when paid to a resident company and 10% when paid to a non-resident company. Any corporation that is listed on the Dar es Salaam stock exchange (DSE) and paying dividends to a resident or non-resident entity will be taxed at the rate of 5%.

Dividends other than mentioned above will be taxed at the rate of 10% for resident or non-resident companies.

## **VALUE ADDED TAX (VAT)**

VAT shall be charged at 18% on any supply of goods or services in mainland Tanzania where it is a taxable supply made by a taxable person in the course of, or in furtherance of, any business carried on. Furthermore, a compulsory VAT registration is triggered when the value of taxable supplies in a 12 month period is or is expected to exceed TZS 40 million or TZS 10 million in a 3 month period, a VAT registered person is required to lodge VAT returns on a monthly basis and make the payment, if any, of the same time when lodging the VAT returns.

VAT on the importation of taxable goods or services from any place outside mainland Tanzania shall be charged and payable in accordance with Value Added Tax (VAT) 1997 legislation and the procedures applicable under the Customs Laws for imported goods shall apply in respect of VAT imports.

## **FRINGE BENEFITS TAX**

Employees are taxed on the value of fringe benefits as determined in accordance with a separate schedule to the Income Tax Act (the 'fifth schedule'), which quantifies the car benefit. The other benefits include housing, and loans that are provided for less than twelve month period and do not exceed 3 months basic salary. The tax imposed to individual is in accordance with the tax brackets and rates applicable to natural persons.

## **OTHER TAXES**

These include, amongst others, Customs and Excise duties, and skills development levies.

## **B. DETERMINATION OF TAXABLE INCOME**

The taxable income of a company is determined by deducting expenditure incurred in the production of income and other allowable expenses and allowances from the company's income.

How the income is determined as well as allowable expenses and allowances that a company may deduct from that income is detailed further below.

## INCOME FROM A BUSINESS

"Business" includes a trade, concern in the nature of trade, manufacture, profession, vocation or isolated arrangement with a business character; and a past, present or prospective business, but excludes employment and any activity that having its nature and the principal occupation of its owners or underlying owners, is not carried on with a view to deriving profits.

If the activities of the company are in line of the above definition of a 'business' according to the Tanzania tax laws, the company will be treated as conducting a business and its taxable income will be subject to tax at a rate of 30%. Taxable income is determined by taking business income and deducting allowable expenditure as explained below.

## INCOME FROM INVESTMENT

A corporation's income from investment is its income from activities not directly related to its business. This class of income may include dividends, interest and rent which are not core to the business of a corporation. Income from investments is calculated as follows: -

- From total returns on investment;
- Deduct any income which has been subject to a final withholding tax and exempt dividends;
- Deduct current expenses deductions;
- Add net capital gains (i.e. capital gains minus capital losses);
- Deduct any loss carry forward from previous year.

## GENERAL PRINCIPLES OF DEDUCTIONS

The corporation is not allowed to deduct the expenses of the following nature in determining its taxable income:

- Expenditure incurred by employee or employer in the maintenance of himself or herself, his or her family or establishment, or for any other personal or domestic purpose;
- Expenditure of the capital nature that secure a benefit lasting longer than twelve (12) months or incurred in respect of natural resource prospecting, exploration and development;
- Bribes and expenditure incurred in corruption practice;
- Fines and penalty fines and similar penalties payable to a government or a political subdivision of a government of any country for breach of any law or subsidiary legislation;
- Expenditure to the extent to which incurred by a person in deriving exempt amounts or final withholding payments.

## INTEREST AND FINANCE CHARGES

Interest incurred in the production of income is a deductible expense. Where the loan or instrument in respect of which interest is incurred complies with certain requirements, such interest is deemed to be incurred on a day-to-day basis. Exempt controlled residents may deduct interest but to a limit not exceeding sum of interest equivalent to debt to equity ratio of 7 to 3.

## TRADING STOCK

All trading stock on hand at the end of the tax year must be added to income while all

trading stock on hand at the beginning of the year is deducted. Trading stock is valued at the lower of cost or the net realisable value.

### **REPAIR AND MAINTENANCE EXPENDITURE**

For the purposes of calculating a person's income for a year of income from any business, there shall be deducted all expenditure to the extent it is incurred during the year of income, by the person and in respect of the repair or maintenance of depreciable assets owned and employed by the person wholly and exclusively in the production of income from the business.

No deductions are available for expenditure improving the assets but that expenditure may be included in the cost of the assets if certain requirements are met.

### **RESEARCH AND DEVELOPMENT EXPENDITURE**

In accordance to the Income Tax Act 2004 research and development expenditure is deductible if it is incurred by a person in the process of developing the person's business and improving business products or process and includes expenditure incurred by a company for the purposes of an initial public offer and first listing on the Dar es Salaam Stock Exchange but excludes any expenditure incurred that is otherwise included in the cost of any asset used in the use in any such process.

### **GIFTS TO PUBLIC AND CHARITABLE INSTITUTIONS**

For the purpose of calculating a person's income for a year of income from any business, there shall be deducted

- Amounts contributed during the year of income to a charitable institution or social development project;
- Any donation made to Educational institutions;
- Amount paid to local government authority which are statutory obligations or government directives to support community development projects.

The deductions available for a year of income shall not be more than 2% of the person's income from the business.

### **DEPRECIATION ALLOWANCE FOR DEPRECIABLE ASSETS**

For the purposes of calculating a person's income for a year of income from any business, there shall be deducted in respect of depreciation of depreciable assets owned and employed by the person during the year of income wholly and exclusively in the production of the person's income from the business the allowances granted under the schedule below.

<b>Class</b>	<b>Depreciable Assets</b>	<b>Rates</b>
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 7 tonnes; construction and earth-moving equipment.	37.5%

2*	Buses with a seating capacity of 30 or more passengers, heavy general purpose or specialized 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; specialized 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 referred to in subparagraph (3) in respect of natural resource prospecting, exploration and development expenditure.	20%
5**	Natural resource exploration and production rights and assets referred to in subparagraph (3) in respect of natural resource prospecting, exploration and development expenditure.	20%
6**	Buildings, structures, dams, water reservoirs, fences and similar works of a permanent nature used in agriculture, livestock farming or fishing farming.	5%
7 **	Intangible assets other than those in Class 4.	Over Useful life of asset
8 **	Plant and machinery (including windmills, electric generators and distribution equipment) used in agriculture. Equipment used for prospecting and exploration of minerals or petroleum.	100%

Capital allowances on fixed asset expenditure such as initial allowance of 50% applies on the net cost of plant and machinery used in manufacturing (and fixed in a factory), fish farming, or in providing services to tourists (and fixed in a hotel). Total capital allowance granted to a person is available in two portions: the first portion (an initial allowance of 50%), if applicable, is available in the year of acquisition and the remaining portion is available during the subsequent years.

#### NOTES:

- \* Pools of Depreciable calculated basing on Diminishing value balance method.
- \*\* Pools of depreciable assets calculated basing on straight line Method.

#### LOSSES ON REALIZATION OF BUSINESS ASSETS AND LIABILITIES

For the purposes of calculating a person's income for a year of income from any business, there shall be deducted any loss of the person from the realization during the year of income of the following:

- A business asset of the business that is or was employed wholly and exclusively in the production of income from the business;

- A debt obligation incurred in borrowing money, where the money is or was employed or an asset purchased with the money is or was employed wholly and exclusively in the production of income from the business;
- A liability of the business other than a debt obligation incurred in borrowing money, where the liability was incurred wholly and exclusively in the production of income from the business.

### **LOSSES FROM A BUSINESS OR INVESTMENT**

For the purposes of calculating the income of a person (other than a partnership or a foreign permanent establishment) for a year of income from a business or investment, there shall be deducted:

- Any unrelieved loss of the year of income of the Corporation from any other business or investment: and,
- Any unrelieved loss of a previous year of income of the Corporation from any business or investment.

### **TAX LOSS**

If a corporation made a loss from the corporation's business it is allowed to be deducted for five consecutive years and on the third year will be tax at the rate of 0.3% on turnover.

### **INTEREST RECEIVED**

Interest received (or accrued) is included in gross income. Where the loan or instrument in respect of which interest is received complies with certain requirements, such interest is deemed to accrue on a day-to-day basis.

### **FOREIGN SOURCED INCOME**

Tanzania resident individuals and corporate entities are subject to tax in Tanzania on their worldwide income. However, this general principle may be overridden by the provisions of a double taxation agreement or certain unilateral relief provisions contained in Tanzania's tax legislation. A comprehensive set of rules govern the determination of the source of income.

### **INCENTIVES**

In Tanzania there is an enacted law called the Tanzania Investment Act 1997, the Act has set up a one-stop investment centre to coordinate, encourage, promote and facilitate investment in Tanzania and to advise the Government on investment policy and related matters. The Tanzania Investment Centre (TIC) assist all investors to obtain permits, authorisation etc. required by other laws to set up and operate investments in Tanzania.

There are two categories of investors; normal investor and strategic investor depending on the value of investment. The strategic investor enjoy more incentives than normal investor. With a Tanzania Investment Centre (TIC) certificate the investor qualifies for tax exemptions on certain items.

The other categories of investments that enjoy incentives include;

**Export Processing Zone (EPZ) tax incentives which include:**

- Exemption from corporation tax for 10 years;
- Exemption from withholding tax on rent, dividends, interest, royalty for 10 years;
- Remission of Customs duty, Excise duty, other tax for goods used as raw materials, equipment, machinery etc. directly relating to the manufacturing activities;
- Exemption from payment of all taxes and levies imposed by the local government authorities for products produced for a period of 10 years;
- Exemption from pre-shipment or destination inspection requirements;
- On site customs inspection of goods in the EPZ;
- Entitlement to an initial automatic immigration quota of up to five persons during the start-up period;

**Special Economic Zone (SEZ):**

SEZ provides incentives depending on the category of the investor. Some of the incentives include the following;

- Exemption from payment of taxes and duties for machinery, equipment, heavy duty vehicles, building and construction materials and any other goods of capital nature to be used for the purpose of the development of the SEZ infrastructure;
- Exemption from payment of stamp duty on any instrument executed in or outside the SEZ relating to transfer, lease or hypothecation of any movable or immovable property in or situated within the special economic zone or any document, certificate, instrument, report or record relating to any activity, action, operation, project, undertaking or venture in the SEZ;
- Exemption from payment of VAT on utility charges;
- Exemption from pre-shipment or destination inspection requirements;
- On site customs inspection of goods within SEZ;
- Treatment of goods destined into SEZ as transit cargo.
- Remission of customs duty, VAT and any other tax charged on raw materials and goods of capital nature related to the production in the SEZ;
- Provision of business visa at the point of entry to key technical, management and training staff for a maximum of two months; thereafter the requirements to obtain a residence permit according to the Immigration Act, 1995 shall apply

**C. FOREIGN TAX RELIEF**

A resident corporation may claim foreign tax credits in a year of income for any foreign income tax paid by a corporation to the extent to which it is paid with respect to the corporation's taxable foreign income for the year of income.

Foreign tax credits claimed shall be calculated separately for each year of income and shall not exceed the average rate of Tanzania income tax of the corporation for the year of income applied to the corporation's taxable foreign income. However a corporation may elect to relinquish a foreign tax credit available for a year of income and claim a deduction for the amount of the foreign income tax; but otherwise no deduction is available for foreign income tax.

## D. CHARITABLE ORGANISATIONS

A “charitable organisation” or “religious organisation” means a resident entity of a public character that satisfies the following conditions:

- The entity was established and functions solely as an organization for the relief of poverty or distress of the public, the advancement of education or the provision of general public health, education, water or road construction or maintenance; and,
- The entity has been issued with a ruling by the Commissioner under section 131 currently in force stating that it is a charitable organisation or religious organisation.

For the purposes of calculating the income of a charitable organisation or religious organisation for any year of income from its charitable business:

- (a) There shall be included, together with any other amounts required to be included under other provisions of the Income Tax Act, all gifts and donations received by the organisation; and,
- (b) There shall be deducted, together with any other amounts deductible under other provisions of the Income Tax Act:
  - (i) Amounts applied in pursuit of the organisation or religious organisation's functions (referred to above) by providing reasonable benefits to resident persons or, where the expenditure on the benefits has a source in Tanzania, persons resident anywhere; and,
  - (ii) 25 percent of the organisation or religious organisation's income from its charitable business (calculated without any deduction under subparagraph (i) above) and any investments.

## E. RELATED PARTY TRANSACTIONS

The Commissioner for the Tanzania Revenue Authority is empowered to make adjustments to transactions between related parties that are not conducted on arm's length terms. Specific thin capitalization rules do apply.

## F. WITHHOLDING TAXES

There are several sources of income that are subject to withholding taxes as follows:

	Resident (%)	Non-Resident (%)
Dividends:		
- To companies controlling 25% of share or more	5	10
- From DSE listed companies	5	5
- Other companies	10	10
Interest	10	10
Royalties	15	15
Technical and management service to mining companies	5	15

**Rental:**

- Land and buildings	10	15
- Air craft lease	10	0
- Residential house if exceeds TZS 500,000 p.a.	10	15
- Other assets	0	15
Natural resources payments	15	15
Services fees	5	15
Payment for goods to the Government of Tanzania	2	N/A
Insurance premium	0	5
Commission on mobile money transfer	10	N/A
Annual Director's fees (other than full time service director)	15	15

**G. EXCHANGE CONTROL**

Under the Investment Act 1997, investors are guaranteed unconditional transferability (through any authorized dealer in freely convertible currency) of net profits, foreign loan services, royalties, fees and technology transfer charges, emoluments of foreign personnel and repatriation of capital, after taxes on the sale of the investment,

However, all transactions in foreign currency are regulated by the Foreign Exchange Act which permits any person, resident or not, to:

- Hold any amount of foreign currency;
- Sell any amount of specified foreign currency to an authorized dealer;
- Open and maintain a foreign currency account with a bank which is an authorized dealer.

**H. PERSONAL TAX**

An annual budget reforms the statutory provisions each year and below is a schedule relating to the taxation of personal income commencing from 1<sup>st</sup> July 2014 to 30<sup>th</sup> June 2015:

<b>Individual Employment Income</b>	<b>Tax Rates</b>
0 - 170,000	Nil
TZS. 170,001 - TZS. 360,000	12% of the amount in excess of TZS. 170,000
TZS. 360,001 - TZS. 540,000	TZS. 22, 800 + 20% of the amount in excess of TZS. 360,000
TZS. 540,001 - TZS. 720,000	TZS. 58,800 + 25% of the amount in excess of TZS.540,000
Over TZS. 720,000	TZS. 103,800 + 30% of the amount in excess of TZS. 720,000



Deductions available to salaried employees and full-time service directors are restricted to the following:

- Exempt amounts and final withholding payments;
- On-premises cafeteria services that are available on a non-discriminatory basis;
- Medical services, payment for medical services, payments for insurance for medical services or payments that are:
  - Available with respect to medical treatment of the individual, spouse of the individual and up to four of their children; and,
  - Made available by the employer (and any associate of the employer conducting a similar or related business) on a non-discriminatory basis;
- Any subsistence, travelling, entertainment or other allowance that represents solely the reimbursement to the receipt of an amount expended by him wholly and exclusively in the production of his income from his employment or services rendered;
- Benefit derived from the use of motor vehicle where the employer does not claim any deduction or relief in relation to the ownership, maintenance or operation of the vehicle;
- Benefit derived from the use of residential premises by an employee of the Government or any institution whose budget is fully or substantially out of Government budget subvention;
- Payment providing passage of the individual, spouse of the individual and up to four of their children to or from a place of employment which correspond to the actual travelling cost where the individual is domiciled more than 20 miles from the place of employment and is recruited or engaged for employment solely in the service of the employer at the place of employment;
- Retirement contributions and retirement payments exempted under the Public Service Retirement Benefits Act, 1999;
- Payment that it is unreasonable or administratively impractical for the employer to account for or to allocate to their recipients;
- Allowance payable to an employee who offers intramural private services to patients in a public hospital;
- Housing allowance, transport allowance, responsibility allowance, extra duty allowance, overtime allowance, hardship allowance and honoraria payable to an employee or the Government or its institution whose budget is fully or substantially paid out of Government budget subvention;
- In calculating an individual's gains or profit from payment for redundancy or loss or termination of employment, any payment received in respect of a year of income which expired earlier than five years prior to the year of income in which it was received, or which the employment or services ceased, if earlier such payment shall, for the purposes of calculation of the tax payable thereon, be allocated equally between the years of income in which it is received or, if the employment or services ceased in an earlier year between such earlier year of income and the five years immediately preceding such year of income in which such payment is so received or as the case may be, such earlier year of income in which the employment or services ceased, and each such portion allocated to any such year of income shall be deemed to be income of that year of income in addition to any other income in that year of income;
- If the contract is for a specified term, the amount included in gains or profits shall not exceed the amount which would have been received in respect of

the unexpired period of such contract and shall be deemed to have accrued unevenly in such unexpired period;

- If the contract is for an unspecified term and provides for compensation on the termination thereof, such compensation shall be deemed to have accrued in the period immediately following such termination at a rate equal to the rate per annum of the gains or profits from such contract received immediately prior to such termination; and,
- If the contract is for an unspecified term and does not provide for compensation on the termination thereof, any compensation paid on the termination thereof shall be deemed to have accrued in the period immediately following such termination at a rate equal to the rate per annum of the gains or profits from such contract received immediately prior to such termination, but the amount so included in gains or profits shall not exceed the amount of three years' remuneration at such rates.

## I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

Tanzania has a double taxation treaty (DTT) with each of the following countries: South Africa, Denmark, Canada, Finland, India, Italy and Norway. However the DTT with Zambia has no limitation under the treaty on withholding tax on dividends, interest and royalties. These payments are only subjected to tax in the originating country if they are not taxable in the recipient country. Under the DTT with Canada, India, and Sweden, interest rates are further reduced for certain percentages of ownership.

	<b>Dividends (%)</b>	<b>Interest (%)</b>	<b>Royalties (%)</b>
Treaty countries:			
South Africa	10% / 20%	10%	10%
Sweden	25%	15%	20%
India	5%/10%	10%	10%
Italy	10%	12.5%	15%
Norway	20%	15%	20%
Finland	20%	15%	20%
Denmark	15%	12.5%	20%
Canada	25%	15%	20%
Zambia	No limitation	No limitation	No limitation

## J. TRANSFER PRICING

The Income Tax (Transfer Pricing) Regulations 2014 were issued by way of a gazette notice published on 7 February 2014, and came into effect on the publication date.

The regulations apply to taxpayers dealing with related parties located both inside and outside the United Republic of Tanzania. The regulations address the potential mismatch between profit allocation and distribution of risks, assets and functions

across the associated enterprises. The Regulations requires corporations to provided documented evidence that an arm's length amount was paid for goods (both tangible and intangible) and services between related parties.

### **Documentation requirement**

The Transfer Pricing documentation should be prepared before filling tax returns and should be submitted to within 30 days upon request by the Commissioner.

### **Stiff Penalties for non-compliance**

The penalties for any transfer pricing adjustment made as part of a tax audit is 100% of the unpaid tax.

Failure to comply with the regulations is an offence, and upon conviction, the taxpayer is liable to imprisonment for a maximum of 6 months and or a fine of not less than TShs 50m (fifty million) or both.

### **Advance Pricing Arrangements**

The regulations also provide that a taxpayer can request the Commissioner to enter into an Advance Pricing Arrangements ("APA"). Basically these APA can be unilateral, bilateral and multilateral based on the taxpayer request and determine in advance the prices of the future controlled transactions over a fixed period of time, but not exceeding five years of income.

## TUNISIA

**CURRENCY:** Tunisia Dinar (TND)

**POPULATION:** 11.12 million

**GDP GROWTH:** 3.7%

**GDP:** US\$ 50 billion



### KEY TAX POINTS

- Companies are generally liable to corporate income tax at the rate of 25%.
- Value Added Tax is charged at 6% (IT services, hotels and restaurant activities, and equipment), 12% (raw materials, craft industry products, medical activities, and canned food) or 18% (operations related to services and goods not subject to another rate).
- Inherited property and gifts are subject to tax at rates varying from 2.5% to 35%, depending on the closeness of relation.
- For certain categories of income, the payer of income has to withhold tax at source, file a tax return and submit the amount of tax withheld to the finances.

### A. TAXES PAYABLE

#### FEDERAL TAXES AND LEVIES

##### COMPANY TAX

Limited companies, limited partnerships and cooperatives are liable to corporate income tax on their profits stemming from any business they carry on in Tunisia. Foreign companies not carrying on business in Tunisia but deriving certain types of income from Tunisia are subjected to company tax.

**Tax rates:** Companies are liable to corporate income tax at the rate of 25%. It is reduced to from 30% to 25% since 2014. However, a number of companies and legal entities such as companies operating in handicraft activities, agriculture and fishing are taxable at the rate of 10%. This tax rate is also applicable to profits made on export activities from 2015. Other companies operating in sectors of banks, insurance, production and services linked to petroleum, telecommunications are subject to a rate of 35% on their income.

Exporting companies are liable to income tax at 10% since 2014. Individuals are taxed on the third of revenues of exportation.

**Minimum tax liability:** A corporation has to pay a minimum tax liability of 0.2% of the total gross turnover with a minimum account, due even without any turnover, of TND 300 for companies taxable at the rate of the 10%. For those taxable at the rate of 25% or 35%, the minimum amount is TND 500.

Legal entities liable to company tax and individuals liable to personal income tax carrying on a trade business are subjected to three tax instalments each representing 30% of the total levy calculated on incomes and profits of the previous year.

Tax instalments should be paid during the 28 days of respectively the 6th, 9th and 12<sup>th</sup> months following the balance sheet date.

### **CAPITAL GAINS TAX**

Capital Gains or Losses: For non-resident legal entities, gains stemming from disposal of buildings established in Tunisia or rights related to them are subject to corporate income tax. A capital gain is the difference between sale price and cost price or purchase price. These entities are imposed a withholding discharge of 25% of the capital gain. For closed-end investment companies and credit institutions, capital gains related to securities are deductible from taxable income.

For both residents and non-residents, interest is subject to a withholding tax at 20% (a more favourable rate if the case is covered by a non-double imposition treaty). For the non-resident, the amount withheld is offset against ordinary income tax on this income. Rental income from student accommodation or catering is deductible from taxable income during the first 10 years. This rent should respect specifications established by the supervisory ministry.

From 1 January 2011, the following are exempt from capital gain from the sale of securities:

- The gain from the sale of shares listed on the Stock Exchange of Tunis acquired or subscribed before 1 January 2011 and the sale of shares in a transaction introductory Stock Exchange of Tunis is deductible from taxable income.
- The gain from the sale of shares listed on the Stock Exchange of Tunis acquired or subscribed from 1 January 2011 is also deductible from taxable income when the transfer 'takes place after the expiry of the year following the year of acquisition or subscription of a maximum of 10,000 dinars per year'.

Otherwise the gain described above shall be subject to income tax at 10% or 25% thereof (individual or company).

- Corporation tax is payable by non-resident legal persons not established in Tunisia at a rate of surplus value cited above. The capital gain subject to tax on companies is equal, in this case, to the difference between the sale price and the purchase price of stocks, shares or units or the subscription price and from transfer operations performed during the year preceding the tax after deduction of capital loss from operations in question.

### **VALUE-ADDED TAX (VAT)**

VAT is an indirect tax, in that the tax is collected from someone who does not bear the entire cost of the tax. All economic activities conducted in Tunisia, including industrial and handicraft activities, liberal or commercial professions, are subject to VAT.

Exports by definition are consumed abroad and are usually not subject to VAT and any VAT charged under such circumstances is usually refundable. This avoids downward pressure on exports and, ultimately, export-derived income or revenue.

VAT that is charged by a VAT-registered business and paid by its customers is known as "output VAT" (that is, VAT on its output supplies). VAT that is paid by a business to

other businesses on the supplies that it receives is known as "input VAT" (that is, VAT on its input supplies). A business is generally able to recover input VAT to the extent that the input VAT is attributable to (i.e., used to make) its taxable outputs. Input VAT is recovered by setting it against the output VAT for which the business is required to account to the Tunisian government or, if there is an excess, by claiming a repayment from the Tunisian government.

Three different VAT rates apply in Tunisia:

- 6%: information technology services, hotels and restaurant activities and equipment;
- 12%: raw materials, craft industry products, medical activities, and canned food;
- 18%: operations related to services and goods not subject to another rate.

According to article 18 of the Tunisian VAT code, a sales invoice issued by a VAT registered business should contain certain compulsory information including client name, address and fiscal register, date of the transaction, price of the goods or services sold, VAT rate.

### **FRINGE BENEFITS TAX**

Fringe benefits are considered to be a part of the salary paid to an employee; hence they are subject to social security and income taxes. Fringe benefits taxable are evaluated on the basis of their market value.

### **LOCAL TAXES**

The tax on the rental value is a municipal tax on buildings. The owner of the property is liable for collection of the tax. The base of this tax is the gross rental value determined in accordance with a general census carried out every three to five years by the local authorities. The rate is fixed per local authority which may be divided into two zones, urban and suburban (where the rate is lower). The land tax on undeveloped land is owed by occupiers, owners or persons enjoying the land.

### **OTHER TAXES AND LEVIES:**

#### **SOCIAL SECURITY TAXES**

The social security rates are 9.18% on behalf of the employee and the 16.57% on behalf of the employer and 0.5% for employer's compensation on behalf of the employer.

### **REAL ESTATE TAX**

The purchase of real estate is subject to the following:

- A registration duty of 5% on the purchase price increased by VAT;
- A Stamp Duty of TND 15 per sheet of contract;
- A real estate property Conservation Duty of 1% on the purchase price increased by VAT;
- A registration will be increased by 1% of the purchase price for non-registration of the property purchased;
- A supplementary charge of 3% in cases where the owner has failed to declare the value of his property.

Any real estate buyer who is an individual or a corporate entity subject to a regular accounting system must withhold tax on the real estate purchase price. This tax is

2.5% on the purchase price increased by VAT.

### **EXCISE TAX**

This is a federal tax on specific goods and services either imported or manufactured in Tunisia. It is levied on a variety of items such as cigarettes, tobacco, alcoholic beverages, cosmetics, perfume and private cars. Excise tax is levied on sale price or customs value for imported goods.

According to the Tunisian Excise Tax Code, several rates apply to different goods. A joint list is available on the code, fixing different rates.

### **GIFTS, WEALTH, ESTATE AND/OR INHERITANCE TAX**

Inherited property and gifts are subject to tax at the following rates:

- Direct line relatives (children, spouses, parents, etc): 2.5%;
- Brothers and sisters: 5%;
- Collateral line relatives: 25%;
- Relatives beyond the fourth degree: 35%;
- Unrelated individuals: 35%.

### **VOCATIONAL TRAINING TAX**

This is payable monthly at the rate of 2% of the total gross wages. A special rate of 1% is applicable to the manufacturing sector.

### **TAX FOR PROMOTING EMPLOYEES' ACCOMMODATION**

Employers have to pay a tax at the rate of 1% of total gross salaries to promote the employee's accommodation. Farmers are exempt from this tax.

## **B. DETERMINATION OF TAXABLE INCOME**

Taxable income is determined on the basis of regular accounting results. When there are discrepancies between fiscal rules and accounting principles, adjustments are made to the accounting results.

Profits are habitually considered gross revenue less production, salary and wages and rental expenses.

Generally, all expenses generated by the conduct of business are deductible if they are incurred in gaining or producing assessable income and not paid cash for amounts more than TND 20,000.

Taxable income includes also capital gains, except for capital gains stemming from disposal of securities listed on the Tunisian Stock Exchange and capital gain from an initial public offering on the TSE.

### **DEPRECIATION**

Fixed assets owned by the company are normally written off over their normal useful life. For tax purposes, the straight-line method is normally adopted.

Assets of a lower value than TND 200 may be fully written off during their first year.

Companies may choose the declining-balance method to calculate depreciation on hardware, agriculture equipment and newly purchased manufacturing equipment (from 1 January 1999).

From 1 January 2008, a company is eligible to use the declining balance method to compute depreciation on manufacturing equipment financed by leasing.

## **STOCK / INVENTORY**

For the determination of net income, inventories must be valued at their cost price. If market value or realisable value is lower at the end of the year, the company must set up reserves for depreciation of inventories, which is deductible within the limit of 30% of the taxable income.

## **DIVIDENDS**

Collected dividends that are distributed by Tunisian companies are tax-exempt for both residents and non-residents companies. Individuals are subject to withholding tax at 5% since 2015 if it exceeds TND 10,000 per year.

The non-capitalised earnings, amounts given to partners or shareholders and attendance fees given to members of the board of directors are assimilated to dividend payment.

Gains from stock option exercises: in Tunisia, stock options are recognised only in the following sectors of activities:

- Software engineering;
- Software services;
- Telecommunications and new technologies sectors;
- Listed companies.

When the plan is recognised by Tunisian Law to be a stock option, the gain is not subject to taxation. This advantage is awarded under the double condition that:

- At the date the stock option is granted, the employee does not hold more than 10% of the subscribed share capital; and,
- The shares are not sold during a period of three years starting from 1 January of the subsequent year in which the option is exercised.

When Tunisian law does not recognise the stock option plan, the exercise gain made by the employee (difference between the exercise price and the fair market value of the shares at the date of exercise) will be subject to income tax.

## **INTEREST DEDUCTION**

Interest from foreign currency deposits or from convertible Dinar is deductible from taxable income. The interests on loans granted, or left at the disposal of the Tunisian company by partners or shareholders are fully deductible from the taxable income of shareholders or partners, under the following conditions:

- The interest rate does not exceed 8%;
- The amounts do not exceed 50% of the capital which should be fully paid up.

A limitation of interest rates is not applicable when the partner or shareholder who



benefits from the interest is a bank, in which case interest is deductible from the taxable base to the limit applicable on the market.

### LOSSES

The deficit recorded during a business year which resulted from a regular accounting record in compliance with corporate accounting legislation is deducted successively from the results of the following business years up until and including the fourth year. For any profit business year, the deduction of deficits and depreciation is carried out according to the following order:

- (a) Reportable deficits;
- (b) The depreciation of the concerned business year;
- (c) Deferred depreciation in deficit periods.

During a business year when the profit is not sufficient to carry out the total deduction of the deficit and depreciation, the remaining part is put back successively on the results of the subsequent business years up until and including the fourth year.

### FOREIGN SOURCED INCOME

According to the Tunisian tax legislation, revenues from foreign-source realised by individuals and which were subject to tax payment in the country of origin are not taxed.

Non-resident legal entities are taxable on their Tunisian source income and on the gain from the disposal of buildings and the disposal of shares in real estate companies. The taxable capital gain is the difference between the sale price and the purchase cost.

Relief from foreign taxes in Tunisia depends on double tax treaty concluded by Tunisia.

### INCENTIVES

Tunisian tax legislation has established a certain number of incentives to investment and creation of projects in certain sectors of activity, either by Tunisian or foreign promoters being resident or non-resident or in partnership according to the overall development strategy. These are mainly aimed at accelerating growth rate and job creation within activities related to fields determined in Article One of the Investment Incentives Code.

Various tax incentives are available for total exporting companies. 100% of the exporting activity income is deductible from total taxable income. This deduction is made notwithstanding the minimum tax. From 1 January 2015 the exporting activity income is taxable at the rate of 10%.

Major incentives are available for investments made by enterprises settled in areas that need development (regional development zones). Income stemming from investments carried out in these areas is fully deductible from the taxable income during the first ten years of activity but, for subsequent business years, only 50% is deductible from the tax base.

As part of the promotion of small and medium enterprises, the Finance Act 2011

has provided management measures to support businesses created from 1 January 2011. It concerns new investment for which the turnover does not exceed TND 300,000 for service activities and non-commercial professions, and TND 600,000 for trade and activities such as processing and consumption on the premises.

Such income is deductible from taxable income, revenues or profits from operations conducted during the first three years of operation. The benefit of this advantage is subject to the condition that the keeping of accounts in conformity with accounting law firms.

## **C. FOREIGN TAX RELIEF**

Relief from foreign taxes in Tunisia depends on whether a double tax treaty has been concluded by Tunisia. Tunisia has concluded 67 non-double imposition treaties applicable on 1 January 2008.

## **D. CORPORATE GROUPS**

When a Tunisian company holds 75% or more of the shares of one or more Tunisian companies, the group may choose to be taxed as a single entity. Hence, the subsidiaries are treated as branches of the parent company and corporate tax is payable only by the parent company.

To benefit from the results integrating scheme, the parent company must make the commitment to list its shares on the stock market before the end of the year. Under this system, the profits and losses of all controlled branches, subsidiaries and partnerships in Tunisia and abroad are consolidated.

## **F. WITHHOLDING TAX**

For certain categories of income, the payer of income has to withhold tax at source, file tax return and submit the amount of tax withheld to the finances.

In the context of harmonization of the rate of withholding tax on interest paid for loans to banks, non-resident, non-established in Tunisia with those contained in the conventions on avoidance of double taxation; the finance law for the management of 2011 replaced the rate of withholding tax of 2.5% by 5%.

The Finance Act for 2014 has proposed a rate of 25% as a withholding tax rate on revenues or income of non-residents located in tax free areas.

## **H. PERSONAL TAX**

With respect to the international taxation agreements, personal income tax is a direct tax levied on income of an individual more than TND 5,000 per year. Taxpayers are classified into resident and non-resident.

According to Tunisian laws, three criteria are used to indicate that an individual has a habitual residence in Tunisia.

- (1) Main residence of the person is in Tunisia;
- (2) Principal place of residence (period equal to, or more than, 183 days during a civil year) is in Tunisia;
- (3) Civil servant or state employee carrying out his/her duty in a foreign country, where they aren't subject to personal income tax on global income.

A non-resident is subject to tax only on personal income from Tunisian sources. Income chargeable to personal income tax is called assessable income and is divided into seven categories:

- (1) Income from commerce and industry;
- (2) Income from non-trading professions;
- (3) Income from agriculture and fishing activities;
- (4) Wages, salaries, pensions and life annuities;
- (5) Land income;
- (6) Income in the nature of dividends and interests resulting from the detention of securities and bonds;
- (7) Income from any other activity not specified earlier.

For each category of income, certain deductions and allowances are allowed in the calculation of the taxable income. A taxpayer shall keep the books in compliance with the accounting legislation, in order to benefit from these deductions.

In general, a person liable to personal income tax has to compute his tax liability, file tax return and pay tax, if any, accordingly on a calendar year basis.

Married couples file tax returns as separate individuals. The income of children is reported on the tax return of the head of the family. A spouse can report income of the children on his/her tax return in certain circumstances.

### INCOME TAX RATES:

Amount (TND)	Rate	Effective Tax Rate of the Upper Limit
0 - 1,500	0%	0%
1,501 - 5,000	15%	10.5%
5,001 - 10,000	20%	15.25%
10,001 - 20,000	25%	20.12%
20,001 - 50,000	30%	26.05%
Over 50,000	35%	-

For trading and non-trading activities in accordance with the revenue code, a minimum tax liability is due of 0.1% of the total gross turnover or receipts except for turnover or receipts from export activities, with a minimum amount of TND 100 due even without any turnover.

**I. TREATY AND NON-TREATY WITHHOLDING TAX RATES**

- Fees, royalties and non-trading activities compensation paid to non-resident: 15%.
- When a treaty exists, apply the treaty rate if less than 15%.
- Capital gains paid to non-resident: 20%.  
When a treaty exists, apply the treaty rate if less than 20%.
- Interests on loans paid to banks non-established in Tunisia: 5%.  
When a treaty exists, apply the treaty rate if less than 5%.
- Invoice that exceeds TND 1,000 (VAT included): 1.5%.

## UGANDA

CURRENCY: Ugandan Shilling (UGX)

POPULATION: 40.72 million

GDP GROWTH: 6.3%

GDP: US\$ 26.9 billion



### KEY TAX POINTS

- Resident companies are taxable on their worldwide income and gains whereas non-residents are subject to tax on income sourced in Uganda.
- The standard rate of corporate income tax applicable to resident and non-resident companies is 30%, although special rates apply to small businesses and mining companies.
- Capital gains and losses only arise in respect of non-depreciable assets owned by a business. Gains are added to and taxed along with ordinary income.
- A tax at 15% is charged on repatriated profits of overseas companies with branches in Uganda
- VAT is charged at a standard rate of 18% but some supplies are zero rated or exempt.
- Dividends are generally subject to withholding tax where paid to residents or non-residents at a rate of 15% (or 10% where the payer is listed on the Ugandan Stock Exchange).
- Other payments for goods and services are subject to withholding tax with different rates in some cases depending on whether the recipient is resident in Uganda.
- Income tax is levied on the worldwide income of resident individuals (a foreign tax credit is granted for foreign sourced income not exceeding the appropriate Uganda income tax payable) and on the income of non-resident individuals sourced from Uganda.

### A. TAXES PAYABLE

#### NATIONAL TAXES AND LEVIES

##### COMPANY TAX

Resident companies are taxable on their worldwide income and gains whereas non-residents are taxed on income sourced in Uganda. Uganda-sourced income is clearly defined for purposes of the Income Tax Act.

The tax rates applicable to residents and non-residents are as follows:

- for companies (other than mining companies) and retirement funds – 30%
- for mining companies – calculated according to the following formula:
  - $70 - 1500/X$  where X is the number of percentage points represented by the ratio of the chargeable income to the gross revenue of the company.
  - If the rate of tax calculated above exceeds 45%, then the rate of tax shall be 45% and, if the rate of tax calculated above is less than 25%, then the rate of tax shall be 25%.

Special rates of tax apply to income from small businesses (i.e. those businesses

where the income does not exceed UGX 50m per year). These presumptive tax rates fall in defined bands/ranges of gross income.

The fiscal year in Uganda runs from 1 July to 30 June. Companies must file a return of income each year by 31 December following the end of the tax year. A different accounting period (referred to as substituted year) can be opted for by seeking permission from the revenue authorities. In such cases, return of income should be filed within six months of applicable year end.

### **CAPITAL GAINS TAX**

Capital gains are added to the income from all other sources and taxed at the rate applicable to that person.

### **BRANCH PROFITS TAX**

Non-resident companies are subject to Ugandan corporate income tax in respect of profits earned from branches in Uganda. In addition, the branch is taxed on the repatriated income at the rate of 15%.

### **RENTAL INCOME TAX**

Effective July 2014, rental income, expenditure and losses generated by a taxable individual or company is required to be declared in a rental income tax return separate from the usual business income tax return.

### **VALUE ADDED TAX (VAT)**

VAT is payable on:

- every taxable supply in Uganda made by a taxable person
- every import of goods other than an exempt import
- the supply of any imported services by any person.

A taxable supply is defined as 'a supply of goods or services, other than an exempt supply, made by a taxable person for consideration as part of his business activities'.

A taxable person is a person who is required to be registered under the statute. Persons who are required to be registered are those who:

- during any period of three calendar months make taxable supplies, the value of which exclusive of any tax exceeds one quarter of the annual registration threshold
- have reasonable grounds to expect that in any period of three calendar months will make taxable supplies, the total value of which will exceed one-quarter of the annual registration threshold
- the annual registration threshold is, at present, UGX 50m.

### **Rates Of Tax (VAT)**

There are three categories of supplies for VAT purposes: exempt, zero-rated and standard rated. The standard rate is 18%. Some types of supplies are zero rated or exempt.

### **FRINGE BENEFITS TAX**

This is not applicable in Uganda but benefits to employees are valued as per rules of valuation under the Income Tax Act 1997 and added to the employment income to

determine the tax.

### LOCAL TAXES

Local service tax is levied by local authorities on resident individuals (with a few exceptions) who are above the age of 18 and are in gainful employment with effect from 1 July 2008.

Local Hotel Tax was also introduced with effect from 1 July 2008, collected and remitted to the local authority on a monthly basis on bands.

### OTHER TAXES

Excise, import and custom duties are applicable on several items either on ad valorem basis or at specific rates.

## B. DETERMINATION OF TAXABLE INCOME

### CAPITAL ALLOWANCES

The Industrial building allowance is 5% on straight-line basis.

Effective July 2014, initial allowance deduction on eligible items and industrial buildings was revoked.

The mining allowance is 100% of capital expenditure incurred in searching for, discovering and testing or winning access to deposits of minerals in Uganda.

Start-up costs for a business or expenditure incurred in the initial public offering at the stock market are allowed at a rate of 25% on a straight-line basis.

Horticulture business allowance is 20% on straight-line basis of the capital expenditure incurred in the acquisition or establishment of a horticultural plant or the construction of a greenhouse.

### DEPRECIATION

Depreciation is allowable on written-down value basis at the following rates:

1.	Computers and data handling equipment	40%
2.	Automobiles, buses and minibuses 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	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, trailers and trailer-mounted containers, plant and machinery used in farming, manufacturing or mining operations	30%
4.	Railroad 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, any depreciable asset not included in another group.	20%

### STOCK/INVENTORY

A deduction is allowed for the cost of trading stock disposed of during a year of income. The closing value of trading stock is the lower of cost or market value of trading stock on hand at the end of the year.

## **CAPITAL GAINS AND LOSSES**

Capital gains or losses are taxable only if the asset on which the gain or loss arises is owned by a business and is a non-depreciable asset. This is determined by subtracting the cost base of the asset from the consideration received on sale of the asset.

Cost base of the asset is the original cost to the taxpayer as increased by any expenditure incurred to alter or improve the asset which has not been allowed as a deduction. In case of immovable property purchased prior to 31 March 1998, the taxpayer may substitute the market value of the property as on 31 March 1998 for the original cost of the asset.

Capital gains and losses are added or subtracted from the other income of the taxpayer for that year of income and not taxed separately.

## **DIVIDENDS**

Dividends are subject to 15% withholding tax except dividends paid by companies listed on the stock exchange to resident individuals which is 10%.

Effective July 2013, dividends have been expanded to include issue of bonus shares. However, the shares are only taxable upon disposal.

## **INTEREST DEDUCTIONS**

Allowable in full except where a foreign-controlled resident company which is not a financial institution has a foreign debt-to-equity ratio in excess of 1:1 at any time during a year of income. A deduction is disallowed for the interest paid by the company during the year on that part of the debt which exceeds the 1:1 ratio.

## **LOSSES**

Assessed losses are allowed to be carried forward and allowed as a deduction in determining the taxpayer's chargeable income in the following year of income. These are allowed to be carried forward indefinitely.

## **FOREIGN SOURCED INCOME**

The gross income of a resident person includes income derived from all geographic sources and the gross income of a non-resident includes only income derived from sources in Uganda.

## **INCENTIVES**

Industrial zones for the production of exports are being set up and investors locating in these zones will be entitled to a ten-year corporation tax holiday; duty exemption on raw materials, plant and machinery and other inputs; stamp duty exemption; duty drawback to apply on import of goods from domestic tariff area; no export tax on goods exported; exemption of withholding tax on interest on external loans; and dividends repatriated to get relief from double taxation.

From 1 July 2008, the following new incentives were granted:

1) Resident airlines have been granted exemption from income tax and withholding tax on lease rentals.



2) From July 2014, the tax exemption on business income derived from managing, operating and running schools and tertiary educational institutions was revoked.

3) From July 2014, the exemption on interest income earned by a financial institution on a loan granted to any person for the purpose of farming, forestry, fish farming, bee keeping, animal and poultry husbandry or similar operations has been revoked.

4) New agri-processing investments set up outside a 30 km radius of Kampala are exempt from income tax. With effect from 1 July 2009 this has been modified to exempt income of a person derived from agro-processing where the person applies in writing to the Commissioner to be issued with a certificate of exemption at the beginning of his or her investment and invests in new plant and machinery to process agricultural products for final consumption. The process should involve processing of agricultural products grown or produced in Uganda.

### **C. FOREIGN TAX RELIEF**

A resident taxpayer is entitled to a credit for any foreign income tax paid by the taxpayer in respect of foreign-sourced income included in the gross income of the taxpayer.

### **E. RELATED PARTY TRANSACTIONS**

In order to regulate transactions between related parties, Transfer Pricing Regulations have been introduced with effect from 1 July 2011. The regulations shall apply to a "controlled transaction" where a taxpayer, who is a party to the transaction, is located in or outside Uganda. The regulations expressly require that a taxpayer who has transactions with related non-resident or resident entities must prepare transfer pricing documentation. This documentation, for a year of income, must be in place prior to the due date of filing the income tax return for that year.

### **F. WITHHOLDING TAX**

Withholding tax is a final tax on:

- interest paid by a financial institution to a resident individual
- interest paid to any person on treasury bills by the Bank of Uganda
- dividends paid to a resident individual.

#### **RATES OF WITHHOLDING TAX ARE AS FOLLOWS:**

	<b>Resident</b>	<b>Non-resident</b>
Management fees and royalties	6%	15%
Consultancy, agency fees, etc	6%	15%
Professional fees	6%	15%
Dividends <sup>1</sup>	15% or 10%	15%
Interest <sup>2</sup>	15%	15%
Sports persons and public entertainers	Nil	15%
Re-insurance premiums	Nil	15%

1 It does not apply where the dividend income is exempt from tax in the hands of a shareholder.

2 It does not apply to residents where: (i) interest is paid to a natural person; and (ii) interest other than interest from government securities paid to a financial institution.

The 6% withholding tax does not apply to taxpayers whom the Commissioner has exempted from withholding tax.

Interest on deposit auction funds issued by Bank of Uganda is taxable at 20%.

Withholding tax at 10% is applicable on purchase of an asset by a resident person from a non-resident,

Interest payment on government securities to non-residents is subject to tax at 20%. Besides the above, withholding tax is also applicable and charged on import of goods at the rate of 6%.

In case of local transactions of goods and services, 6% withholding tax is applicable where the payer is the Government, a Government body or a company/person designated by the Minister.

The rate of withholding on payments to non-residents is reduced in some cases under the provisions of double taxation agreements entered into with a small number of overseas territories (see Section I below).

From July 2014, a person who makes payments for winnings of sports betting or pool betting shall withhold tax on the gross amount of the payment at of 15%.

From July 2014, a resident person who makes a payment of premium for reinsurance services to a non-resident person shall withhold tax on the gross amount of the payment at a rate of 15%. This does not apply to reinsurance services provided by a few specified reinsurers.

## **G. EXCHANGE CONTROL**

There are no restrictions on foreign currency flows in and out of the country. Realised exchange gains and losses are taxable/allowable in the year of realisation.

## **H. PERSONAL TAX**

Income tax is levied on the worldwide income of resident individuals and on the income of non-resident individuals from sources in Uganda.

An individual will be regarded as resident in Uganda if he or she:

- has a permanent home in Uganda
- is present in Uganda for a period of, or periods amounting in aggregate to 183 days or more in any 12-month period that commences or ends during the year of income
- is present in Uganda during the year of income and in each of the two preceding years of income for periods averaging more than 122 days in each such year of income
- is an employee or official of the government of Uganda posted abroad during the year of income.

**1. The income tax rates applicable to resident individuals are as follows.**

Chargeable income (UGX)	Rate of tax
0 - UGX 235,000	Nil
UGX 235,001 - UGX 335,000	10% of the amount exceeding UGX. 235,000.
UGX 335,001 - UGX 410,000	UGX. 10,000 + 20% of the amount exceeding UGX. 335,000.
Exceeding UGX 410,000	UGX 25,000 + 30% of the amount exceeding UGX. 410,000 + 10% of the amount exceeding UGX 10,000,000

**2. The income tax rates applicable to nonresident individuals are —**

Chargeable income (UGX)	Rate of tax
0 - UGX. 335,000	10%
UGX 335,001 - UGX 410,000	UGX 33,500 + 20% of the amount exceeding UGX 335,000.
Exceeding UGX 410,000	UGX 48,500 + 30% of the amount exceeding UGX 410,000 + 10% percent of amount exceeding UGX 10,000,000

Where a taxpayer's income consists exclusively of employment income derived from a single employer and from which tax has been withheld, no tax return needs to be filed. Small businesses with income not exceeding UGX 50m per year run by resident individuals do not need to file a return.

**I. TREATY RATES OF WITHHOLDING TAX**

Country	Dividends		Interest	Royal- ties	Technical/ manage- ment fees
	Individuals/ companies	Qualifying companies			
	(%)	(%)	(%)	(%)	(%)
Denmark	15	10	10	10	10
India	10	10	10	10	10
Mauritius	10	10	10	10	10
Norway	15	10	10	10	10
South Africa	15	10	10	10	10
United Kingdom	15	15	15	15	15
Italy	15	15	15	10	10

Country	Dividends		Interest	Royalties	Technical/ management fees
	Individuals/ companies	Qualifying companies			
	(%)	(%)	(%)	(%)	(%)
Netherlands	15	0-5	10	10	10

- 1 A company is a 'qualifying company' if it owns at least 25% of the capital of the company paying the dividend.

## **ZAMBIA**

**CURRENCY:** Zambian Kwacha (ZMW)

**POPULATION:** 15.52 million

**GDP GROWTH:** 7.2%

**GDP:** US\$ 28.9 billion



### **KEY TAX POINTS**

- Companies whether resident or non-resident and are in receipt of income, which has a source or deemed source in Zambia, are liable to tax.
- Normal tax is payable by Zambian companies on their taxable income at the following rate:

a. Farming and agro-processing	10%
b. Charities – on income from business activities	15%
c. Rural manufacturing business- first 5 years	30%
d. Export of non-traditional products	15%
e. Trading, manufacturing and any other	35%
f. Manufacture of organic and chemical fertiliser	15%
- There is no capital gains tax in Zambia. Instead there is what is known as Property Transfer Tax (PTT) which is levied on the sale or deemed sale of all immovable property and shares at 10% of the realisable value.
- VAT is chargeable on all taxable goods and services supplied by a registered supplier at a standard rate of 16%.
- Zambian resident individuals and companies are subject to tax in Zambia on foreign interest and dividends.
- Tax credits are granted in respect of foreign taxes paid on foreign sources of income in accordance with the Income Tax Act and the numerous Double Taxation Treaties.
- Group taxation is not applicable in Zambia. All group companies are taxed as separate entities.
- The Zambia Revenue Authority Commissioner-General is empowered to make adjustments to non-arm's length cross-border transactions and thin capitalisation between related parties.
- Income from rent, royalties, commission, dividends, public entertainment and similar incomes are subject to withholding taxes at source. Non-residents are subject to withholding tax on construction and haulage operations, royalties, management & consultancy, commission, public entertainment, dividends and interest.
- Zambian resident individuals are subject to tax on their income from a source or deemed source within Zambia. Foreign interest and dividends received by individuals ordinarily resident in Zambia including companies is taxable.

### **A. TAXES PAYABLE**

#### **COMPANY TAX**

A Company is resident in Zambia for any charge year if it is incorporated or formed

under the Laws of Zambia or if the central management and control of the company's business or affairs are exercised in Zambia for that year.

In Zambia all companies whether they are resident or non-resident and are in receipt of income, which has a source or deemed source in Zambia are liable to tax. For the purposes of the Zambian Income Tax Act, income for any charge year includes:

- Gains or profits from any business for whatever period of time carried on;
- Emoluments;
- Annuities;
- Dividends;
- Interest, charges and discounts;
- Royalties, premiums or any like consideration for the use or occupation of any property;
- Income from letting of any property;
- Lump sum payments, capital recoveries etc.

Normal tax is payable by Zambian companies on their taxable income at the rate of 35%. The tax is payable by both public and private companies as well as small businesses. However, there are concessional rates of tax applicable on certain sectors as follows:

- Agriculture	10%
- Rural manufacturing business (first 5 years)	30%
- Export of non-traditional products	15%
- Charities (on income from business activity)	15%

The tax rates applicable on the Mobile Telecommunications sector is as follows:

- On income up to ZMW 250,000	35%
- On income in excess	40%

Small businesses with gross incomes of up to ZMW 800,000 in a charge year, subject to certain exemptions, can register to pay tax at 3% on gross income, under the turnover tax system. However, small business providing consultancy is not covered by this exemption.

Mining companies involved in the mining of base metals and earn income from tolling or processing of purchased mineral ores, concentrates and any other semi-processed minerals pay tax at 30%. This is in addition to the 6% mineral royalties payable.

Mining companies involved in underground mining operations pay 8% mineral royalties as final tax while those in open cast mining operations pay 20% mineral royalties as final tax. It must be said that negotiations are still ongoing between mining companies and Government over the royalty rates.

## TRUSTS

Zambian Trusts like deceased estates and bankruptcy estates pay tax at a flat rate of 35%. Notwithstanding the aforementioned, the Trust need not be taxed on all of its net income where a beneficiary is entitled to the whole or part of the income of the trust, as it is taxed in his hands instead of being taxed as income of the Trust. Where tax has already been paid on such income before it reaches the hands of the beneficiary

it will be set off against any tax raised on him (beneficiary). In practice under Zambian Law, the beneficiary and not the Trust is to be taxed on:

- Income in which the beneficiary has a vested interest where this is paid or accumulated to him;
- Sums applied for the benefit of the beneficiary under the terms of the Trust; and
- Sum paid to or applied for the benefit of the beneficiary in exercise of discretion.

Under the tax avoidance rules, the Commissioner-General may avoid a trust where he determines that the main aim or purpose of a trust was to minimise or avoid tax.

### **CAPITAL GAINS TAX**

There is no capital gains tax in Zambia. However, there is a Property Transfer Tax (PTT) which is charged on the realisable value of the property being transferred.

PTT is payable by the transferor of the property. It is charged on the sale or transfer of all immovable property and any shares issued by a company incorporated in Zambia. PTT is also chargeable on the sale or transfer of Mining Right/Interest in Mining Right. PTT in relation to immovable property excludes letting or sub-letting of property and leasing, under-leasing or sub-leasing for a period of less than 5 years.

In relation to shares, transfer of property excludes the allocation of the same by the company to the member in whose name the share was first registered. The rate of Property Transfer Tax in charge year 2015 is 10%.

### **BRANCH PROFITS TAX**

Where a branch of a foreign company operates in Zambia, the branch taxable income is subject to tax at the rate of 35% or any other rate applicable according to the sector the branch is operating in. Effective 1 January 2015, externalisation or repatriation of branch profits will attract a withholding tax of 15%.

### **DIVIDEND TAX**

Dividends paid or that become payable by a Zambian company to its resident or non-resident shareholders are subject to withholding tax at 15%.

Notable exclusions from dividend tax are dividends paid for the first 5 years by a company operating in the agricultural sector and a company with tax incentives granted under the Zambia Development Agency (ZDA) Act No 11 of 2006 issued prior to 11 October 2013. Any withholding tax on dividends paid to foreign shareholders can be reduced or tax credits claimed in terms of any applicable Double Taxation Agreement.

### **PARTNERSHIPS**

In Zambia a Partnership is not recognised as a distinct taxable entity. For this reason it is not chargeable to tax instead, each partner is assessed separately.

Taxable income for the Partnership is computed jointly and then shared between the partners according to the agreed ratios and each partner is subject to tax on his share of profits as trade income.





Management fees to non-residents	20%	20%	20%
Royalties to non-residents	20%	20%	20%
Winnings from gaming, lotteries and betting (Final tax)	20%	20%	0%
Debentures interest paid to Zambian investors in a property loan stock company listed on the Lusaka Stock Exchange	0%	0%	15%
Interest for individuals on savings and deposit accounts (Final tax)	0%	0%	0%
Interest on treasury bills for individuals (Final tax)	15%	15%	15%
Interest on treasury bills (Final tax for Public Benefit Organisations)	15%	15%	15%
Commissions to non-residents	20%	20%	15%
Public entertainment fees to non-residents (Final tax)	20%	20%	15%
Non-resident contractors	20%	20%	15%
Rentals (Final tax)	10%	10%	15%
Medical levy	0%	0%	0%
NAPSA tax allowable threshold/month	K255	K255	K255

## OTHER TAXES

Turnover tax			
Threshold	Up to K800,000	Up to K800,000	Up to K800,000
Standard rate	3%	3%	3%

Turnover tax under declaration penalties			
Penalty for negligence	1.5%	1.5%	1.5%
Penalty for wilful default	3%	3%	3%
Penalty for fraud	4.5%	4.5%	4.5%

## CARBON EMISSIONS SURTAX

This is levied on all vehicles being imported as well as those visiting and transiting. For registered vehicles in the country, it is an annual charge based on the engine capacity of the vehicle as follows:

Engine capacity in cubic centimetres	Surtax rate
1500 cc and below	50
Between 1500 cc and 2000 cc	100
Between 2001 cc and 3000 cc	150
3001 cc and above	200

## STAMP DUTY

In Zambia Stamp Duty is levied on the increase of share capital and registration of debentures. The Stamp Duty on the increase of share capital is presently at 2.5% on the amount of increase. The Stamp Duty on the registration of debentures is 1% of the debenture value up for registration to the minimum of ZMW 300 and the maximum of ZMW 3,000.

## B. DETERMINATION OF TAXABLE INCOME

The taxable income of a company is determined by deducting expenditure so allowed to be deducted in terms of the Income Tax Act. In all instances, unless specifically excluded by the provisions of the Income Tax act, expenditure incurred wholly and exclusively for the purposes of generating income from that source is allowable.

The Act provides for three types of deductions which are specific deductions, general deductions and prohibited deductions. Specific deductions are deductions allowable for a specific source. If a source of income does not exist in a charge year no specific deductions relating to that source should be allowed. General deductions are those deductions which are allowable from total income liable to tax from all sources. And prohibited deductions are those deductions which are not deductible in computing income.

Capital allowances and tax losses from the same source are also allowable in determining taxable income.

## CAPITAL ALLOWANCES

Asset	Initial Allowance	Investment Allowance	Improvement Allowance	Wear & Tear Allowance	Notes
Industrial buildings	10	10	100	5	1,2
Commercial buildings	-	-	100	2	3
Farm, agro, plant and machinery	-	-	-	50	4
Farm improvements	-	-	-	100	7

Farm works	-	-	-	100	8
Farm dwelling	-	-	-	100	5

Asset	Initial Allowance	Investment Allowance	Improvement Allowance	Wear & Tear Allowance	Notes
Manufacturing plant and machinery	-	-	-	50	4
Leased machinery and equipment	-	-	-	50	4
Tourism implements and machinery	-	-	-	50	4
Commercial motor vehicles	-	-	-	25	-
Non-commercial vehicles	-	-	-	20	-
Plant, machinery and equipment	-	-	-	25	-
Low cost housing	10		-	25	1,5

**NOTES:**

1. Initial allowance is granted on a newly constructed industrial building. No initial allowance is granted on an industrial building which has been in existence for some time and is subsequently purchased. But initial allowance can be granted on a new addition to an existing industrial building. Housing units (Low cost housing) constructed or acquired to house employees will qualify for industrial building allowance but the cost of each housing unit should not exceed ZMW 20,000. All housing units constructed or acquired on or after 1 April 1997 will qualify for industrial building allowance provided the cost does not exceed ZMW 20,000 per unit.
2. The investment allowance is also granted on capital expenditure incurred on the construction of, addition to or alteration of any industrial building to be used for purposes of business as a manufacturer.
3. The improvement allowance on constructed industrial and commercial buildings is only granted to those operating in industrial parks and multi facility economic zones.
4. Accelerated wear and tear allowances at 50% are only available on farming, manufacturing, and tourism and leased assets under operating lease.
5. The cost for farm dwelling and low cost housing for wear and tear purposes is restricted to ZMW 20,000 per unit per year.
6. Premium allowance is also granted for the right to use any patent, design, trade

mark or copy right or for the use of other property which the Commissioner-General determines is of a like nature, where such right is used for purposes of business. The amount of allowance allowed for any charge year shall not exceed the amount of the premium or like consideration divided by the number of years for which the right of use is granted.

7. Farm improvements means any permanent work, which includes farm dwelling, fencing and any building constructed for and used for the welfare of employees, and in relation to farming land owned or occupied by the farmer claiming the allowance.
8. Farm works includes expenditure on stumping, clearing, boreholes, wells, aerial and geophysical surveys, prevention of soil erosion and water conservation.

## **STOCK / INVENTORY**

All trading stock on hand at the end of the tax year must be added to income while all trading stocks on hand the beginning of the year ranks as a deduction. Trading stock is valued at the lesser of cost or net realisable value. Consumable stores and work-in-progress on hand constitute trading stock. The LIFO stock valuation method is not acceptable for tax purposes in Zambia.

## **RESEARCH AND DEVELOPMENT EXPENDITURE**

Qualifying expenditure and other expenditure of a capital nature, incurred in the charge year in carrying out scientific experiment or research relating to the business is allowed in full. Also allowed are contributions to a scientific and educational society or institution or like body approved by the Commissioner-General subject to stipulated conditions.

## **INTELLECTUAL PROPERTY**

A deduction is allowed for the right of use of any patent, design, trade mark or copyright or for the use of other property which the Commissioner-General determines is of a like nature, where such right is used by that person for purposes of his business. The deduction allowed for any charge year shall not exceed the amount of the premium or like consideration divided by the number of years for which the right of use is granted.

## **SUBSIDIES**

The income Tax Act provides for capital allowances only for capital expenditure actually incurred. If the taxpayer is able to recover part of this expenditure from subsidy or grant from public funds the capital allowances will be calculated on the net amount.

## **INTEREST AND FINANCE CHARGES**

Interest incurred in the production of income is a deductible expense. Interest of a revenue nature incurred within 18 months prior to the commencement of trade is deductible in the year in which business commences. Interest of a capital nature is not deductible but ranks for capital allowances as part of the cost of capital expenditure.

## **TAX LOSSES**

Subject to certain anti-avoidance provisions, tax losses are carried forward to the following year provided such losses may not be carried forward for a period of more than 5 years in any other case and 10 years for mining activities and hydro and thermal power generation. Losses carried forward can only be deducted from

income of the same source.

Effective 1 January 2015 carry forward of mining tax losses not applicable.

## INTEREST RECEIVED

Interest received (or accrued) is included in the gross income. Normally interest is regarded as having accrued at the date in which it becomes due as income of the charge year in which that date occurs. If the interest, for some reason, remains unpaid in the year in which it was due and payable, it should nevertheless, still be assessed in that year. The taxpayer can claim, if he can prove to the satisfaction of the Commissioner-General, unpaid interest.

## FOREIGN SOURCED INCOME

Foreign interest and dividends received by resident individuals and companies are subject to tax in Zambia. However, this general principle may be overridden by the provisions of a Double Taxation Treaty or certain unilateral relief provisions contained in the Zambian tax legislation.

## INCENTIVES

Only businesses granted licences under the Zambia Development Agency Act No 11 of 2006 after 11<sup>th</sup> October 2013 in a priority sector and operating in Multi-Facility Economic Zones (MFEZ) or Industrial Parks qualify for incentives. The incentives available are:

	Income Tax	WHT on Dividends
Rural manufacturing enterprises – first five years from commencement	0%	0%
Enterprises in priority sector (MFEZ/ Industrial Park)- first five years from commencement	0%	0%

## MINING TAX RATES

Category	Charge year		
	2015	2014	2013
Mining - Base Metals/Gemstones/Precious Metals	Nil	30%	30%
Other Mining operations	30%	30%	30%
Mineral royalty rates			
Mineral royalty on base metals, precious metal and gemstones - underground mining	8%	6%	6%
Mineral royalty on base metals, precious metal and gemstones - open cast mining	20%	6%	6%
Capital allowances deductions			
Mining equipment and related capital expenditure (*claim when asset is brought into use)	N/A	25%*	100%

Commercial motor vehicles and other plant and machinery	N/A	25%	25%
Non-commercial motor vehicles	N/A	20%	20%
Carry forward of tax losses			
Mining operations	N/A	10 years	10 years
Prospecting and exploration	N/A	5 years	5 years
Other special incentives			
Import duty on certain mining equipment	Rebate	Rebate	Rebate
Vat deferment scheme	No	No	No
Other rates			
Withholding tax on dividends	0%	0%	0%
Withholding tax on management fees to non-residents	20%	20%	15%
Export duty on Copper and Cobalt concentrates	10%	10%	10%
Export duty on all other unprocessed or semi processed mineral ores	10%	10%	10%
Thin capitalisation threshold	3;1	3;1	3;1
Taxation of hedging income	35%	35%	35%
Property transfer tax on sale or transfer of mining right	10%	10%	10%
Transfer pricing rules on interest payments made by mining companies to apply	Yes	Yes	No

## C. FOREIGN TAX RELIEF

Tax credits are granted in respect of foreign taxes paid on foreign income in accordance with unilateral provisions contained in the Income Tax Act and numerous Double Tax Agreements. Where income is sourced in Zambia, no foreign tax credit will be allowed.

## D. CORPORATE GROUPS

Group taxation is not applicable. However, corporate rules exist which provide relief in respect of transactions between group companies and between founding shareholders and their company. The relief provisions deal with the following transactions:

- Asset-for-share transactions;
- Intra-group transactions;
- Unbundling transactions;
- Transactions relating to liquidation, winding-up or deregistration; and,
- Amalgamation transactions.

Briefly, the corporate rules provide for the following tax relief in respect of the above

mentioned transactions, provided certain requirements are met:

- Property Transfer Tax(PTT); and,
- Value Added Tax (VAT).

### **E. RELATED PARTY TRANSACTIONS**

The Commissioner-General of the Zambia Revenue Authority is empowered to make adjustments to cross-border transactions between related parties that are not conducted on arm's length terms. While no specific thin capitalisation rules apply, the normal arm's length transfer pricing principle applies in respect of loans as well. However, for mining companies the Debt to Equity Ratio of 3:1 thin capitalisation principle applies.

There are also limitations on certain deductions on transactions between related parties.

### **F. EXCHANGE CONTROL**

There are no exchange control regulations under the liberalised Zambian economy. No restrictions on the repatriation of profits or investment capital. However, evidence of tax payments should be produced before repatriation as well as meeting anti money laundering regulations.

### **G. PERSONAL INCOME TAX**

Zambia operates a resident-basis system of taxation; therefore Zambian resident individuals are subject to tax on their worldwide income irrespective of the source of the income, except for certain exclusions.

Non-resident individuals, subject to certain exclusions, are subject to tax on their Zambian-sourced income.

A natural person will be regarded as a resident for tax purposes if he is ordinarily resident in Zambia or where the person is not ordinarily resident in Zambia but spends more than 183 days in Zambia in a tax year (the physical test).

The tax rates applicable to natural persons for the year ending 31 December 2015 are:

<b>INCOME TAX BANDS PER ANNUM</b>	<b>RATE</b>
0 - ZMW 36,000	0%
ZMW 36,001 - ZMW 45,600	25%
ZMW 45,601 - ZMW 70,800	30%
Over ZMW 70,800	35%

The only deduction available to salaried employees and full time whole service directors is a deduction in respect of contributions to a pension fund or retirement annuity at 5% of gross pay to the maximum of ZMW 3,060 per annum.

(ROE \$1 = ZMW 6.3)

**H. TREATY AND NON-TREATY WITHHOLDING TAX RATES**

The withholding tax rates applicable on payments to non-residents on dividends, interest, royalties and management and consultancy fees under the various Double Taxation Agreements as follows:

	<b>Dividends (%)</b>	<b>Interest (%)</b>	<b>Royalties (%)</b>	<b>Management Fees (%)</b>
Canada	15%	15%	15%	0%
Denmark	15%	10%	15%	0%
Finland	5%/15% **	15%	5%/15%	0%
France	New DTA yet to be signed. Old one still in force			
Germany	5%/15% **	10%	10%	0%
India	5%/15% **	10%	10%	10%
Ireland	0%	0%	0%	0%
Italy	5%/15% **	10%	10%	0%
Japan	0%	10%	10%	0%
Kenya	0%	15%	20%	20%
Mauritius	5%/15% **	10%	5%	0%
Netherlands	5%/15% **	10%	10%	0%
Norway	15%	10%	15%	0%
Romania	10%	10%	15%	0%
South Africa	15%	15%	20%	20%
Sweden	5%/15% **	10%	10%	0%
Switzerland	5%/15% **	0%	0%	0%
Tanzania	0% *	15%	20%	20%
Uganda	0% *	15%	20%	20%
United Kingdom	5%/15% **	10%	10%	0%

**NOTES:**

\* Rate applies if dividend subject to tax in country of recipient.

\*\* The 5% rate applies if the recipient is a company which controls directly or indirectly at least 25% of the voting power in the company paying the dividend.



## **ZIMBABWE**

**CURRENCY:** Zimbabwean Dollar (ZWD)

**POPULATION:** 15.73 million

**GDP GROWTH:** 3.2%

**GDP:** US\$ 14.4 billion



### **KEY TAX POINTS**

- Resident companies and private business corporations are taxed on non-exempt income from a source within or deemed to be within Zimbabwe. Income from a foreign source attracts tax only if it falls within the specific provisions relating to deemed source. However, a residence based income tax system is under consideration.
- Normal tax is payable by Zimbabwean companies on their taxable income at the rate of 25%. A 3% AIDS levy is imposed on the tax chargeable giving an effective tax rate of 25.75%.
- Capital Gains Tax is levied on taxable gains from a source within Zimbabwe from the sale or deemed sale of immovable property and any marketable security (specified asset).
- VAT is imposed on all goods and services supplied by a registered operator at a standard rate of 15%.
- Zimbabwean resident individuals and corporates are subject to tax in Zimbabwe on foreign interest and dividends. Foreign dividends are subject to tax at a flat rate of 20%.
- Tax credits are granted in respect of foreign taxes paid on foreign sources income in accordance with the Income Tax Act and numerous Double Tax Agreements.
- Group taxation is not applicable. However, corporate rules exist which provide relief in respect of transactions between group companies and between founding shareholders and their company.
- The Revenue Authority Commissioner is empowered to make adjustments to non-arm's length cross-border transactions and thin capitalisations between connected parties.
- Income from royalties, dividends, interest, and similar income are subject to withholding taxes at source. Non-residents are subject to withholding tax on dividends, royalties, fees and remittances.
- Zimbabwean resident individuals are, save for certain exclusions, subject to tax on their income from a source within Zimbabwe. Non-resident individuals, subject to certain exclusions, are subject to tax on their Zimbabwe-sourced income only.

### **A. TAXES PAYABLE**

#### **FEDERAL TAXES AND LEVIES**

##### **COMPANY TAX**

A company is resident in Zimbabwe if it is incorporated, formed or established in

Zimbabwe or has its place of effective management (day to day management) in Zimbabwe.

Zimbabwe resident companies and private business corporations (companies) are taxed on non-exempt income from a source within or deemed to be within Zimbabwe. Income from a foreign source attracts tax only if it falls within the specific provisions relating to deemed source. However, a residence based income tax system is being considered.

The proposed new income tax law also seeks to divide income into five categories:

- 1) Employment income;
- 2) Business income;
- 3) Property income;
- 4) Gains on disposal of investment property; and,
- 5) Other income with.

Normal tax is payable by Zimbabwean companies on their taxable income at the rate of 25%. A 3% AIDS levy is imposed on the tax chargeable giving an effective tax rate of 25.75%. Income tax rates on exporting companies reduced according to levels of exports : 20% for those exporting 30% to 40% of their products; 17.5% for those exporting 41% to 50% ; and 15% for those exporting 51% and above. The reduction is effective from 1 January 2015.

The tax is payable by both public and private companies as well as private business corporations.

The tax year usually runs from 1 January to 31 December, although different balance dates are available in certain circumstances. Tax is payable in four quarterly instalments (QPD's) on the 25<sup>th</sup> of March, 25<sup>th</sup> of June, 25<sup>th</sup> of September and 20<sup>th</sup> of December by which dates 10%, 25%, 30% and 35% of the tax liability for the year must be paid respectively.

Small to medium size enterprises without organised records and with annual turnover below USD 60,000 may pay presumptive taxes instead of normal tax. Presumptive taxes are periodic taxes, absolute figures or percentage-based, which are levied on certain specified business operations, usually undertaken by small and medium size enterprises.

Mining companies are, in addition to their specific corporate rates of tax, subject to a royalty calculated on the gross sales relating to the transfer of mineral resources. The royalty is calculated using different percentages applicable to each type of mineral. The percentages range from 1% on base metals to 15% on precious stones.

## TRUSTS

Zimbabwe trusts pay tax at the same rate as companies (25% on each dollar of taxable income plus a 3% AIDS levy on the tax chargeable). This rate is apparently, the same as the one applicable to an individual's trade and investment income. There are no personal credits to a trust created in terms of the will of a deceased taxpayer.

In cases where the income of a trust that is ordinarily resident in Zimbabwe includes foreign interest or dividends, such income is taxable (dividends at 20% flat rate). Relief is granted for foreign tax suffered.

### **PARTNERSHIPS**

Partnerships are not separate legal entities. This means they have no existence separate from the individual partners that comprise them. Taxable income for the partnership is computed jointly and then shared between the partners according to the agreed ratios and each partner is then subject to tax on his share of profits as trade income.

### **CAPITAL GAINS TAX (CGT)**

CGT is levied on taxable gains from a source within Zimbabwe from the sale or deemed sale of immovable property and any marketable security (specified asset) according to the Capital Gains Tax Act. Non-residents are only subject to CGT on any direct or indirect interest or right in or to immovable property situated in Zimbabwe.

CGT is triggered on the disposal or deemed disposal of an asset which includes but is not limited to any event, act, forbearance or operation of law that results in the creation, variation, or transfer of a specified asset, subject to any exclusions and exemptions. Liability of the tax arises regardless of the date of acquisition of the specified asset. In certain circumstances, elections to defer liability are available.

In regard to assets acquired after 1 February 2009, a taxable gain is calculated by taking the difference between the proceeds received on disposal of the asset and the cost of the asset plus any additions, inflation allowance, direct selling expenses, bad debts and certain legal costs incurred in CGT appeals to courts.

The all items consumer price index (CPI) is used as the base for the inflation allowance. A capital loss results where the costs exceed the proceeds on disposal. CGT is a separate tax and any amounts included as income or deductions in the calculation for income tax are excluded from CGT. A flat rate of 20% is applicable on the gain (this could change as the proposed new income tax law seeks to include capital gains with business income and subject both to tax at the same rate).

As for assets acquired before 1 February 2009, the selling price is deemed to be the capital gains and a flat rate of 5% is applicable on this gain. Capital gains from marketable securities listed on the Zimbabwe Stock Exchange are subject to a final withholding tax of 1%. A withholding tax of 5% applies on private securities while a rate of 15% applies on gains from immovable property. This withholding tax is credited on assessment.

### **BRANCH PROFITS TAX**

There is no branch profits tax in Zimbabwe.

### **VALUE ADDED TAX**

VAT is imposed on all goods and services supplied by a registered operator at a standard rate of 15%. Exports and some specified goods and services are zero-rated while a few goods and services are exempt. Un-beneficiated chrome is subject to VAT

at the rate of 20% upon export. With effect from 1 January 2014 un-beneficiated hides are subject to VAT at the rate of 15%. Un-beneficiated platinum and rough diamonds will be subject to VAT at the rate of 15% upon export with effect from 1 January 2017. Compulsory VAT registration is triggered when the value of taxable supplies in a 12 month period exceeds or is expected to exceed USD 60,000.

### FRINGE BENEFITS TAX

Employees are taxed on the value of fringe benefits as determined in the Income Tax Act. The fringe benefits are added to the taxable income of the individual and tax is levied at the tax rates applicable to natural persons

### STAMP DUTY

Stamp Duty is levied on specified instruments and transfer of immovable property. The specified instruments include bonds, brokers' notes, off-market share transfers, cheques and policies of insurance.

Transfer Duty is imposed on the transfer of immovable property at the following rates:

	Duty (USD)
For transfers of up to USD 5,000 - for every USD 100 or part thereof	1
For transfers between USD 5000 and USD 20,000 - for every USD 100 or part thereof	2
For transfers between USD 20,000 and USD 100,000 - for every USD 100 or part thereof	3
For transfers in excess of USD100 000 - for every USD 100 or part thereof	4

### OTHER TAXES

These include, amongst others, Customs and Excise duties, carbon tax, and skills and standards development levies.

## B. DETERMINATION OF TAXABLE INCOME

The taxable income of a company is determined by deducting expenditure incurred for the purposes of trade or in the production of income and other allowable expenses and allowances from the company's income. Capital receipts are subject to CGT (but may be included with business taxable income according to the proposed new income tax law). Expenditure is allowed to the extent that it is of a revenue nature.

Capital Allowances- buildings, plant, machinery and equipment

Asset	Special Initial Allowance (%)	Wear & Tear Allowance (%)	Notes
Industrial Buildings	25	5	1,6
Farm improvements	25	5	1, 4
Commercial buildings		2,5	
Railway lines	25	5	1

Staff housing	25	5	1, 2
Motor vehicles	25	20 up to 33,33	1, 3, 5
Articles, implements, machinery		10	5

**Notes:**

- (1) The SIA is granted in the year of purchase in relation to movables and in the year of construction in respect of immovable or year in which the asset is first used. In subsequent years accelerated W&T is allowed on original cost.
- (2) As from 1 January 2009 the amount qualifying for the allowances in respect of each unit of staff housing was set at USD 10,000 (only available to units the cost of which does not exceed USD 25,000).
- (3) Allowances on motor vehicles restricted to a cost of USD 10,000 for vehicles purchased on or after 1 January 2009.
- (4) Includes permanent schools, nursing homes, hospitals and clinics (w.e.f 1 January 2009 any part of the cost in excess of USD 10,000 of such permanent schools, nursing homes, hospitals and clinics will be disregarded).
- (5) W&T on all movables is generally on a reducing balance basis while that on immovable is on straight line basis (on cost).
- (6) Includes hotels with liquor and casino licenses.

**STOCK / INVENTORY**

All trading stock on hand at the end of the tax year must be added to income while all trading stock on hand at the beginning of the year ranks as a deduction. Trading stock is valued at the lesser of cost or net realisable value. Consumable stores and work-in-progress on hand constitute trading stock. The LIFO method of valuing trading stock is not permitted.

**RESEARCH AND DEVELOPMENT EXPENDITURE (R&D)**

Qualifying expenditure incurred by the taxpayer during the year of assessment in carrying out experiments and research relating to his trade, other than capital expenditure on plant, machinery, land or premises or on the acquisition by the taxpayer of rights, whether for the purpose of his trade or otherwise is allowed in full. However, contributions to such expenditure by another taxpayer are allowed to that other taxpayer with some restrictions.

**EXPORT-MARKET DEVELOPMENT EXPENDITURE**

Exporters can claim as a deduction the amount of any export-market development expenditure incurred during the year of assessment, together with an amount equal to 100% of such expenditure. The term "export market development expenditure" means expenditure, not being expenditure of a capital nature, that is proved to the satisfaction of the Commissioner to have been incurred wholly or exclusively for the purpose of seeking opportunities for the export of goods from Zimbabwe or of creating or increasing the demand for such exports and includes expenditure for any one or more of the following purposes-

It includes expenditure for any one or more of the following purposes:

- (1) Research into, or the obtaining of information relating to, markets outside

- Zimbabwe;
- (2) Research into the packaging or presentation of goods for sale outside Zimbabwe;
  - (3) Advertising goods outside Zimbabwe or otherwise securing publicity outside Zimbabwe for goods;
  - (4) Soliciting business outside Zimbabwe or participating in trade fair;
  - (5) Investigating or preparing information, designs, estimates or other material for the purpose of submitting tenders for the sale or supply of goods outside Zimbabwe;
  - (6) Bringing prospective buyers to Zimbabwe from outside the country; and,
  - (7) Providing samples of goods to persons outside Zimbabwe.

## **INTELLECTUAL PROPERTY**

The deduction of expenditure, in any single year, incurred for the right of use of an invention, patent, copyright, knowledge or other property of a similar nature or design or other property of a similar nature is not permitted to exceed an amount determined by dividing the total premium by the number of years representing the duration of the agreement. If the agreement is for a duration of more than ten years, or the duration is indefinite, then the duration is deemed to be ten years.

## **INTEREST AND FINANCE CHARGES**

Interest incurred in the production of income is a deductible expense. Interest incurred prior to the commencement of trade is deductible in the year in which trade commences. However, interest incurred during building operations on a loan used for building purposes is capitalised and ranks for capital allowances as part of the cost of the building. Pre-incorporation expenditure is not deductible.

## **TAX LOSSES**

Subject to certain anti-avoidance provisions, tax losses are carried forward to the following year provided such losses may not be carried forward for a period of more than six years, except for losses from mining operations. Losses from trading operations cannot be offset with employment income. The proposed new tax law seeks to separate tax losses from lease of immovable property from losses from other business operations.

## **INTEREST RECEIVED**

Interest received (or accrued) is included in gross income to the extent that such interest has not been subjected to withholding tax at source (mainly bank interest).

## **FOREIGN SOURCED INCOME**

Zimbabwean resident individuals and corporates are subject to tax in Zimbabwe on foreign interest and dividends. Foreign dividends are subject to tax at a flat rate of 20%. However, this general principle may be overridden by the provisions of a double taxation agreement or certain unilateral relief provisions contained in the Zimbabwe tax legislation.

## **INCENTIVES**

The following table indicates applicable normal tax rates of 25% and indicates the existing tax holiday schemes in the form of reduced tax rates.

## **INCOME TAX RATES**

Years ending 31 December 2015 and 2014

	Notes	2015	2014
Companies and Trusts	1	25%	25%
Mining companies and mining trusts		25%	25%
Approved BOOT and BOT projects	2	0%	0%
Industrial Park Developer	3	0%	0%
Licensed investor	3	0%	0%
Special Mining Lease		15%	15%
Pension Funds		15%	15%
Operator of a tourist facility	3	0%	0%
Manufacturing company exporting 30% or more	1	20%, 17.5%, 15%	20%

**NOTES:**

Subject to 3% Aids levy giving effective rates of 25.75%; 20.60%; 15.45% and 18.03%. The rates for exporting companies are determined by the following levels of exports:

- a. Export 30% to 40% of products - 20%
- b. Export 41% to 50% of products- 17.5%
- c. Export 51% and above of products- 15%
- (2) The 0% rate applies for the first five years and then a 15% applies in the next five years and 25% thereafter.
- (3) The 0% rate applies for the first five years and 25% applies thereafter

**C. FOREIGN TAX RELIEF**

Tax credits are granted in respect of foreign taxes paid on foreign sources income in accordance with unilateral provisions contained in the Income Tax Act and numerous Double Tax Agreements. Where income is sourced in Zimbabwe, no foreign tax credit will be allowed.

**D. CORPORATE GROUPS**

Group taxation is not applicable. However, corporate rules exist which provide relief in respect of transactions between group companies and between founding shareholders and their company. The relief provisions deal with the following transactions:

- Asset-for-share transactions;
- Intra-group transactions;
- Unbundling transactions;
- Transactions relating to liquidation, winding-up or deregistration; and,
- Amalgamation transactions.

Briefly, the corporate rules provide for the following tax relief in respect of the above mentioned transactions, provided certain requirements are met:

- CGT;

- Stamp Duty;
- Income tax, specifically with respect to capital allowances claimed, recoupment of capital allowances and the transfer of trading stock;
- Transfer Duty; and,
- VAT.

## **E. RELATED PARTY TRANSACTIONS**

The Commissioner for the Zimbabwean Revenue Authority is empowered to make adjustments to non-arm's length cross-border transactions and thin capitalisations between connected parties. There are also limitations on certain deductions and allowances on transactions between connected parties.

## **F. WITHHOLDING TAXES**

Income from royalties, dividends, interest, and similar income are subject to withholding taxes at source. Non-residents are subject to withholding tax on dividends, royalties, fees and remittances. Zimbabwean resident individuals are subject to withholding tax at source on dividends and bank interest.

Zimbabwean resident companies are not subject to dividend withholding tax on dividends paid by local companies but their bank interest is subject to withholding tax. The rate of withholding tax is 15% in all cases except for dividends from securities listed on the Zimbabwe Stock Exchange for which the rate is 10%.

## **G. EXCHANGE CONTROL AND INDIGENISATION**

Subject to certain limited exclusions, Zimbabwean residents are subject to exchange controls. However, currently (since the beginning of the dollarization period) the exchange controls are relaxed to the extent that one can export dividends and profits without a hiccup. Non-residents are excluded from the ambit of exchange controls except when it comes to investing in securities listed on the Zimbabwe Stock Exchange.

The Zimbabwean Authorities are in the process of introducing controls over ownership of companies in almost every sector. The target is that each local company should be owned 51% by indigenous persons and foreigners can own up to 49% only. The major thrust has been in the mining sector where large resources of precious minerals like diamonds and gold has been discovered. Investors can negotiate their way through the Zimbabwe Investment Authority and the Ministry of Youth Empowerment and Indigenisation.

## **H. PERSONAL INCOME TAX**

Zimbabwean resident individuals are, save for certain exclusions, subject to tax on their income from a source within Zimbabwe. However, the probability of moving to a residence based system is there, but not in the immediate future.

Non-resident individuals, subject to certain exclusions, are subject to tax on their



Zimbabwe-sourced income only.

Employers with acceptable accounting records are allowed to use the Final Deduction System for their payroll tax. This system requires that the employers deduct the payroll tax accurately such that the individual employees do not have to submit income tax returns for their employment income to the tax authorities at the end of the year unless they have other income.

The income tax rates applicable to natural persons for the tax year ending 31 December 2015 are:

<b>Annual Taxable Income USD</b>	<b>Rate</b>	<b>Cumulative Tax Chargeable USD</b>
Up to 3,600	0%	0
From 3,601 to 18,000	20%	2,880
From 18,001 to 36,000	25%	7,380
From 36,001 to 60,000	30%	14,580
From 60,001 to 120,000	35%	35,580
From 120,001 to 180,000	40%	59,580
From 180,001 to 240,000	45%	86,580
Above 240,000	50%	86,580 + 50%

Note: Husbands and wives are taxed separately. Taxable income from employment is arrived at after deducting pension and social security contributions and trade union subscriptions. An AIDS levy of 3% on tax chargeable is imposed after deduction of credits. The maximum effective rate is therefore 51.50%. The above rates apply only to remuneration from employment and pensions. Credits for medical expenses and medical aid contributions, physically disabled persons and elderly persons are granted with stipulated maxima.

Any taxable income for an individual which is received by or accrues to him from any trade investment or other activity (excluding employment or pension) is taxed at a flat rate of 25%. The 3% AIDS levy is also applicable to the tax on this income, giving an effective rate of 25.75%.

## **I. TREATY AND NON-TREATY WITHHOLDING TAX RATES**

The Income Tax Act subjects a number of payments to withholding tax at source. These are as follows:

	Normal Rate of tax %	Double Taxation Agreements				Notes 1
		UK %	Germany %	Netherlands %	Sweden %	
Non-Resident Tax on Dividends (NRST)						
Companies listed on the Zimbabwe Stock Exchange	10	5	10	10	15	2,5
Other companies	15	5	10	10	15	2,5
Non-Resident's Tax on Interest (NRTI)	(Repealed w.e.f. 30 September 2009)					
Non-Resident's Tax on Fees (NRTF)	15	10	7,5	10	10	5
Includes director's fees accruing to non-residents						
Non-Resident's Tax on Remittances (NRTR)	15	20	20	20	20	6
This applies to branch operations only and applies to expenses allocable to the Zimbabwe operation						
Non-Resident's Tax on Royalties (NRTRoy)	15	10	7,5	10	10	5
Resident Tax on Dividends (RST)						
(Companies resident in Zimbabwe receiving dividends are exempt)						
Companies listed on the Zimbabwe Stock Exchange	10					5
Other companies	15					5
Resident's Tax on Interest (RTI) - Banks and Building Societies	15					3, 4,7

	Normal Rate of tax %	Double Taxation Agreements				Notes  1
		UK %	Germany %	Netherlands %	Sweden %	
RBZ Treasury Bills and BAs	15					3,4,5
Automated Financial transactions tax	USD 0.05					7
Intermediary money transfer tax	USD 0.05					7
Capital Gains Tax						
Listed Securities	1					
Private securities	5					
Immovable property	15					
Other						
Rent paid by informal traders	10					
Commission on property or insurance	20					6
	20					5
Non- executive director's fees	10					5
Contracts without tax clearance certificates (ITF 263)						

**NOTES:**

- (1) Other existing Double Taxation Agreements include Norway, South Africa, Bulgaria, Mauritius, Canada, Poland, France and Malaysia.
- (2) Payable by all non-resident persons, including companies. For the lower rate to apply, the non-resident shareholder must hold a minimum of 25% of the Zimbabwe Company's shares.
- (3) This tax is final.
- (4) Taxpayers who are over the age of 55 years are exempt on the first USD 250 per month.
- (5) Due date is within 10 days after the date of payment or accrual, whichever is earlier.
- (6) Due date is within 10 days of the remittance of the allocable expenditure.
- (7) Due date is within 10 days of the end of the month following the month of payment.

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